



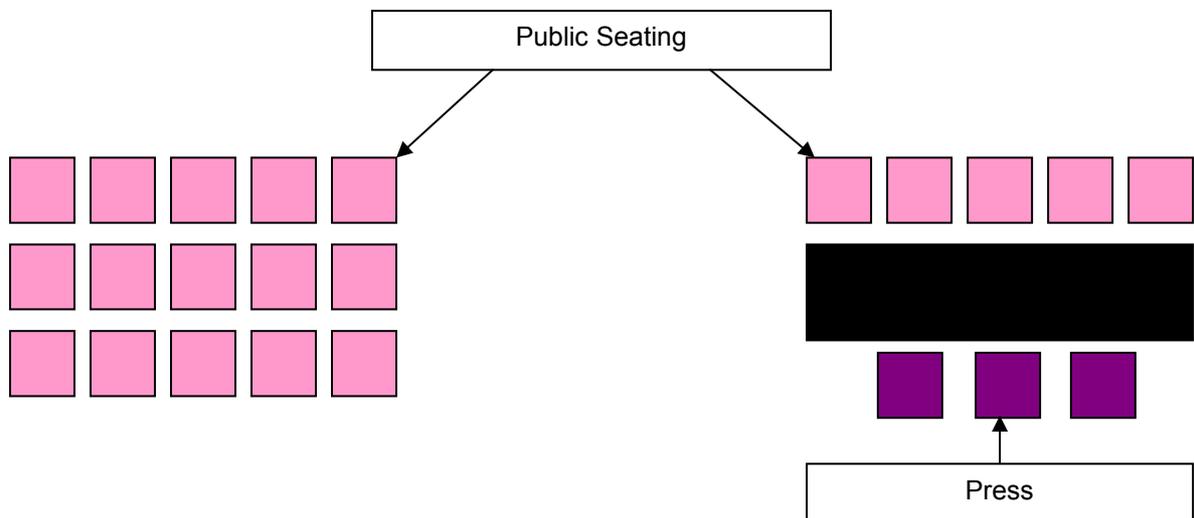
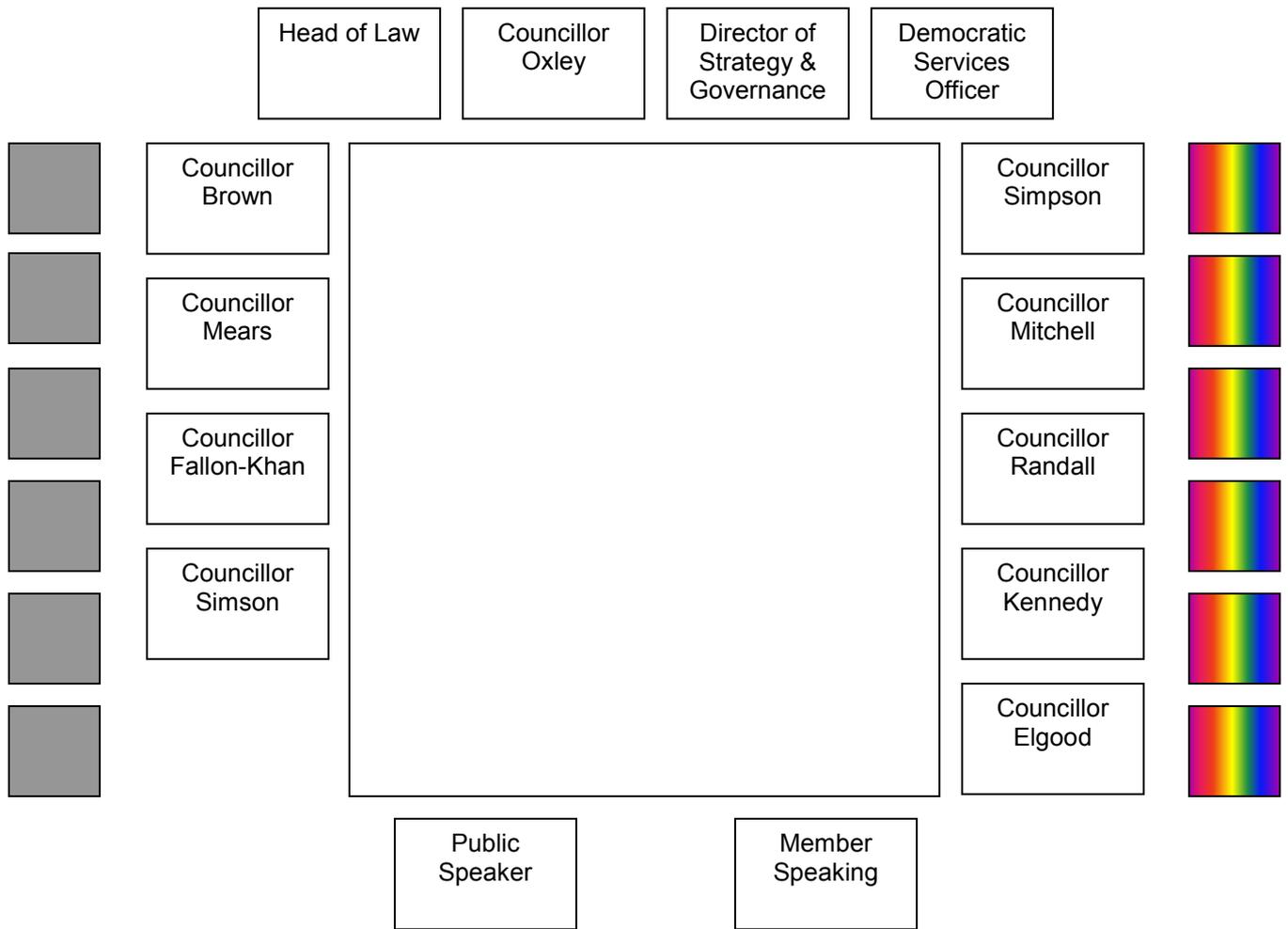
Brighton & Hove
City Council

Governance Committee

Title:	Governance Committee
Date:	28 September 2010
Time:	2.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Oxley (Chairman), Simpson, Brown, Elgood, Fallon-Khan, Kennedy, Mears, Mitchell, Randall and Simson
Contact:	Tanya Davies Acting Democratic Services Manager 29-1227 tanya.davies@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

19. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

20. MINUTES OF THE PREVIOUS MEETING

1 - 10

Minutes of the meeting held on 13 July 2010 (copy attached).

21. CHAIRMAN'S COMMUNICATIONS

22. CALLOVER

NOTE: Public Questions, Written Questions from Councillors, Petitions, Deputations, Letters from Councillors and Notices of Motion will be reserved automatically.

23. PETITIONS

No petitions received by date of publication.

24. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 21 September 2010)

No public questions received by date of publication.

PART TWO

32. PART TWO MINUTES OF THE PREVIOUS MEETING

**185 -
186**

Part Two minutes of the meeting held on 13 July 2010 (copy attached).

33. EQUAL PAY UPDATE

[Exempt Categories 3 and 4]

Verbal update from the Assistant Director for Human Resources.

34. PART TWO ITEMS

To consider whether or not any of the above items and the decisions thereon should remain exempt from disclosure to the press and public.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Tanya Davies, (29-1227, email tanya.davies@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 20 September 2010

GOVERNANCE COMMITTEE

Draft Governance Committee Work Plan – 2010-11

	Agenda Item	Lead Officer
	Meeting Tuesday 21 September 2010	
	Chairman's Communications	
1	Administrative Boundary Review - Saltdean	Oliver Dixon
	Meeting 16 November 2010	
	Chairman's Communications	
1		
2		
	Meeting 1 February 2010	
	Chairman's Communications	
	Future reports – dates to be decided	
1	Byelaws – detailed report following publication of regulations	Oliver Dixon
2	Whistleblowing – progress report	

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

4.00PM 13 JULY 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Oxley (Chairman), Simpson (Deputy Chairman), Brown, Fallon-Khan, Kennedy, Mears, Mitchell, Randall, Simson and Watkins

PART ONE

1. PROCEDURAL BUSINESS

1a Declaration of Substitutes

1a.1 Councillor Watkins declared that he was present as a substitute for Councillor Elgood.

1b Declarations of Interest

1b.1 Councillors Simpson and Randall declared personal, but non-prejudicial interests in item 122, a report from the Director of Strategy & Governance concerning a replacement Board Member for Brighton & Hove Seaside Community Homes Ltd, as they were both currently members of the Board.

1c Exclusion of Press and Public

1c.1 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

1c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of item 123 onwards.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the minutes of the meeting held on 27 April 2010 be approved as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

- 3.1 The Chairman advised that consideration was being given to how the council's minute books could be used to help raise civic awareness and that as part of that work he had arranged for a number of minute books to be displayed at the meeting. He hoped that Committee Members and members of the public would take the time to look at them.

4. CALLOVER

- 4.1 **RESOLVED** – That all the items be reserved for discussion.

5. PETITIONS

- 5.1 There were none.

6. PUBLIC QUESTIONS

- 6.1 There were none.

7. DEPUTATIONS

- 7.1 There were none.

8. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

- 8.1 There were none.

9. UPDATE ON IMPLEMENTATION OF GOOD GOVERNANCE RECOMMENDATIONS

- 9.1 The Committee considered a report of the Director of Strategy & Governance updating Members on the implementation of recommendations from the Good Governance review.
- 9.2 In response to a query from Councillor Randall concerning the availability of a good practice checklist for councilors and managers, the Head of Law reported that the Audit Commission could not provide one, but had instead suggested that the council look at several other local authorities as examples of good practice. He added that the Standards Committee had agreed to set up a working group to consider Member/officer relations.
- 9.3 Councillor Simson sought assurances that the Overview & Scrutiny team was sufficiently staffed and resources to cope with the increased volume of work that was expected in the future.
- 9.4 The Head of Law explained that under the new arrangements the availability of resources would be a consideration when determining whether to proceed with a request for scrutiny; the council would not commit itself if the work could not be undertaken using existing resources.

9.5 In response to questions from Councillor Mitchell, the Head of Law confirmed that the coalition government had taken the decision to abolish the existing Standards framework, including the Standards Board for England. It was likely that the Code of Conduct framework would remain and therefore the need for a Standards Committee. He added that the National Standards Conference would not be going ahead.

9.6 The Chairman stated that it was important to recognise the progress made in relation to Member/officer relations and the council's Overview & Scrutiny function.

9.7 **RESOLVED –**

(1) That the contents of the report be noted.

10. STRENGTHENING COMMUNITIES REVIEW – PROGRESS UPDATE

10.1 The Committee considered a report of the Director of Strategy & Governance updating Members on the progress of the Strengthening Communities Review.

10.2 Councillor Mears commended the officers working on the review for the in-depth work carried out and the extensive consultation and community engagement undertaken.

10.3 Councillor Simson reported that only two Members attended the first meeting of the cross-party working group set up to ensure Member involvement in the review and requested that the Members Advisory Group (MAG) be used instead as they possessed the necessary expertise.

10.4 Councillor Mitchell welcomed the development of Equalities Impact Assessments and suggested that updates be given at the Overview & Scrutiny Commission where updates on equalities issues are regularly reported. She explained that the Labour Group did not send a representative to the first meeting of the cross-party working group because only one date was proposed and no Members were available. She added that she would want to speak to her Group's MAG representative before agreeing to use that body to work on the review.

10.5 The Chairman advised that as the Committee had taken the decision to establish the cross-party working group consideration would need to be given as to how to reverse that decision. He requested that Group Leaders speak with their MAG representatives and report back on whether they would be happy to take part in the review.

10.6 The Director of Strategy & Governance confirmed that, until a decision could be made, the cross-party working group would continue to meet and MAG would be used in parallel.

10.7 **RESOLVED –**

(1) That the update be noted.

(2) That it be noted that the first meeting of the cross party working group was held on 29 June 2010.

11. DIGNITY & RESPECT AT WORK POLICY

- 11.1 The Committee considered a report of the Director of Strategy & Governance concerning the council's Policy and Procedure for dealing with bullying and harassment at work and seeking approval for the implementation of the new Dignity & Respect at Work Policy and Procedure.
- 11.2 The Chairman invited Councillor Mitchell, in her capacity as Chairman, to introduce the report of the scrutiny panel accompanying the proposed policy and procedure.
- 11.3 Councillor Mitchell reported that the panel did not involve itself in the work undertaken by the working group, but allowed Members to gain a clear understanding of the approach and consider the the final draft policy and procedure. The panel had requested to hear from members of staff who had contributed their views and experiences to the project, and they confirmed that a very inclusive approach had been followed. In particular the panel welcomed the creation of Dignity and Respect at Work Advisors and independent investigators to look into complaints. The panel hoped that the option of moving immediately to the formal complaints process would remain and that the Committee would accept the recommendations put forward by the panel.
- 11.4 The Director of Strategy & Governance confirmed that the formal process would continue to be a first option within the new policy and procedure because there would be instances where the informal mediated approach would not be appropriate.
- 11.5 Councillor Mears advised that Councillor Elgood, who had been a member of the scrutiny panel, had reported that the proposed policy and procedure had not incorporated all of the issues raised by the panel. She asked Councillor Mitchell to confirm whether the panel had been satisfied with the outcome of the project.
- 11.6 Councillor Mitchell explained that she was not aware of the issues raised by Councillor Elgood, but suggested that members of the scrutiny panel could be satisfied with the final outcome if the Committee agreed to endorse the their recommendations.
- 11.7 The Director of Strategy & Governance gave assurances that all the recommendations had been addressed within the policy and procedure that was before the Committee for approval.
- 11.8 The Assistant Director for Human Resources confirmed that all the recommendations had been agreed in full, except for recommendations 5(a) and 9, which had been agreed in part and addressed in alternative ways.
- 11.9 Councillor Watkins advised that Councillor Elgood's concerns were around the emphasis placed transgender issues with the policy and that further explanation was required within it to clarify the reasons behind it.
- 11.10 The Chairman suggested that, as part of the launch, particular issues could be given greater emphasis and that this could include transgender issues.
- 11.11 Councillor Mears stated that it seemed clear that all parties where happy with the final policy and procedure.

11.12 Councillor Fallon-Khan explained that the aim of the project had been to ensure that staff would have confidence that, whatever the outcome, they had been treated fairly. He was certain that the proposed policy and procedure would achieve this and he thanked all staff involved and the members of the scrutiny panel.

11.13 Councillor Randall advised that he supported the proposals and agreed that they would give staff confidence in the process. He also welcomed the independent element and emphasis on mediation.

11.14 **RESOLVED –**

- (1) That the new Dignity and Respect at Work Policy and Procedure be approved.
- (2) That the council adopts the core values set out in the report.
- (3) That the core values set out in the Policy be incorporated within the council's management standards and behaviours framework currently being developed as part of the "Creating a Council the City Deserves" transformation programme.
- (4) That a network of Dignity and Respect at Work Advisers be established across the council.
- (5) That approval be given for a payment of £104 per annum to each Adviser in recognition of the important role they will be fulfilling in addition to their normal day-to-day duties.
- (6) That the training of a "pool" of independent investigators to look into complaints be approved.
- (7) That the use of external, accredited mediators to maximise the chances of resolving bullying and harassment issues informally be approved.
- (8) That the development, in conjunction with the Head of Learning & Development, and subsequent implementation of a corporate learning programme for managers to support the introduction of the new Policy be agreed.
- (9) That the Leader of the Council and the Chief Executive publicly endorse the Policy when it is launched to show that the council is serious about eliminating bullying and harassment from the workplace.
- (10) That the impact of the Policy be monitored as detailed in the report.

12. PETITIONS SCHEME

12.1 The Committee considered a report of the Director of Strategy & Governance, concerning the new statutory requirements for councils in relation to handling petitions, including a requirement to adopt a Petitions Scheme. The report outlined the new provisions and recommended the adoption of a Petitions Scheme for Brighton & Hove City Council.

- 12.2 The Acting Assistant Head of Law explained that, while many of the provisions within the scheme were mandatory, wherever possible the council had used the available flexibility to provide maximum accessibility.
- 12.3 The Chairman reported that, unlike the existing scheme, the new scheme would make it permissible for Members to sign petitions. He explained that the report advised that, subject to approval by Full Council on 15 July, the scheme would come into force immediately and that it was proposed that an additional recommendation be added to reflect this.
- 12.4 In response to a question from Councillor Kennedy, the Acting Assistant Head of Law advised that, following approval, the new scheme would be uploaded to the council's website.
- 12.5 In response to questions from Councillor Mitchell, the Acting Assistant Head of Law confirmed that Members would be able to sign both paper and e-petitions, and that the relevant decision-making body will have to consider all of the available options in determining the council's response to any petition.
- 12.6 The Chairman stated the proposed scheme had been influenced by recent experiences with petitions, including the Brighton History Centre e-petition, to create an inclusive and workable scheme.
- 12.7 Councillor Watkins raised concerns around the visibility of the names of signatories of e-petitions given that visitors to the council's website could easily print a list of the signatories of any e-petition.
- 12.8 The Head of Law advised that it was important to show the names of signatories to give users confidence in the credibility of the facility. He added that people could also request to see the names on any paper petition submitted to the council.
- 12.9 Councillor Simpson suggested that it be made clear to users that names would be visible on the website.
- 12.10 Councillor Simson advised that verification of email addresses was key because there was no way to prevent signatories using fictional names.
- 12.11 Councillor Kennedy suggested that officers consider using wording from the Prime Minister's petition website Number10.
- 12.12 The Acting Assistant Head of Law advised Members that the committee would review operation of the new scheme at a future meeting and that the review would include the opportunity to make any necessary amendments.
- 12.13 **RESOLVED –**
- (1) That the Committee recommends to Council:

- (i) That the Petitions Scheme attached as Appendix One be adopted as the Council's scheme for handling petitions pursuant to S11 Local Democracy Act 2009;
- (ii) That the Council's constitution be amended in accordance with the draft amended Procedure Rules attached at Appendix Two.

13. CIVIC AWARENESS COMMISSION: TERMS OF REFERENCE

- 13.1 The Committee considered a report of the Director of Strategy & Governance concerning the formal establishment of a Civic Awareness Commission.
- 13.2 Councillor Mears stated that the Commission was an excellent initiative to celebrate and raise awareness of the city's rich history.
- 13.3 Councillor Fallon-Khan advised that he had been co-opted on to the Commission and that it would serve to educate children and also to demonstrate to tourists how passionate the city is about its heritage. He added that the Commission would be bringing forward some exciting ideas.
- 13.4 The Chairman wished to place on record his thanks to all officers that had been involved in the work of the Commission so far, including the museums staff, Angela Dymott, Assistant Director for Property & Design, and Mark Wall, Head of Democratic Services.
- 13.5 Councillor Randall also wished to thank Paula Murray, Head of Culture & Economy, and stated that the Commission's real success would be demonstrated if it were able to encourage engagement, in terms of both community work and election turnout.
- 13.6 Councillor Watkins advised that the Mayor should take a lead role in the work of the Commission.
- 13.7 The Chairman invited Jim Buttimer, member of the Commission to comment on the proposals.
- 13.8 Mr Buttimer explained that the proposals represented an important step because they would give the Commission the necessary legitimacy to continue its work.
- 13.9 **RESOLVED –**
 - (1) That a Civic Awareness Commission be established in accordance with the terms of reference outlined in the report.

14. SOUTH DOWNS NATIONAL PARK AUTHORITY - DELEGATION OF DEVELOPMENT CONTROL FUNCTION TO CONSTITUENT AUTHORITIES

- 14.1 The Committee considered a report of the Director of Environment concerning temporary delegation of development control functions to the council from the South Downs National Park Authority (SDNPA), while it considers how best to deliver its planning services.

14.2 Councillor Kennedy thanked the Head of Planning Strategy for explaining the effect of the proposals and the assurances that they would not have a significant impact on the workload of the council's planning officers.

14.3 In response to a query from Councillor Kennedy the Head of Planning Strategy advised that he had not yet received confirmation of the funding arrangements, but that it remained the intention of the SDNPA that there would be no cost to local authorities.

14.4 **RESOLVED –**

(1) That the scheme of delegation agreed by the SDNPA, the draft Joint working agreement under Section 101 of the Local Government Act 1972 and the Draft funding proposals be noted.

(2) That Full Council be recommended to agree the delegation of development control functions from the SDNPA to the Council on the temporary basis proposed, subject to any review.

(3) That the Head of Law be instructed to make any necessary amendments to the Constitution to reflect the interim delegation to the Council of SDNPA development control powers.

15. MANDATORY DEVELOPMENT FOR PLANNING COMMITTEE

15.1 The Committee considered a joint report of the Directors of Environment and Strategy & Governance, concerning the proposed introduction of bi-annual mandatory training sessions for Members serving on or wishing to serve on the Planning Committee.

15.2 Councillor Simson welcomed the report and stated that it was important for the Planning Committee to have all the necessary tools to make robust decisions. She highlighted the cost of the training and advised that it would be necessary to ensure that a range of dates and times were offered to ensure that all Members of Committee and the pool of substitutes could attend.

15.3 Councillor Kennedy spoke in support of the increased training and advised that the policy framework around planning was changing rapidly making it vital that Members understood both local and national policy. She advised that she hoped investing in training would reduce the resources spent on defending challenges to decisions and commended the Chairman of the Planning Committee, the Head of Developmental Control and the Planning Team for taking the matter forward.

15.4 Councillor Mitchell welcomed the proposals and reiterated the need for flexibility in training dates and times in order to accommodate all Members.

15.5 The Chairman advised that he was confident that officers would ensure that dates would be flexible.

15.6 RESOLVED –

- (1) That the Committee gives its support for:
 - (i) mandatory training for all members of the Planning pool be introduced on a six-monthly basis;
 - (ii) the training to be open to all other Members to attend on a non-mandatory basis;
 - (iii) mandatory development sessions being offered on at least two different time slots to take account of Members' other commitments;
- (2) That the proposals be recommended to Full Council for approval.
- (3) That, subject to the approval of Full Council, the requirement for ongoing mandatory planning training every six months should come into force with effect from 16 July 2010 and that the first mandatory session be arranged as quickly as possible.

16. REPLACEMENT BOARD MEMBER FOR BRIGHTON & HOVE SEASIDE COMMUNITY HOMES LTD.

16.1 The Committee considered a report of the Director of Strategy & Governance seeking authority to give notice to Brighton & Hove Seaside Community Homes Ltd to remove Councillor Wells as a Board Member and to appoint a replacement.

16.2 Councillor Mears confirmed that the Conservative Group proposed to nominate Councillor Barnett as the replacement for Councillor Wells.

16.3 RESOLVED –

- (1) That authority be given to the Head of Law to serve notice on Brighton & Hove Seaside Community Homes Ltd that the council wishes:
 - (a) to remove Councillor Geoff Wells as a Council Board Member; and
 - (b) to appoint a replacement, as nominated by the Committee
- (2) That Councillor Barnett be nominated as replacement Council Board Member.

PART TWO SUMMARY

17. PART TWO MINUTES OF THE PREVIOUS MEETING

17.1 **RESOLVED** – That the Part Two minutes of the meeting held on 27 April 2010 be approved as a correct record.

18. EQUAL PAY UPDATE

18.1 The Chairman advised that, although there was no provision on the agenda for an update on Single Status, he had asked the Assistant Director for Human Resources to inform the Committee of the latest position in line with the regular updates previously received.

18.2 **RESOLVED** – That the update be noted.

The meeting concluded at 5.20pm

Signed

Chair

Dated this

day of

Subject:	Update on Administrative Boundary Review at Saltdean		
Date of Meeting:	28 September 2010		
Report of:	Acting Director of Strategy & Governance		
Contact Officer:	Name:	Oliver Dixon	Tel: 29-1512
	E-mail:	oliver.dixon@brighton-hove.gov.uk	
Wards Affected:	All	Rottingdean Coastal	

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report is an update on the council's request for an administrative boundary review at Saltdean, submitted to the Boundary Committee for England on 17 December 2009 following resolutions to that effect by the Governance Committee and Cabinet earlier that year.
- 1.2 This report fulfils the request of Governance Committee for a progress report in autumn 2010.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the report.
- 2.2 That officers be instructed to continue to liaise with the Local Government Boundary Commission for England over the timescale for a potential review.
- 2.3 That officers be instructed to bring a further report to Governance Committee when the Commission's capacity and capability to carry out a review becomes known.
- 2.4 That officers be instructed to update the Local Government Boundary Commission with the resolutions of the Committee following consideration of this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Local Government Boundary Commission for England (LGBCE) is now the body responsible for performing administrative boundary reviews, having taken on over the functions of the Boundary Committee for England in April this year.
- 3.2 At its meeting on 17 November 2009, the Governance Committee agreed to recommend that Cabinet support a request from Saltdean Residents' Association (SRA) for a review of the administrative boundary that runs north/south through Saltdean, and that officers put this request to the Boundary Committee for England.

- 3.3 On 9 December 2009, Cabinet agreed this recommendation and, in light of a deputation by SRA, further agreed to conduct a survey on the matter among Saltdean residents at the appropriate time and in association with Lewes District Council and East Sussex County Council (ESCC), subject to these authorities consenting to do so.
- 3.4 On 17 December 2009, the Head of Law wrote to the Boundary Committee to communicate the Cabinet's decision to support SRA's request for an administrative review, and asked that it be expedited. The request is now with the LGBCE for consideration.
- 3.5 Officers have kept Lewes DC and ESCC, as affected parties, informed of Brighton & Hove City Council resolutions and correspondence. In turn, and in response to correspondence from SRA, these other councils have progressed the matter through their own decision-making bodies as follows:

In February 2010 the Cabinet of Lewes District Council agreed a position identical to that of Brighton & Hove City Council, subject to the costs of carrying out a survey or referendum of Saltdean residents being shared between the three authorities affected.

At a full council meeting in May 2010, ESCC agreed to file a request for an administrative boundary review of the Saltdean area but chose not to commit to sharing in the cost of a survey pending further guidance from the Local Government Boundary Commission on the conduct of official reviews.

- 3.6 In response to a query from the Head of Law in May about capacity to conduct a review at Saltdean, the LGBCE replied as follows:

"We do have some scope for undertaking administrative boundary reviews either late this financial year or next year. This cannot happen until we have worked on the policies and procedures the new Commission would follow in such reviews. Given that a comprehensive programme of administrative boundary reviews has not occurred for about 20 years, we will want to ensure we have robust procedures in place first. The Commission is in the process of considering this issue." (15 June 2010)

- 3.7 The reply from LGBCE included details of a meeting between their Review Manager and SRA held in Saltdean on 26 May. LGBCE used the meeting to explain the situation from the Commission's perspective; key points as follows:
- The Commission will take a number of issues into account in deciding whether to carry out a review but would look positively on a situation where all relevant authorities agree that a review should take place
 - Although a local survey could help to demonstrate the strength of support for change, LGBCE would simply take it into account as one piece of evidence amongst all other evidence that supported a review
 - The actual timescale for conducting a review is dependent on the development of associated policies and procedures. The Department for

Communities and Local Government are responsible for leading on this. A period of consultation would follow, prior to their implementation.

- If a review did take place, the outcome could be any of the following:
 - all Saltdean residents moved within Brighton & Hove City Council area
 - all Saltdean residents moved within Lewes District Council area
 - no change to current arrangements

3.8 The Commission's stance, particularly regarding the weight they would attach to a local survey, was confirmed in a letter to SRA from their Director of Reviews in June 2010 – see Appendix 1.

3.9 In their latest update to the council (September 2010), the Commission sets out their plans for consultation over guidance on administrative boundary reviews. Given the need for that exercise, the Commission advises that it is unlikely they could entertain any such reviews in the current financial year – see Appendix 2.

3.10 In view of the current position, officers consider it advisable to wait until –

- (i) the policies and procedures for conducting administrative boundary reviews have been developed; and
- (ii) LGBCE have informed us of a definite timeframe for being able to carry out a review of the administrative boundary at Saltdean before the Governance Committee considers when it might be appropriate to conduct a survey of local residents on the issue.

4. CONSULTATION

4.1 All ward members for Rottingdean Coastal, and the relevant officers at Lewes DC and ESCC, have been informed of the latest advice received from LGBCE.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 If, as advised in the report, a survey of Saltdean residents is not conducted until LGBCE confirm that a review has been scheduled, it is anticipated that the costs of that survey would be split three ways between BHCC, ESCC and Lewes DC.

5.2 The cost of the review itself would be met by the Boundary Commission.

Finance Officer Consulted: Peter Francis

Date: 04/0810

Legal Implications:

5.3 This report comes before the Governance Committee as the council body responsible for considering local governance issues, and for reasons of continuity, having previously considered the Saltdean issue in November 2009. Any future decision relating to when and how a survey of Saltdean residents might take place is for Cabinet to make, having regard to any recommendation the Governance Committee may make.

5.4 The establishment of the LGBCE is provided for in section 55 of the Local Democracy, Economic Development and Construction Act 2009. Section 60 of

the Act details the transfer of functions from the Boundary Committee for England to LGBCE.

Lawyer Consulted:

Oliver Dixon

Date: 03/08/10

Equalities Implications:

5.5 None arising directly from this report

Sustainability Implications:

5.6 None arising directly from this report

Crime & Disorder Implications:

5.7 None arising directly from this report

Risk and Opportunity Management Implications:

5.8 As explained at 3.7 above, at present there is a lack of certainty as to when the policies and procedures for conducting an administrative boundary review might be forthcoming. Until they are developed, consulted upon and agreed, it is unlikely that LGBCE will be in a position to perform a review of this type.

Corporate / Citywide Implications:

5.9 The council continues to liaise closely with Lewes DC and ESCC on this issue, in order to maintain a consistent and shared approach wherever possible.

SUPPORTING DOCUMENTATION

Appendices

1. Letter from LGBCE Director of Reviews to SRA, 14 June 2010 (*published by permission of SRA*)
2. Email from LGBCE Review Manager to the council, 4 September 2010

Documents In Members' Rooms

None

Background Documents

1. Report to Cabinet – 9 December 2009
2. Minutes of Cabinet meeting – 9 December 2009

Mr Laurence O'Connor
Saltdean Residents' Association
1 Rye Close
Saltdean
BN2 8PP
14 June 2010

The
Local Government
Boundary Commission
for England

Dear Mr O'Connor,

Thank you for your letter of 1 June to Max Caller, Chair of the Commission, regarding your Association's request for an administrative boundary review in the Saltdean area. Mr Caller has asked me to respond to the points raised in your letter.

First, I would like to thank you for inviting Commission officers to Saltdean and hosting the discussion on the 26 May, about your review request.

I understand that you wanted written clarification of the weight the Commission would place on a locally conducted survey in support of a review. Any survey would, of course, be taken into account by the Commission but only as one strand of the evidence received in support of a review. I would stress it would always be a case of the quality of evidence received, rather than the quantity of those supporting change, that would be a factor when the Commission comes to determining its programme of reviews. The question of whether to conduct a survey must therefore rest with your Association.

Another factor is the LGBCE's current work schedule. While the Commission does have some scope to start a few administrative boundary reviews either late this financial year or next year, you will appreciate that the Commission will need to judge between competing priorities. Additionally, as my colleague Richard Buck mentioned at the meeting, the Commission is still in the process of establishing the policies and procedures that will be followed in conducting these types of reviews.

Again, I'd like to relay my thanks for arranging the meeting last month and for giving my colleagues the chance to have a tour around Saltdean. As requested at the meeting, please find enclosed a copy of the informal note my colleagues took of the discussion. We will inform you of any change of circumstances in the Commission's administrative boundary review plans in due course.

In the meantime, if you have any further queries then please feel free to contact me.

Yours sincerely,



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*E-mail from Local Government Boundary Commission
to Oliver Dixon, Legal Services, 4 September 2010*

Dear Oliver,

Thanks for you email.

In regard to the latest position on administrative boundary reviews, the Commission is currently devising its draft guidance for these types of reviews. It is intended that this will be considered at its October meeting, following which it will consult with key partners such as DCLG and the LGA later in the autumn. There may be an opportunity for wider consultation as well.

In terms of timings for reviews, given the above it seems to me unlikely that we will be in a position to carry out any such reviews in this financial year. This is my own personal estimate of the likelihood and the situation may change.

I am on annual leave next week but please feel free to speak to any of my colleagues at the Commission if you have any further questions on this.

Many Thanks,
Richard.

Richard Buck
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The Local Government Boundary Commission for England
Layden House
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London EC1M 5LG

Tel: 020 7664 8511

www.lgbce.org.uk

Subject: Government consultation on local referendums to veto excessive council tax increases

Date of Meeting: 28 September 2010

Report of: Acting Director of Strategy and Governance

Contact Officer: Name: Oliver Dixon Tel: 29-1512
E-mail: oliver.dixon@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Department for Communities and Local Government (DCLG) intends to introduce legislation allowing local referendums to veto excessive council tax increases as an alternative to capping by central government.
- 1.2 In July 2010, DCLG issued a consultation document (reproduced at Appendix 1) to all local authorities, seeking views on the practicality and technical feasibility of the scheme.
- 1.3 This report summarises the background to the consultation and includes at Appendix 2 the council's response, which is brought to the Governance Committee for information.

2. RECOMMENDATION:

- 2.1 That Members note the report and the council's response to the DCLG consultation.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Coalition *Programme for Government*, published in May 2010, stated that the Government would "give residents the power to veto high council tax increases." In place of the capping regime currently in place, the Government will introduce legislation requiring any billing or precepting authority which sets an excessive council tax increase to hold a referendum.
- 3.2 The Government intends to include this provision in the Localism Bill, scheduled for introduction to Parliament in November this year.
- 3.3 On 30 July 2010, DCLG invited local authorities to respond to consultation not about whether this legislation should be introduced, for this is Government policy, but on the logistics of conducting a local referendum. The consultation thus

focuses on the timing and operational arrangements for carrying out a referendum of this type. Given the technical nature of the consultation, the timescale for responding was shorter than normal, at just six weeks, and officers ensured a council response was submitted by the 10 September deadline.

3.4 In brief, the proposed legislation will provide as follows:

- (a) The Secretary of State will have the power each year to determine a 'principle' based on a comparison of an authority's level of council tax with the level in the previous year.
- (b) Any authority planning a council tax increase which exceeds this principle will be required to prepare a 'shadow budget' based on the maximum non-excessive council tax increase allowed by the principle.
- (c) The authority must then hold a referendum of all registered local electors, asking whether they accept or reject the proposed council tax increase. The referendum must take place by the first Thursday in May of the financial year to which the proposed council tax applies.
- (d) If the proposed rise is rejected, the authority would immediately adopt the shadow budget and make arrangements to refund or allow credit for any over-payment.

A full description of the intended process is set out in paragraph 9 of the consultation

3.5 There are occasions when authorities set council tax increases that are very large when expressed in percentage terms, even though the absolute cash increase is very small. To prevent such authorities from being required to hold a referendum – and to protect the large majority of smaller parish councils and other local precepting authorities – the Government intends to include a standard *de minimis* principle which would provide a 'double lock' mechanism. This would exclude authorities where either (a) the increase in the basic amount of council tax is below a defined amount or (b) the total income generated (ie. the council tax requirement) is below a fixed level.

3.6 At Annex A in the consultation paper there is an illustrative timetable of the referendum process.

3.7 Questions for consultation are on page 12 of the paper and all relate to the mechanics of the process, with particular regard to the practicalities of operating the referendum and any unforeseen implications the proposed system may pose.

4. CONSULTATION

4.1 Officers consulted the Administration over the council's proposed response

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications arising from this report. If a referendum had to be held, it would need to be funded by the authority / authorities that triggered the need for a referendum. The cost of holding a referendum on its own is forecast to be £300,000. Further financial considerations are addressed in the council's responses to questions 7-9 of the consultation (see Appendix 2)

Finance Officer Consulted: Heather Bentley *Date: 14/09/10*

Legal Implications:

- 5.2 The Government intends to use the existing regulations for mayoral referendums as the basis on which billing authorities will organise and administer referendums about council tax rises. The council's response to question 2 of the consultation deals with the suitability of these regulations and the need for sufficient notice of any amendments.
- 5.3 The council's lawyers will track the passage of the Localism Bill through Parliament, once introduced, and will brief Members further on the Bill contents and legislative progress.

Lawyer Consulted: Oliver Dixon *Date: 14/09/10*

Equalities Implications:

- 5.34 None arising directly from this report

Sustainability Implications:

- 5.5 None arising directly from this report

Crime & Disorder Implications:

- 5.6 None arising directly from this report

Risk and Opportunity Management Implications:

- 5.7 The council's responses to questions 3 and 6 of the consultation discuss certain difficulties that could arise over the timing of a referendum. However, a referendum does present council tax payers with an opportunity to register their approval or rejection of the proposed increase.

Corporate / Citywide Implications:

- 5.8 None arising directly from this report

SUPPORTING DOCUMENTATION

Appendices:

1. DCLG consultation document 'Local referendums to veto excessive council tax increases'
2. Brighton & Hove City Council response to the consultation

Documents In Members' Rooms

None

Background Documents

None



Local referendums to veto excessive council tax increases

Consultation

www.communities.gov.uk
community, opportunity, prosperity



Local referendums to veto excessive council tax increases

Consultation

July 2010
Department for Communities and Local Government

Department for Communities and Local Government
Eland House
Bressenden Place
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About this consultation

Scope of consultation

Topic of consultation	A proposal to allow local referendums to veto excessive council tax increases as an alternative to capping by central government.
Scope of consultation	This consultation seeks views on the practicality and technical feasibility of the scheme, particularly from local authority practitioners.
Geographical scope	England. The relevant legislation covers both England and Wales but the administration of council tax in Wales is a matter for the Welsh Assembly Government.
Impact assessment	Relevant provisions will be included in the Localism Bill, which will be subject to a full impact assessment.

Basic information

To	Local authorities (including police authorities, fire and rescue authorities and local precepting authorities). Representative organisations (including the LGA, London Councils, IRRV, Cipfa, NALC) and others with an interest in local taxation issues.
Body responsible for the consultation	Department for Communities and Local Government
Duration	Six weeks (30 July to 10 September). This is in line with the arrangements agreed under the <i>Framework for Partnership</i> with the Local Government Association.
Enquiries	Jasna Begum Local Government Finance Directorate Department for Communities and Local Government Zone 5/D2 Eland House Bressenden Place London SW1E 5DU Telephone: 030 3444 1304 Email: counciltax.consultations@communities.gsi.gov.uk
How to respond	To either of the addresses above.
Additional ways to become involved	Not applicable.
After the consultation	The Government will take into account the responses to this consultation in its preparation of draft clauses for the forthcoming Localism Bill, to be laid before Parliament in the first Parliamentary session.
Compliance with the code of practice on consultation	This consultation complies with the Code.

Background

Getting to this stage	The Coalition <i>Programme for Government</i> , published on 20 May 2010, stated that the Government would “give residents the power to veto high council tax increases.”
Previous engagement	Not applicable

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees’ buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator
Zone 6/H10
Eland House
London SW1E 5 DU

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

Consultation process

The Department for Communities and Local Government invites comments on the proposals set out in this document. This is a technical consultation seeking views from experts on the practicalities of implementing our proposals. Given this, the consultation will run for a shorter timeframe of six weeks – until **10 September 2010**.

When responding, please state whether you are responding as an individual or representing the views of an organisation. Responses to this consultation must be received by **10 September 2010**.

You can email your response to: counciltax.consultations@communities.gsi.gov.uk

Or you can respond in writing to:

Jasna Begum
Local Government Finance Directorate
Department for Communities and Local Government
Zone 5/D2 Eland House
Bressenden Place
London SW1E 5DU

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Introduction

1. Band D council tax has more than doubled since 1997-98 and high increases in the past have led to various measures designed to constrain local discretion, including council tax capping. Often these measures appeared to be based on the presumption that Government ministers and their civil servants knew better than local communities what was in their best interest. The Coalition Government is determined to reverse this presumption and to rebalance the role of the central state and local communities. This will see the Government playing a much smaller role, with powers and responsibilities being devolved to the most appropriate level, wherever possible empowering local people so that they have a direct say in important decisions that affect their lives. In relation to council tax, this means abolishing capping and giving local people a stronger role in determining annual increases. The Government intends to introduce legislation to achieve this at the earliest opportunity.

Current system

Council tax

2. Council tax is a tax on the capital value of domestic properties. It is the main source of locally-raised income for many local authorities and is therefore an important source of funding. The Local Government Finance Act 1992 ('the 1992 Act') provides for certain local authorities to levy and collect council tax:

- billing authorities (the Common Council of the City of London, London boroughs, metropolitan districts, non-metropolitan districts, and unitary authorities) are required to send out a bill each year to council taxpayers and to enforce collection
- major precepting authorities (the Greater London Authority, non-unitary county councils, police authorities, and fire and rescue authorities) and local precepting authorities (the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, town, parish or community councils, the chairman of a parish meeting, and charter trustees) issue precepts to billing authorities for the collection of council tax on their behalf

3. Properties are allocated into one of eight valuation bands, from Band A to Band H, and this information is used to calculate the council tax base for an area by converting the number of actual properties into an equivalent number of Band D properties¹. Billing authorities and major precepting authorities calculate their own 'basic amount of council tax'² and use this to determine the liability of individual properties. Local precepting authorities, by contrast, simply inform the billing authority of their total budget requirement for the year and leave it to the billing authority to calculate the relevant council tax. The bill which is sent to the council taxpayer shows the amounts required by each billing and precepting authority in the area and the percentage increase in each since the previous year.

¹ Band A properties are liable to pay two thirds of the 'standard' Band D amount. Band H properties are liable to pay double the Band D amount. The remaining bands lie in between these two points. The council tax base is a weighted average based on these proportions.

² An authority's basic amount of council tax is the amount set by the authority under section 33(1) of the 1992 Act if the authority is a billing authority, or section 44(1) of that Act if the authority is a major precepting authority. It is the amount that would be payable in respect of a Band D dwelling if all local precepts and special expenses were payable in respect of all chargeable dwellings in the authority's area.

Capping

4. Successive governments have reserved the right to limit increases in domestic taxation where these have been judged to be excessive. Under current capping legislation (see Chapter 4A of Part 1 of the 1992 Act, which was inserted by the Local Government Act 1999), 36 authorities have had capping action taken against them since the 1999 powers were first used in 2004-05.

5. In order to take capping action, the Secretary of State for Communities and Local Government must first determine whether the amount calculated by an authority as its budget requirement is excessive, in accordance with a set of principles. If the Secretary of State sets principles, the legislation requires him to set a principle based on authorities' budget requirements. The Secretary of State may set any other principle. In practice there has always been at least one other principle based on council tax increases.

6. If a local authority sets an excessive budget requirement, the Secretary of State may either:

- designate it in relation to the year in question, which would require the authority to re-bill council taxpayers or
- nominate the authority and either:
 - (a) designate it in advance in respect of the following financial year, which effectively means that Government sets the following year's budget requirement for the authority or
 - (b) set a notional budget requirement for the year in question, against which increases in subsequent years can be measured in deciding whether or not these are excessive

7. A criticism made about capping has been the policy of central government to set capping principles after local authorities have set their budget requirements. This has meant that authorities could not be certain whether or not the council tax increases they were setting would be capped.

Parish precepts

8. There has been a growing awareness in recent years of the council tax increases set by local precepting authorities, and of the very high precept increases set by some town and parish councils in particular. Increases in council tax revenue from town and parish councils have outstripped those for England in each of the last five years. The average town and parish precept set in some billing authorities (around £100) is larger than that of the smallest shire district of Breckland (£68). It is right that local precepting authorities should have the resources they need to support neighbourhoods and local communities. However it is also right that council taxpayers are protected from excessive increases.

Introduction of local referendums

Legislation

9. The Government will introduce legislation at the earliest opportunity requiring any billing or precepting authority which sets an excessive council tax increase to hold a referendum. The key elements of the scheme will be as follows:

- (a) The Secretary of State will have the power each year to determine a principle based on a comparison of an authority's level of council tax with the level in the previous year. The legislation will enable the Secretary of State to set additional principles; it will also allow him to determine different sets of principles for different categories of local authorities.
- (b) These principles will be published in a report for approval by the House of Commons. If the principles are approved, any authority planning an excessive council tax increase will be required to prepare a 'shadow budget' based on the maximum non-excessive council tax increase allowed by the principles.³ They will also be required to inform the Secretary of State by notice.
- (c) Any billing authority, local precepting authority or major precepting authority which exceeds the principles will be required to hold a referendum of all registered local electors. Local authorities will be free to hold referendums at any point after the House of Commons has approved any principles set. Referendums must take place no later than the first Thursday in May, to ensure that the process is not subject to delay and that local authorities have certainty over their budgets as quickly as possible in the new financial year.⁴
- (d) The organisation and administration of referendums will fall to billing authorities and will be modelled on the existing provisions for mayoral referendums⁵ where relevant and appropriate. The legislation will allow billing authorities to recoup costs where referendums are held on behalf of a precepting authority. It will also require that only one referendum is held in circumstances where an excessive increase is set by more than one authority in the same geographical area.
- (e) The legislation will require the authority proposing the excessive increase ('the relevant authority') to prepare supporting factual material setting out the proposed council tax increase and budget, the comparative non-excessive council tax rise and shadow budget, and the estimated cost of holding the referendum. At the same time that bills are sent to council taxpayers, the billing authority will send this information, together with polling cards, to every registered local elector. Local councillors would of course be free to make the case for any excessive increase, but the relevant authority would be prohibited from campaigning on the issue.

³ Consistent with Section 25 of the Local Government Act 2003, the chief financial officer (for billing authorities and major precepting authorities) would be required to report on the robustness of the estimates in the shadow budget requirement and the adequacy of the reserves provided for in the calculations.

⁴ In every year the ordinary day of election of councillors is the same day for all local government areas in England and Wales. It is the first Thursday in May or such other day as may be fixed by the Secretary of State by order (see section 37(1) of the Representation of the People Act 1983).

⁵ The Local Authorities (Conduct of Referendums) (England) Regulations 2007.

- (f) If the proposed rise in council tax were rejected, the relevant authority would immediately adopt the shadow budget and transfers from the Collection Fund would be reduced accordingly. It would also be required to inform the Secretary of State by notice. The billing authority would be able to issue new bills immediately, offer refunds at the end of the year or allow credits against liability in the following year. However, consistent with existing legislation⁶, billing authorities will be required to refund (and re-bill) any local resident who requests this.

10. This scheme will be applicable to each billing authority, local precepting authority and major precepting authority (including police authorities, fire and rescue authorities and the Greater London Authority). It would also apply to directly elected Police and Crime Commissioners when they come into being. Whilst there would only be one referendum in each geographical area, there would be a separate vote for each element of the overall council tax bill where an authority had set an excessive increase. Voters in these areas would be given a number of voting forms (or a number of separate questions on the same form).

Policy

11. It is not envisaged that the legislation will require the Secretary of State to publish principles at a specific point each year. However, as a matter of policy, the Government intends to propose principles at around the same time as publication of the provisional Local Government Finance Report and to have both the Local Government Finance Report and the report containing the principles debated by the House of Commons at the same time. This will allow local authorities to complete their budget setting and billing processes in the normal way, and to prepare shadow budgets in good time.

12. There are occasions when authorities may set council tax increases that are very large when expressed in percentage terms, even though the absolute cash increase is very small. To prevent such authorities from being required to hold a referendum – and to protect the large majority of smaller parish councils and other local precepting authorities – the Government intends, again as a matter of policy, to include a standard *de minimis* principle which would provide a ‘double lock’ mechanism. This would exclude authorities where **either** (a) the increase in the basic amount of council tax is below a defined amount **or** (b) the total income generated (ie. the council tax requirement) is below a fixed level.

13. The Government sees advantages in giving the Secretary of State discretion to determine different sets of principles for different categories of authorities (such as police authorities and fire and rescue authorities) – and to determine how those categories are defined. This would allow him to take into account circumstances affecting only particular categories of authorities – for example, the potential impact of Formula Grant distribution on different categories of authorities, or pressures on a service or services provided by a particular category of authority.

⁶ See, for example, section 31(4) of the Local Government Finance Act 1992.

Process

14. The Government believes it is right to require billing authorities to organise referendums given their existing responsibility for administering local government elections. The Government also believes that the referendum franchise should extend to all local electors, not just those liable for council tax, since all benefit in some way from the provision of local services. It is aware that this proposal would exclude council taxpayers who, for whatever reason, do not have a right to vote in local elections.

15. The Government intends to model the provisions for council tax referendums on the existing provisions for mayoral referendums where relevant and appropriate. In particular, this would:

- place certain restrictions on the steps that may be taken, and the expenditure that may be incurred, by a local authority in connection with a referendum
- require the referendum to take place within a specified time period
- set out the structure of the question to be asked

16. There will be no minimum requirement for voter turnout and a simple majority of those voting will be sufficient to determine the outcome of the referendum. If a majority vote in favour of an excessive increase, the relevant authority would continue to receive transfers from the Collection Fund based on its original budget. If a majority vote against an excessive increase, the relevant authority would immediately adopt the shadow budget and transfers from the Collection Fund would be reduced accordingly. In either case, the authority would be required to inform the Secretary of State of the outcome of the referendum and explain to council taxpayers the process for repayment of money where appropriate.

17. A proposed timetable for announcing the council tax principle, local authorities budgeting and billing process, and holding referendums, is attached at Annex A.

Abolition of capping

18. The introduction of council tax referendums will provide a direct link between local residents and the spending decisions of the local authorities to whom they pay their council tax. The Government therefore intends to repeal Chapter 4A of the 1992 Act in its entirety. However, until provisions for council tax referendums are in place, the Government reserves the option to use existing capping powers to protect council taxpayers from excessive increases where necessary.

Alternative notional amount reports

19. To ensure capping decisions are taken as fairly as possible, alternative notional amounts (ANA) reports are produced for authorities where there have been significant changes in function, finance or structure. These are technical adjustments to ensure that year-on-year comparisons of local authorities' budget requirements are made on a like-for-like basis.

20. With the abolition of capping, the Government sees no further need for these reports. Under the proposals set out above, local authorities would be able to explain the impact of any functional, finance or structural changes in the material they produce to accompany the referendum – and local people would then be able to vote on the basis of that information.

21. Where the structural change involves the creation of an entirely new authority – for example if two or more existing authorities are merged, or where a new parish is established – it would be more difficult to judge how the council tax principle might be applied without an ANA report in the year in which the change occurred. In such circumstances, for local precepting authorities, the Government expects that the wider process which led to these sorts of structural changes would ensure they had democratic legitimacy and local support. For billing and major precepting authorities, the Government envisages putting in place bespoke arrangements where necessary to protect council taxpayers from sudden changes in their liability.

Calculation of budget requirements

22. The requirement for authorities to calculate a budget requirement, as set out in the Local Government Finance Act 1992 (and amended by the Local Government Act 1999), was introduced specifically for the purposes of limiting council tax increases through capping. The question therefore arises as to whether, with the abolition of capping, there is any need to retain those sections of the 1992 Act which require authorities to calculate a budget requirement – and whether the repeal of the budget requirement aspects of the legislation would lift a reporting burden on authorities (bearing in mind that local authorities will still be required to calculate a council tax requirement). The Government therefore invites authorities' views on whether or not the requirement in current legislation to calculate a budget requirement should remain in place, or whether this should be repealed alongside capping.

Questions for consultation

23. We welcome your views on the mechanics of the process outlined above – including whether there are any practical difficulties with the system proposed or any unforeseen implications. In particular we would welcome responses to the following questions:

- Question 1.** Do you agree that local precepting authorities, such as town and parish councils, should be included within the provisions for council tax referendums? If so,
- are there details about the budget setting process for local precepting authorities which need to be taken into account?
 - will the ‘double lock’ mechanism work to protect the majority of town and parish councils?
- Question 2.** Are the Local Authorities (Conduct of Referendums) (England) Regulations 2007 the right model for organising and administering council tax referendums?
- Question 3.** Are there any practical difficulties in requiring council tax referendums to take place no later than the first Thursday of May?
- Question 4.** What are the advantages and disadvantages of holding a council tax referendum on the same day as another local referendum, or jointly with a local and/or general election? Current regulations allow for higher expenses per elector in a referendum than in a local election – would this raise any concerns if both votes are held on the same day?
- Question 5.** What provision, if any, should be made for properties where the council tax payer is not a local elector?
- Question 6.** Does the timetable at Annex A provide sufficient stability and certainty for local authorities when planning their budgets? Does it provide sufficient time to organise and administer referendums?
- Question 7.** Is it right to give local authorities the discretion to issue new bills immediately, offer refunds at the end of the year or allow credits against liability in the following year?
- Question 8.** How should billing authorities treat bank interest earned on excessive increases that have been rejected in a referendum?
- Question 9.** What practical difficulties, if any, would there be for a billing authority seeking to recoup the cost of a referendum held on behalf of one or more precepting authorities?
- Question 10.** Are there any technical difficulties with the removal of alternative notional amount reports?
- Question 11.** With the abolition of capping, is there any reason why authorities should be required to calculate a budget requirement each year?

Annex A – Local referendums: illustrative timetable

Late November/ early December	<ul style="list-style-type: none"> • Provisional Local Government Finance Report published for consultation. • Provisional council tax referendum principles announced.
December to March	<ul style="list-style-type: none"> • Precepting and billing authorities draw up budgets and proposed council tax levels in the usual way. • Authorities planning to set excessive council tax increases also draw up shadow budgets and prepare material informing residents about the forthcoming referendum (including how they will be able to vote), and billing authority calculates cost of referendum.
January	<ul style="list-style-type: none"> • Provisional Local Government Finance settlement consultation ends. Ministerial decisions on Formula Grant and council tax referendum principles announced.
February	<ul style="list-style-type: none"> • Parliament approves final Local Government Finance Settlement allocations and the report containing the council tax referendums principles. • 14 February – deadline for bodies that levy on local authorities to set their levy.
March	<ul style="list-style-type: none"> • 1 March – major precepting authorities set budgets, and shadow budgets where necessary. • 11 March - billing authorities set budgets and shadow budgets where necessary. • Billing authorities send out council tax bills and details of referendum and supporting material.
May	<ul style="list-style-type: none"> • Referendums to be held by the first Thursday in May at the latest. • Billing authority to: <ul style="list-style-type: none"> - inform relevant precepting authorities, council taxpayers and electors of result of referendums - send out details of new budget/refunds where necessary - charge relevant precepting authorities for cost of holding the referendum • If the rise in council tax is rejected, the relevant authority immediately adopts the shadow budget.
February/March of the following year	<ul style="list-style-type: none"> • Refunds paid to residents where necessary.

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Brighton & Hove City Council response to the Communities and Local Government Consultation Paper – Local referendums to veto excessive council tax increases

Question 1: Do you agree that local precepting authorities, such as town and parish councils, should be included within the provisions for council tax referendums? If so,

- o are there details about the budget setting process for local precepting authorities which need to be taken into account?
- o will the 'double lock' mechanism work to protect the majority of town and parish councils?

Brighton & Hove City Council response:

The council welcomes the introduction of a standard de-minimus principle to ensure that small authorities, such as the only parish in the city Rottingdean, will be excluded from the referendum requirement.

The council also has 3 levying bodies known as Enclosure Committees which set additional council taxes for local residents in their relevant square or crescent to pay for the upkeep and maintenance of communal gardens. Current legislation restricts the maximum increase in the annual levy to the change in the previous years September RPI. The Enclosure Committees have complained to the council that this restricts their finances artificially. The council has previously approached CLG and been told that a change requires new legislation and they had no plans to change legislation on this matter. The council hopes that the Coalition Government will also take the opportunity whilst amending legislation for the introduction of referendums to amend the current legislation so that these bodies of local residents can have the freedom to decide what an appropriate annual garden levy should be.

Question 2: Are the Local Authorities (Conduct of Referendums) (England) Regulations 2007 the right model for organising and administering council tax referendums?

Brighton & Hove City Council response:

The above regulations are a good starting point in that they provide for the conduct of a referendum at the local level, and allow for the combination of referendums with local government elections. They would need some amendment, as they were designed for referendums following petitions about councils' executive arrangements. Sufficient time would need to be allowed to make these amendments, to ensure that new regulations are in place at least six months before any referendum to allow for proper planning and administration.

Question 3: Are there any practical difficulties in requiring council tax referendums to take place no later than the first Thursday of May?

Brighton & Hove City Council response:

Our recommendation is to hold the referendum as soon as reasonably practicable after Budget Council meeting. There would be practical difficulties in booking polling stations and procuring printers for the ballot papers if the decision on a referendum was not taken until February or early March.

Question 4: What are the advantages and disadvantages of holding a council tax referendum on the same day as another local referendum, or jointly with a local and/or general election? Current regulations allow for higher expenses per elector in a referendum than in a local election – would this raise any concerns if both votes are held on the same day?

Brighton & Hove City Council response:

For administrative reasons, we recommend that a council tax referendum is held on the same day as any other referendum or election due at around the same period.

Question 5: What provision, if any, should be made for properties where the council tax payer is not a local elector?

Brighton & Hove City Council response:

We support the idea of council tax payers who are not local electors being included in the referendum, so long as the cost and administration involved in identifying such persons are not unreasonable.

Question 6: Does the timetable at Annex A provide sufficient stability and certainty for local authorities when planning their budgets? Does it provide sufficient time to organise and administer referendums?

Brighton & Hove City Council response:

The council begins its annual budget preparation and planning in July and at that time sets out an indicative council tax strategy. It would therefore be preferable for the provisional council tax referendum principles at least for the first year to be announced in June to help the decision-making process.

As stated in the answer to question 3 there will be difficulties if the decision to have a council tax referendum is taken towards the end of the budget and council tax setting process. This is likely to be more likely in councils where there is no overall control and such decisions may not be made until the date of Budget Council. If an unexpected referendum was triggered at the Budget Council meeting then it would

not be possible to meet the timescale for referendum information to go with the annual bills due to extremely tight print deadlines. Therefore the information would have to go out under separate cover incurring additional costs.

Question 7: Is it right to give local authorities the discretion to issue new bills immediately, offer refunds at the end of the year or allow credits against liability in the following year?

Brighton & Hove City Council response:

For reasons of administrative efficiency the discretion referred to in the question would be welcome, although it may be considered unfair for council tax payers to have to wait 12 months for a refund or credit. They may take the view that the council is profiting at their expense by not making an instant refund. However, our practical response to a veto would be customer-focussed to help mitigate this perception. Our computer system would automatically adjust the council tax payer's direct debit for the remainder of the year during which the lower council tax applies, but we would probably also offer a full refund of any overpayment.

The administrative flexibility would also help to reduce any detrimental impact on collection rates and recovery processes, which is a risk certainly in the short term. We cannot easily predict the behaviour of our taxpayers in these untested circumstances. Even relatively small fluctuations in collection rates could cost hundreds of thousands of pounds, but this would be mitigated if the referendum and re-billing were to be completed as early in the year as possible, and if we can respond flexibly to our taxpayers' preferences.

Question 8: How should billing authorities treat bank interest earned on excessive increases that have been rejected in a referendum?

B&H Proposed response:

Any bank interest earned by the council is anticipated to be minimal particularly as the council would endeavour to make refunds as promptly as possible and therefore this is unlikely to cause disquiet or resentment amongst taxpayers.

Question 9: What practical difficulties, if any, would there be for a billing authority seeking to recoup the cost of a referendum held on behalf of one or more precepting authorities?

Brighton & Hove City Council response:

We recommend giving billing authorities a statutory power to recover the cost of a referendum from a precepting authority, where that authority's precept was the trigger for the referendum. We further recommend that the precepting authority is placed under a statutory

duty to meet the demand for costs within a set timescale and that guidance should be drawn up on the way costs should be allocated in multiple referendums and when held jointly with other elections.

Question 10: Are there any technical difficulties with the removal of alternative notional amount reports?

Brighton & Hove City Council response:

The council is not aware of any difficulties.

Question 11: With the abolition of capping, is there any reason why authorities should be required to calculate a budget requirement each year?

Brighton & Hove City Council response:

There will be a need to determine the net budget of each authority on a consistent basis if comparisons with other local authorities are to be made on a like-for-like basis.

Subject: Changes to the Scheme of Delegations to Officers
Date of Meeting: 28 September 2010
Report of: Acting Director of Strategy & Governance
Contact Officer: Name: Abraham Ghebre-Ghiorghis Tel: 291500
E-mail: Abraham.ghebre-ghiorghis@brighton-hove.gov.uk
Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

1.1 Proposals for the introduction of the Intelligent Commissioning system were approved by Cabinet and a number of steps have already been taken in preparation for its implementation on 1st November 2010. One of the formal requirements before implementation is amendments to the Scheme of Delegations to Officers to reflect the new arrangements. In accordance with Article 15 of the constitution, this report seeks the approval of the Governance Committee (in so far as it relates to Council functions) and the Cabinet (in so far as it relates to executive functions) to the revised Scheme of Delegations to Officers.

2. RECOMMENDATIONS:

2.1 That the Governance Committee approves the following:

- (i) That the amended Scheme of Delegations to Officers as set out in Appendix 1, to the extent that it relates to Council functions, be agreed;
- (ii) That the amended Scheme of Delegations (in so far as it relates to Council functions) comes into force on 1st November 2010;
- (iii) That the services provided by the Delivery Units on 1st November 2010 be deemed to have been commissioned and therefore authorised. This shall be without prejudice to the power to review the services at any time as part of the Intelligent Commissioning cycle;
- (iv) That the Chief executive be granted delegated powers to take all steps necessary or incidental to the implementation of the changes, including the power to make transitional arrangements;
- (iv) That the Head of Law be authorised to make any necessary or consequential amendments to the constitution to reflect the changes.

2.2 That the Governance Committee recommends to Cabinet:

- (i) That the amended Scheme of Delegations to Officers as set out in Appendix 1, to the extent that it relates to Executive functions, be agreed;

- (ii) That the amended Scheme of Delegations (in so far as it relates to Executive functions) comes into force on 1st November 2010;
- (iii) That the services provided by the Delivery Units on 1st November 2010 be deemed to have been commissioned and therefore authorised. This shall be without prejudice to the power to review the services at any time as part of the Intelligent Commissioning cycle ;
- (iv) That the functions of the Council regarding Travellers and Gypsies be transferred from the Cabinet Member for Environment to the Cabinet Member for Housing;
- (iii) That the Chief Executive be granted delegated powers to take all steps necessary or incidental to the implementation of the changes, including the power to make transitional arrangements;
- (iv) That the Head of Law be authorised to make any necessary or consequential amendments to the constitution to reflect the changes.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The implementation of Intelligent Commissioning requires amendments to the Scheme of Delegations to Officers. Article 15 of the Council's constitution sets out the procedure for amending the Scheme of Delegations. The relevant parts of Article 15 provide that:
 - (a) Any proposed permanent changes to the Scheme of Delegations to Cabinet Members or Officers are normally required to be considered by the Governance Committee before a final decision is made by the relevant decision-making body;
 - (b) Any changes to the Scheme of Delegations to Officers, in so far as they relate to Council functions, are the responsibility of the Governance Committee;
 - (c) Any changes to the Scheme of Delegations to Officers or Members, in so far as they relate to executive functions, are for the Leader or Cabinet to decide subject to the need to consult the Governance Committee as in (a) above.
- 3.2 The draft revised Scheme of Delegations to Officers is attached as Appendix 1 to this report for approval by the Governance Committee to the extent that any changes relate to Council functions and for recommendation to Cabinet to the extent that they relate to executive (Cabinet) functions.
- 3.3 It is difficult to set out Council and Executive functions in full detail without replicating the whole of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. But, in board terms, council functions include planning, licensing, general appeals, registration, elections, appointment and dismissal of officers, anything which is a local

legislation function and appointments to external bodies. Most other matters are executive functions. For practical reasons and to enable an efficient and co-ordinated discharge of functions, the Scheme of Delegations does not separate the executive and non-executive functions at officer level.

4. PRINCIPLES UNDERLYING THE REVISED SCHEME

4.1 The approach adopted in formulating the Scheme of Delegations is based on the following principles.

(1) No Change to Member-Officer Balance of power

The changes do not affect the division/balance of power between Members and Officers. Anything that requires Member approval under the present structure will continue to require Member approval under the new structure.

(2) No Change to Member Delegations

It is not proposed to make any change to the Scheme of Delegations to the Cabinet, CMM, Committees and sub-committees at this stage. The only exception to this relates to the Council's functions regarding Travellers and Gypsies which it is proposed to transfer from the Cabinet Member for Environment to the Cabinet Member for Housing. This is to reflect changes in legislation as well as enabling a co-ordinator approach.

(3) Powers of the Leader, Cabinet and Committee to exercise powers

Any delegations to Officers are without prejudice to the powers of the Leader, Cabinet Members or Committee to exercise those functions notwithstanding delegations to officers and the fact that a matter has been delegated to officers does not preclude the relevant officer from referring it to the Cabinet, CMM, Committee or Sub-Committee for decision.

(4) Framework for the Scheme of Delegations

In establishing a framework for the Scheme of Delegations, the Council has three broad options: (i) a traditional departmental structure with everything delegated to the Director or Chief Officer and others operating under authorisation from that officer; (ii) a complete separation of powers between commissioning and delivery with those commissioning and those delivering having separate and mutually exclusive terms of reference; and (iii) a system that allows freedom, independence and flexibility for delivery units but with the relevant Strategic Director having an overview of the function and the ability to intervene. It is this third model that had been adopted in developing the proposed scheme of delegations. In practice, this means:

- a. All officer functions of the Council will vest in the **Chief Executive** and **Strategic Directors**;
- b. **Lead Commissioners** and staff reporting to them will operate by way of authorisation from the relevant Strategic Directors to undertake commissioning activities in accordance with the operational procedures set out in the “commissioning framework.” The mandatory parts of the Commissioning Framework will be approved by the Strategic Leadership Board . The Strategic Director for Communities will act as the Lead Commissioner for the communities function.
- c. **Executive Heads of Delivery Units** will have concurrent delegated powers with Strategic Directors regarding the **delivery** of the functions comprised in their area of service, but this has to be exercised:
 - i. Subject to any instructions of the Strategic Director;
 - ii. The Strategic Director may suspend the exercise of any delegated powers by the Head of Delivery Unit;
 - iii. The delivery of the service has to be undertaken within the outcome and other performance indicators set by the Commissioning decision-maker providing that non-compliance will not invalidate any decision taken by a delivery unit;
 - iv. The formal reporting line (for employment matters) of the Executive Heads of Delivery units will be to the Chief Executive, although aspects of the management activity may be undertaken by the Strategic Directors at the request of the Chief Executive.
- d. On 1st November 2010, the activities currently undertaken by the Delivery Units will be deemed to have been commissioned with the relevant budgetary arrangements until such time as a commissioning review is undertaken.

4.2 Resource Functions

- 4.2.1 In relation to functions comprised in the Strategic Director of Resources (Legal & Democratic Services, Policy Analysis and Performance , HR, Property and ICT and Communications) all officer functions, except some Legal and Monitoring Officer functions (being functions required to be undertaken by the individual appointed as the Monitoring Officer or a Member of the legal profession) will vest in the Strategic Director for Resources and all staff reporting to the Strategic Director will operate under authorisation from the Strategic Director. To the extent that the

function is delivered by the City Services Delivery Unit, the Strategic Director will assume the role of the Lead Commissioner.

4.3 Finance Function

4.3.1 All finance and procurement functions will vest in the Director of Finance and staff within the Directorate will operate under a scheme of authorisation as now.

4.4 People Function (Education and Social Services)

Adults

4.4.1 The Lead Commissioner for Adult Social care and Health will be the Statutory Director of Adult Social Services (DASS) and will have direct delegated powers regarding the discharge of the Council's adult social services and health functions. As the Statutory Director of Adult Social Services, he/she will be directly accountable to the Chief Executive in respect of the discharge of the statutory function of DASS. He/she will report to the Strategic Director for People in respect of any functions other than that of the statutory role of DASS.

4.4.2. The Adult Social Services Assessment and Delivery Units will operate under authorisation of the DASS as now.

Children

4.4.3 The functions of the Council regarding Children's Services, including the statutory role of Director of Children's Services will vest in the Strategic Director of People. The two Lead Commissioners for People which relate to children's services will operate under authorisation from the Strategic Director.

4.4.4 The Executive Head of Service, Children and Families (dealing mainly with Children's Social Services) will operate under authorisation from the Strategic Director of People. There will be no Delivery Unit dealing with Schools, skills and learning. It will all be comprised in the commissioning unit which will undertake the residual delivery function.

5. Powers of the Chief Executive

5.1 All officers will be required, as now, to exercise powers in accordance with any instructions given by the Chief Executive. In addition to functions delegated to him directly, the Chief Executive may exercise any of the powers delegated to any other officer except where the function is required, as a matter of law or rules of professional practice, to be exercised by a particular person of a member of a particular profession.

- 5.2 The Chief Executive will, as now, have the power to determine any issues regarding the interpretation of the scheme of delegations.

6. Transitional Period

- 6.1 Between 1st November and 31st March 2010, the Chief Executive and the Strategic Directors will put the various Officer, budget and other practical arrangements to fully operate the Intelligent Commissioning system. Although it is intended that the system comes into being on 1st November, as has happened in the past when changing the way the Council operates, there are likely to be occasions when it will not be reasonably practicable for everything to be in place on 1st November. It is therefore proposed, in line with normal practice, that the Chief Executive is given delegated powers to deal with issues that may arise, including making transitional arrangements.

7. CONSULTATION

- 7.1 All staff directly affected by the changes were consulted and any comments taken on board. There has also been a briefing with the Leaders' Group and Informal Cabinet on the principles and tables showing the allocations of responsibility at a high level.

8. FINANCIAL & OTHER IMPLICATIONS:

8.1 Financial Implications:

The structural changes brought about by the introduction of Intelligent Commissioning are reflected in the proposed, revised Financial Regulations elsewhere on this agenda. Any financial implications arising from the introduction of intelligent commissioning were covered as part of previous reports to Cabinet.

Finance Officer Consulted: Patrick Rice

Date: 20.09.2010

8.2. Legal Implications:

- 8.2.1 These are set out in the body of the report

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 17.09.2010

8.3 Equalities Implications:

- 8.3.1 There are no adverse equalities implications arising from the Scheme of Delegations itself.

8.4 Sustainability Implications:

8.4.1 There are no sustainability implications arising from the proposals in the report.

8.5 Crime & Disorder Implications:

8.5.1 None

8.6 Risk & Opportunity Management Implications:

8.6.1 There is likely to be some unfamiliarity with the new structure and ways of working which could lead to delays or possibly actions not being properly authorised. However, there will be training and information sharing sessions for Members and officers that should minimise such risks.

8.7 Corporate / Citywide Implications:

8.7.1 The adoption of the Scheme of Delegations will enable the council to proceed with Intelligent Commissioning which will assist the Council in its "Council the City Deserves" initiative.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Scheme of Delegations for Officers

Documents in Members' Rooms

1. None

Background Documents

1. Existing constitution and previous reports to Cabinet on Intelligent Commissioning

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INTRODUCTION

1. The delegations set out in parts A and B of this scheme of delegations 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, a Strategic Directors and the Director of Finance.

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

“Executive 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 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 and Strategic Directors in relation to their areas of responsibility. In so far as these relate to the delivery of services (as opposed to commissioning) the Executive 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 powers 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 Executive Heads of Delivery Units referred to under Part B shall have concurrent delegated powers with their relevant Strategic Director in relation to the delivery of the functions set out under their title.
5. The exercise of powers under Part A or B by the Heads of Delivery Units shall be subject to the following:
 - The power delegated to the Executive Head of a Delivery Unit may be exercised by the relevant Strategic Director.
 - The exercise of the power by the Executive 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 Executive Head of a Delivery Unit.
 - The exercise of the powers by the Executive Head of 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 Executive Head of a Delivery Unit.
7. The functions delegated under this Scheme of Delegations to officers shall be subject to the Council's standing orders, financial regulations, policies and procedures and to any instruction or guidance of (i) the Council or the appropriate Committee or Sub-Committee acting under its delegated powers in respect of Council functions; or (ii) the Cabinet, a Committee of the Cabinet or a Cabinet Member in relation to executive functions.
8. Except in relation to any statutory power 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 powers.
- 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 powers 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 powers 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, Sub-Committee, Cabinet or Cabinet Member 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) or the

Leader, Cabinet or Cabinet Member as appropriate, 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 a Member of the Corporate Management Team as the Chief Executive may determine.
Any Strategic Directors other than Resources and Director of Finance	Any Lead Commissioner or, Executive 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, Cabinet Member, 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 powers and duties 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 Delegations to officers shall be in accordance with the Cabinet and 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 Cabinet or Committee specifically reserved to the Council, its Committees or Sub-Committees or the Leader or Cabinet or Cabinet Member 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, Sub-Committee, Cabinet or Cabinet Member.
21. Where powers 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 powers are delegated directly to that officer providing that the Strategic Director or Director or head of the department may exercise the power 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 powers specified under part A may also be exercised by an officer (including the Executive Head of a Delivery Unit) under whose heading a function is listed under part B to the extent that the power relates to a function so listed.

PART A.

GENERAL DELEGATIONS TO ALL CHIEF OFFICERS AND EXECUTIVE HEADS OF DELIVERY UNITS

Save where indicated otherwise and subject to paragraph 15 and 21 of the Introduction, 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 Executive 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 the Executive. 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 & Resources.

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

- (a) To approve the detailed terms of any disposal or acquisition authorised in principle by the Council, the Executive or a Cabinet Member where the terms are

certified by the Valuer to be the best consideration reasonably obtainable;

- (b) 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;
- (c) 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 Chairman of the relevant Committee or Sub-Committee or relevant Cabinet Member as appropriate;
- (d) 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;
- (e) In relation to the Strategic Director for Resources only:

After consulting the Cabinet Member for Central Services, to acquire or dispose of land for a consideration of up to £250,000 provided that the terms are certified by the Valuer to be the best consideration reasonably obtainable and relates to property held for the purposes of the functions of the Strategic Director or is declared by the relevant Director/Strategic Director or Executive Head to be surplus to requirements under sub-paragraph (k) below
- (f) To approve rent reviews where the Valuer certifies the terms to be the best consideration reasonably obtainable;
- (g) 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);
- (h) 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;

- (i) After consultation with the Valuer and the Monitoring Officer, to grant easements, licences and wayleaves;
- (j) 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;
- (k) 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;
- (l) 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 Executive 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 and 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 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 Executive 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 Cabinet, relevant Cabinet Member or, in the case of Council functions, 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:
 - (i) in relation to a Council function, the Chairman (or in his / her absence, a Deputy Chairman) of the relevant Committee or Sub-Committee; or
 - (ii) in relation to an Executive function, the relevant Cabinet Member (or, in his/her absence, the Leader)

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 (in the case of (i) above) a Committee or Sub-Committee; or (in the case of (ii) above), the Cabinet or Cabinet member as the case may be.

- (b) The action taken shall be reported, as appropriate, to the Committee, the Sub-Committee, or the Cabinet or Cabinet Member Meeting.

8. Miscellaneous Matters

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

- (1) to approve minor exceptions to schemes of general policy settled by the Council, Cabinet, 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 Executive Heads of Delivery Units) in value or, in respect of any greater tender, after consulting the relevant Cabinet Member (where the tender relates to an Executive function) or the Chairman of the relevant Committee or Sub-Committee (where the tender relates to a Council function);
- (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]

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 powers delegated to any officer under part A or B of this Scheme of Delegations 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 Delegation Schemes

- (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 Cabinet Member, 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 Cabinet or 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 declarations and giving notice of casual vacancy in the office of Councillor;
- (b) convening Council meetings for election to vacant office of Leader or of Chairman;
- (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]

- (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 & Resources]

4. Returning Officer

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

5. Executive Office

To manage the Council's Executive Office.

II 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 powers set out below except those delegated to the Head of Legal and Democratic Services marked # (being powers 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 #

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 Executive, 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 Executive, 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 Executive's or Council's functions.

Provided that a Principal Solicitor may also exercise any of the functions delegated under sub-paragraphs (3) (a) and (b) above.

(5) **Review of constitution**

To ensure the review and update of the Constitution of the City Council 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 Director, considers necessary to exercise the following powers:

- (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 power 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 including the Mayor's office 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 with the

Local Authority (Executive Arrangements) (Access to Information) (England) Regulations 2000 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 section 21 to 21E of the Local Government Act 2000, and with section 19 of the Police & Justice Act 2006

(12) Ethical Standards

(a) After consultation with the Chairman or Vice Chairman, to require meetings of the Standards Committee to be held and to exercise any function of the Committee (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 register of interests of Members and Co-opted Members in accordance with Section 81 of the Local Government Act 2000.

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 Executive 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, LAAs.)
 - 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 (CLAEW) 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 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]

[See also delegations to the Strategic Director under paragraph 3(e) of the General Delegations regarding property]

- (6) In consultation with relevant Chief Officer or Executive Head of Delivery Unit, to manage Council owned properties.

7. ICT

(1) Information and Communication Technology

To exercise the Council's functions in respect of:

- (1) The implementation of e-government: a strategic framework for public services in the Information Age;
- (2) 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:

- Publishing and maintaining the Council's publications scheme, and
- 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 Cabinet or the relevant Cabinet Member:

- (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 powers under the Registration Service Act 1953 regarding the registration of births, deaths and marriages;
- (b) To exercise the Council's powers 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.

(5) **Travel Concessions**

To exercise the Council's powers 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

- a) 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 Assistant Director the power 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**

The management of the receptions, switchboard and related services at the Council's main building (including Brighton Town Hall, King's House and Hove Town Hall).

9. Emergency Planning

To exercise the Council's functions in respect of emerging planning and business continuity, including the council's functions under the Civil Contingencies Act 2004.

III 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 2003 (as amended) and, subject to any guidance or limitations imposed by the Cabinet, 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 Cabinet Member for Finance 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 Assistant Director 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

3. Procurement

To co-ordinate the Council's procurement strategy; to promote best value and good practice in the Council's procurement activity.

IV 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 Cabinet Member for Children & Young People 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 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 powers in respect of pupils excluded from schools and to give directions to headteachers as to reinstatement of pupils.
- (8) To respond to resolutions passed at annual meetings of parents/governors (the responses to be submitted to the Cabinet Member for Children & Young People 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(1) to (18).
- (2) To exercise the powers 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 powers 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 powers and duties 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 Cabinet Member for Children & Young People:
 - (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 and 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 Cabinet Member for Children & Young People.
- (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 and Skills 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 Cabinet Member for Children & Young People 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 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 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 Services, Social Care and Health Partnerships

(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 Cabinet Member for Adult Social Care & Health:
 - (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 Finances 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 powers regarding the employment of physically disabled people and youth,

V STRATEGIC DIRECTOR OF PLACE

1. Environmental Awareness

To exercise all the powers 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. 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 powers, 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 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 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);
- (c) 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:

- (4) Coastal protection.

- (5) Allotments and smallholdings.
- (6) 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 powers 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 powers may be delegated to an officer under those Acts.
- (2) 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 Director, after consultation with the Chairman 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.
- (6) Subject to paragraph (7) below, and after considering the recommendations of the advisory committee established to advise on licensing functions that are the responsibility of the Executive, to set hackney carriage fares.
- (7) Where the Assistant Director is minded to reject the recommendations of the advisory committee referred to in paragraph (6) above, to refer the matter to the Environment Cabinet Member or the Cabinet

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/Single Regeneration Budget (SRB)/
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. Supporting People

To exercise the Council's functions for supporting people under section 193 of the Local Government Act 2000 (grants for welfare 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 Delegations.

(3) Right to Buy

To administer the right to buy scheme.

(4) Housing Strategy

(a) To exercise the Council's powers 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 powers 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 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 Cabinet Member for Housing 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**

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 powers 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 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 and Moulescoomb 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 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 Cabinet.
- (b) In relation to all other grants administered by the 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 Chairman 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 Director's management or by arrangement with third parties

V11 DIRECTOR OF PUBLIC HEALTH

1. General

To provide advice and support to the Council on issues of public health.

DELEGATIONS TO EXECUTIVE HEADS OF DELIVERY UNITS

VIII DELEGATIONS TO EXECUTIVE HEAD OF CITY SERVICES

1. The delivery of the following functions as set out in section 8 of the delegations to the Strategic Director for Resources
 - (a) Local Taxations 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 delivery of 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 EXECUTIVE HEAD OF PLANNING AND PUBLIC PROTECTION

1. To exercise the Council's powers regarding the delivery of the following functions comprised in the delegations to the Strategic Director of Place under sections 1-3, 5-8 and 10-21 inclusive, namely:
 - (a) Environmental Awareness
 - (b) Land Use Planning
 - (c) Town and Country Planning
 - (d) Conservation and Design
 - (e) Management of Establishments
 - (f) Markets
 - (g) Building Control
 - (h) Environmental Health
 - (i) Licensing and Registration
 - (j) Trading Standards
 - (k) Neighbourhood Renewal
 - (l) Economic Development/Single Regeneration Budget and European Union

2. To exercise the delivery of the Council's functions regarding Community Safety as set out in section 9 of the Delegations to the Strategic Director of Communities.
3. To exercise the Council's powers regarding the delivery of emergency planning services as set out in section 9 of the Delegations to the Strategic Director for Resources.

X DELEGATIONS TO EXECUTIVE HEAD OF TOURISM AND LEISURE

1. To exercise the Council's powers regarding the delivery of the functions set out in sections 1-3, 5 and 8 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

XI DELEGATIONS TO EXECUTIVE HEAD OF CITY INFRASTRUCTURE

1. To exercise the Council's powers regarding the delivery of functions set out under the delegations to the Strategic Director of Place under sections 2-3, 5-9 and 16, namely:
 - (a) National Parks
 - (b) Parks and Green Spaces
 - (c) Highways
 - (d) Traffic Management
 - (e) Parking Management
 - (f) Transport
 - (g) Waste Management Control
 - (h) Coastal Protection
 - (i) Allotments and smallholdings
 - (j) Numbering of housing and naming of streets

XII DELEGATIONS TO EXECUTIVE HEAD OF HOUSING MANAGEMENT

1. Housing

To exercise the Council's functions regarding the delivery of housing management including those set out in section 23 of the Strategic Director of Place, namely:

- (a) To manage the Council's housing service 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

To exercise the delivery of the Council's functions regarding travellers and gypsies, including management of authorised sites.

C. REFERRED FUNCTIONS

ALL OFFICERS WITH DELEGATED POWERS

1. Each power and duty 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.
2. Each power and duty of the Executive delegated or referred to the Cabinet, a Cabinet Member or a Cabinet Committee, and not delegated to an officer, shall be a referred function of the Strategic Director dealing with that area of service. The Director shall give advice and report to the Executive as appropriate.

SCHEDULE 1

Part I

Powers delegated to the Strategic Director of Place and Executive 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

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 Executive 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 upholstery, 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 Executive 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 Misdemeanors Act 1991
Protection of Animals Act 1911
Road Traffic Acts 1988 and 1991
Road Traffic Regulation Act 1984
Road Traffic (Foreign Vehicles) Act 1972
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 Executive 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 IV Directions;
 - (v) variations to existing approved schemes;
 - (vi) detailed and reserved matters submissions pursuant to conditions on planning permissions;
 - (vii) alterations to or installation of shop fronts;
 - (viii) 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;
 - (ix) extensions and alterations to non-residential buildings;
 - (x) 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;

- (xi) renewals of temporary permissions;
 - (xii) applications to vary or delete conditions attached to planning permissions;
 - (xiii) all other minor applications not referred to above.
- (2) Applications for consent under the Advertisements Regulations.
 - (3) Applications for Conservation Area Consent.
 - (4) Applications for Listed Building Consent.
 - (5) 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 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 applications for Certificates of Appropriate Alternative Development pursuant to Section 17 of the Land Compensation Act 1961.
- (6) 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.
- (7) 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.
- (8) 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.

- (9) 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 1999 and the Strategic Environmental Assessment (SEA) Regulations.
- (10) 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 Executive Head of Housing Management 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 Cabinet Member for Housing).
- (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 Director after consultation with the Cabinet Member for Housing.
- (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 Executive 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 Assistant Director Customer 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 Assistant Director Customer 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 powers 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 Executive 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 powers of the council under Part 3 of the Traffic Management Act 2004
- (4) To exercise the powers of the council under Part 3 of the New Roads and Street Works Act 1991 (as amended)
- (5) To exercise the council's civil enforcement powers under Part 6 of the Traffic Management Act 2004
- (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 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 powers 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 powers 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 powers and duties 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 powers and duties 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

GOVERNANCE COMMITTEE MEETING

Agenda Item 31

Brighton & Hove City Council

Subject: Consequential Amendments to Procedure Rules in the Constitution

Date of Meeting: 28 September 2010

Report of: Acting Director of Strategy & Governance

Contact Officer: Name: Abraham Ghebre-Ghiorghis Tel: 291500
E-mail: Abraham.ghebre-ghiorghis@brighton-hove.gov.uk

Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The introduction of Intelligent Commissioning and the changes to the scheme of delegations to Officers means that a number of references in some of the Council's procedure rules need revising. This, in particular is the case with Contract Standing Orders, Financial Regulations and Officer Employment Procedure Rules. This report seeks Council approval to certain technical amendments to bring these procedures in line with the new Officer structure.

2. RECOMMENDATIONS:

- 2.1 That the Governance Committee recommends to Council the approval of the amendments to the Contract Standing Orders, Financial Regulations and Officer Employment Procedure Rules as shown in Appendices 1, 2 and 3 to this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The existing procedures in part 8 of the Council's constitution make references to Officers by designation, such as "Director" or "Assistant Director." With the introduction of Intelligent Commissioning, these designations will no longer be relevant or appropriate. It is therefore proposed to amend them to reflect the right titles and roles under the new structure.
- 3.2 Under the Council's constitution, amendments to Council Procure rules (such as the ones covered by this report) are the responsibility of full Council. Although the Monitoring Officer has delegated authority to make consequential amendments to reflect decisions taken by any part of the Council with authority to do so, given the scope and extent of the changes, it is considered more appropriate to bring this to the Governance Committee for recommendation and Council for approval.

4. Contract Standing Orders

- 4.1. Most of the functions under Contract Standing Orders fall to "Chief Officers" (i.e. Directors) and Assistant Directors, although in practice decisions are taken by other officers under authorisation. The proposed amendments (shown in Appendix 1) replace the role of Chief Officers by that of Strategic

Directors with the Director of Finance and the Lead Commissioner for Adult Social Services being treated as Statutory Directors for this purpose. It then authorises Lead Commissioners, Executive Heads of Delivery Units and Heads of Resource and Finance Units to exercise the powers previously given to Assistant Directors.

4.2 All important and sensitive decisions previously taken by Chief Officers (such as authorising waiver of Standing Orders or authorising variation to contracts) will be reserved to Strategic Directors under the proposals.

4.3 All issues that currently require Member approval or Member consultation will continue to be subject to the same requirement. The amendments are therefore essentially to ensure that the procedures reflect the new officer structure and the correct title.

5. Financial Regulations

5.1 The amendments shown in Appendix 2 replace Chief Officers (which consist of Directors under the current system) with Strategic Directors and makes some other minor amendments to reflect the correct titles. Strategic Directors will have overall budgetary responsibility for everything within their service area or commissioning scope. Once Intelligent Commissioning is fully implemented, it is likely that the Regulations may have to be revised to reflect the devolved powers that Executive Service Heads will have.

6. Officer Employment Procedure Rules.

6.1 The current rules make the appointment of Directors and Assistant Directors on a permanent basis a Member function either in the form of a committee or a sub-committee or by way of a selection panel.

6.2 The revised procedures make the appointment of Strategic Directors, Lead Commissioners and Executive Heads of Delivery Units, Member functions to be exercised by committee, a sub-committee or a selection panel consisting of Members. There is therefore no change in substance. Officer appointments that would have been a Member function will continue to do so. The amendments also reflect the title of the new Strategic Directors.

6.3 As it stands at the moment, the Employment Procedure Rules state that the selection panel should consist of 4 Members. In practice, given the desire to include all political groups, this has never been strictly adhered to with the Members. In order to bring the procedure rules in line with what happens in practice, it is proposed to increase the numbers from 4 to 6 and allocate the seats having regard to the need to include all political groups and, subject to that, to apply the proportionality rules.

7. CONSULTATION

The Leader of the Council, the Chairman of Governance Committee, the Director of Finance, the Head of HR and the Procurement Strategy Manager were consulted and their comments taken into account.

8. FINANCIAL & OTHER IMPLICATIONS:

8.1 Financial Implications:

There are no financial implications arising directly from this report. The operation of the revised Financial Regulations will be monitored and any issues addressed as part of future revision of the Regulations.

Finance Officer Consulted: Patrick ice

Date: 20.09.10

8.2. Legal Implications:

8.2.1 There are no legal implications arising from this report

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 17.09.2010

8.3 Equalities Implications:

8.31 There are no adverse equalities implications arising from the scheme of delegations itself.

8.4 Sustainability Implications:

8.4.1 There are no sustainability implications arising from the proposals in the report.

8.5 Crime & Disorder Implications:

8.5.1 None

8.6 Risk & Opportunity Management Implications:

8.61 There is unlikely to be any risk associated with the introduction of the revised procedures which are designed to simply reflect the new officer structure and do not involve any change of substance.

8.7 Corporate / Citywide Implications:

8.71 The adoption of the revised procedures will more accurately reflect the officer structure and enable the council to proceed with Intelligent Commissioning which will assist the Council in its "Council the City Deserves" initiative.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft revised Contract Standing Orders
2. Draft Financial regulations
3. Draft Officer Employment Procedure Rules

Background Documents

1. Existing council procedure documents available on the Wave.

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PART 8.3 CONTRACT STANDING ORDERS

General

Contract Standing Order I: 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 nominated 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

Deleted: “Chief Officer” - a chief officer as defined in Article 12 of the Council's Constitution including any officer who is a member of the Council's Management Team ¶¶

	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
<u>“Senior Officer”</u>	<u>Lead Commissioner, Executive Head of a Delivery Unit or Head of a Resource or Finance Unit.</u>
“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)
<u>“Strategic Director”</u>	<u>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.</u>

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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.

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Contract Standing Order 2: Compliance with Contract Standing Orders and Legislation

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- 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 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.

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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 Cabinet Member, committee or other executive decision-making body. All Budget Holders (in relation to expenditure within their allocated budgets) as well as [Senior Officers](#) and Contract Officers authorised by the [relevant Strategic Director](#) may agree to the Council entering into Contracts up to £250,000. Each [Strategic Director](#) shall draw up and maintain a scheme of authorisation for use within his/her [area of service or function](#), which shall include one or more named [Senior Officers](#), Budget Holder and Contract Officer and shall be copied to the [Monitoring Officer](#) and the Procurement Strategy Manager.

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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. Council Employees who declare a conflict of interest will take no part in the relevant contracting process.

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4.3 Strategic Directors and 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.

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4.4 Strategic Directors and Senior Officers shall keep completed Contract Consultants' and Contractors' declarations of interest and relevant Council Employees' declarations affecting the Contract on the contract file.

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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.

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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.

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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.

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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.

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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

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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.

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Contract Standing Order 7

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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.

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Contract Standing Order 10: Contracts Not Exceeding £25,000

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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.

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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.

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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.

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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. Deleted: Chief
- 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. Deleted: Head of Law
- 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: Deleted: by Chief Officers
- (a) the Procurement Strategy Manager, for goods and services Contracts;
or
- (b) the [Head of](#) Property and Design for works Contracts. Deleted: Assistant Director
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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.

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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.

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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.

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Contract Standing Order 14: Contracts Registers

14. 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.

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:

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“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 Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972; 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 relevant Cabinet Member, if the proposed variation would together with all other variations to the Contract:

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- (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.

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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 Cabinet to particular classes of Contracts in line with the Council's procurement strategy, as specified in Cabinet 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

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- (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.

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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 relevant Cabinet Member and the Procurement Strategy Manager, waive the requirements of CSOs as long as:

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- (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 relevant Cabinet Member 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 relevant Executive Member 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 Cabinet.

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.

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 the Procurement Strategy Manager.

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.

FINANCIAL REGULATIONS

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I INTRODUCTION

I.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.

I.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.

Performance Assessment Framework

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.

I.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

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and include the responsibilities of the Chief Finance Officer and other Chief Officers.

The Financial Regulations provide clarity about the financial accountabilities of individuals including:

- the Leader and Executive Members
- individual Members;
- the Chief Executive;
- the Monitoring Officer (in this council this role is held by the Head of Legal & Democratic Services);
- the Chief Finance Officer (the Director of Finance); and
- Chief Officers (Strategic Director).

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In these regulations the expression ‘Chief Officers’ or ‘Strategic Directors’ includes the Strategic Directors for People, Place, Communities and Resources and the Director of Finance.

The expression ‘Service areas’ or ‘Service’ includes any services or functions comprised in the delegations of the relevant Strategic Director.

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, the Leader, Executive Members, Committees, Sub-Committees and Scrutiny Committee/ Panels.

These Financial Regulations are subject to Accounts and Audit Regulations (revised in 2003) issued by Government under s27 of the Audit Commission Act 1998. 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 “A Statement on the Role of the Finance Director in Local Government” issued in January 2003.

Both private and public sector enterprises need control frameworks to ensure their business objectives are met. Councils, however, by virtue of

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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 Audit Commission 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.

Strategic Directors should maintain a written record where decision-making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated, references to the Strategic Director in the regulations should be read as referring to the officer exercising the delegated authority. Each Strategic Director must ensure that they have in place and operate a scheme of financial delegation, which should be in a form approved by the Director of Finance. It is the responsibility of each Strategic Director to ensure that all financial processes and controls operated by their service areas 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, provides value for money and achieves best value.

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Financial Regulations have an important role in establishing a sound system of corporate governance for the council and also in supporting the Council's Anti-Fraud and Corruption Strategy. The Leader, Executive Members and Strategic Directors 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.

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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.

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The Director of Finance is also responsible for reporting, where appropriate, breaches of the Financial Regulations to Members. Strategic Directors are

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responsible for ensuring that all staff in their [service areas](#) 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 [service areas](#), especially where staff do not have access to electronic copies.

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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 [Strategic Directors](#) in their responsibility for the operation of their financial processes. These Standard Financial Procedures have the same authority as Financial Regulations.

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The Director of Finance may vary Standard Financial Procedures in consultation with the Chief Executive and [Strategic Directors](#) 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 [Strategic Directors](#). Agreed variations must be properly recorded, in a form agreed by the Director of Finance.

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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.

2.2 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 the Executive, 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 also responsible for monitoring compliance with the agreed policy and related Executive and committee decisions.

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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, the Executive and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

2.3 The Executive

The Leader and Executive Members form the executive of the Council and are collectively referred to in Financial Regulations and Standard Financial Procedures as the Executive. Cabinet refers to a meeting of the full Executive.

The Executive is responsible for proposing the policy framework and budget to the full Council. The Executive, is also responsible for discharging executive functions in accordance with the Constitution, the policy framework and budget. Executive decisions can be taken collectively, or by the Leader or Executive members individually, or can be delegated to an officer.

Where the Executive, collectively or individually, exercises any function they must observe not only any requirements of Financial Regulations and Standard Financial Procedures, which are specifically directed at them, but also the requirements directed at [Strategic Directors](#).

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2.4 Overview and Scrutiny

The overview and scrutiny committees support the work of the Executive 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

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implemented. They can require members (including the Executive), 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 Executive or other person or body to whom they are directed.

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2.5 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.

2.6 Audit Committee

The Audit Committee oversees the Council's arrangements for the discharge of its functions in connection with finance, risk management and audit. It makes recommendations to the Council, the Cabinet, Officers or other relevant bodies within the Council.

2.7 The Statutory Officers

2.7.1 Chief Executive

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.

2.7.2 Monitoring Officer

The role is held in this council by the [Head of Legal & Democratic Services](#). 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 financial conduct, and also for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to executive committees. He/she is also responsible for ensuring that procedures for recording and reporting key decisions are operating effectively.

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He/she must ensure that executive 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 executive responsibility.

The Monitoring Officer is responsible for advising all Members and officers about who has authority to take a particular decision.

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The Monitoring Officer is responsible for advising the Executive, the committees or the full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework (together with the Chief Finance Officer).

The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

2.7.3 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:

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- 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 2003 and 2006; and
- The Local Government Act 2003.

CIPFA's "A Statement on the role of the Finance Director in Local Government (2003)" sets out five key roles that are critical for the achievement of a finance director's statutory responsibilities:

- maintaining strong financial management underpinned by effective financial controls;
- contributing to corporate management and leadership;
- supporting and advising democratically elected representatives;
- supporting and advising officers in their operational roles; and
- leading and managing an effective and responsive financial service.

S114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full council, the Executive and external auditor if the authority or one of its officers:

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- 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.

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- 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 the Executive, the committees or the full Council where a decision is not in accordance with the budget.

2.7.4 Strategic Directors

The Strategic Directors make up the Strategic Leadership Board (SLB) and comprise of:

- The Chief Executive
- Director of Finance
- Strategic Director – Place
- Strategic Director – People
- Strategic Director – Communities
- Strategic Director – Resources

Strategic Directors 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 implication 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 Procurement Policy and Contract Standing Orders.
- The operation of sound financial procedures within their service areas and, in order to fulfil this duty, they shall ensure that there is a formal scheme of financial delegation and adequate controls are in place.
- Where a Strategic Director delegates his/her powers to staff in accordance with a scheme of delegation, holding a record including appropriate authorisation of such delegation.
- 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 available to the Head of Audit & Assurance Services.

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Where Financial Regulations and Standard Financial Procedures set out the role of [Strategic Directors](#), this term should be taken to include the Chief Executive. ~~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.~~

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2.8 Other Financial Accountabilities

2.8.1 Virement (Budget Transfer)

[Strategic Directors](#) are responsible for agreeing in-year virements but must not take decisions or transfer resources contrary to current council policy as represented by the approved budget.

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The procedure for virements is set out in Standard Financial Procedures (paragraph [A.2.1](#)).

2.8.2 Treatment of Year-end Balances

The procedure is set out in Standard Financial Procedures (paragraph [A.2.2](#)).

2.8.3 Accounting Policies

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

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2.8.4 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.

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2.8.5 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 code is issued in the form of a Statement of Recommended Practice (SORP). The full Council is responsible for approving the annual statement of accounts.

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3 FINANCIAL PLANNING & BUDGET SETTING

3.1 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 Executive. In terms of financial planning, the key elements are:

- the Corporate Plan,
- the Revenue Budget,
- the Capital Programme,
- the Medium Term Financial Strategy (MTFS), and
- the Performance Plan.

The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Monitoring Officer.

The Executive 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 Executive 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.

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3.3 Revenue Budget Preparation

The Director of Finance is responsible for ensuring that a revenue budget is prepared on an annual basis. A medium term financial strategy (MTFS) taking account of revenue resources over three years and capital resources over five years will also be prepared for consideration by the Executive and full Council. The MTFS will be updated annually to give constant 3 year estimates and will be reported to the Executive and then full Council. The full Council may amend the budget or ask the Executive to reconsider it before approving it.

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It is the responsibility of [Strategic Directors](#) to ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive.

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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 Executive on the overall position on a regular basis in accordance with the Targeted Budget Management (TBM) framework.

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It is the responsibility of [Strategic Directors](#) 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 within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance to any problems.

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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 Executive before submission to the full Council.

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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.

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3.7 Budget Setting Guidelines

Guidelines on budget preparation are issued to members and [Strategic Directors](#) by the Director of Finance taking into account the current policy framework determined by the Council and any subsequent policy framework proposed by the Executive. 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.

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3.8 Maintenance of Reserves

It is the responsibility of the Director of Finance to advise the Executive and/or the full Council on prudent levels of reserves for the authority to ensure the council has a sound financial standing. Consideration will be given to the CIPFA recommended level of balances.

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4 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.

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4.2 Risk Management and Insurance

The Cabinet is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Audit Committee also has a role in reviewing risk management arrangements (see para. 2.6).

The Director of Finance is responsible for ensuring that proper insurance arrangements exist where appropriate.

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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 to the external auditors annually for inclusion in the statement of accounts. Arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.

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It is the responsibility of [Strategic Directors](#) 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.

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4.4 Audit Requirements

The Accounts and Audit Regulations 2003 (as amended) require every local authority to maintain an adequate and effective internal audit process.

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.

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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 an anti-fraud and corruption policy. The policy will be approved and monitored by the Standards Committee.

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4.6 Assets

Strategic Directors 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.

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4.7 Treasury Management

The authority has adopted CIPFA's code of practice for treasury management in local authorities.

The Cabinet 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.

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All executive 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.

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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.

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Strategic Directors are responsible for ensuring that they are operated in line with appropriate legislation and/or Charity Commission guidance if appropriate.

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Strategic Directors 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.

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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.

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4.9 Staffing

The full Council is responsible for determining how officer support for executive and non-executive roles within the council will be organised.

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.

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Strategic Directors are responsible for controlling total staff numbers by:

- advising the executive on the budget necessary in any given year to cover estimated staffing levels required to deliver approved levels of service and having regard to statutory provision;
- adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs;
- the proper use of appointment policy and procedures.

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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 [Strategic Directors](#) to the existing financial systems or the establishment of new systems must be approved by the Director of Finance. However, [Strategic Directors](#) are responsible for the proper operation of financial processes in their own [service areas](#).

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Any changes to agreed procedures required or identified by [Strategic Directors](#) to meet their own specific service needs must be agreed with the Director of Finance.

[Strategic Directors](#) 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.

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[Strategic Directors](#) must ensure that, where appropriate, ICT and other systems are registered in accordance with data protection legislation.

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[Strategic Directors](#) must ensure that staff are aware of their responsibilities under Data Protection and Freedom of Information legislation.

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5.3 Income and Expenditure

It is the responsibility of [Strategic Directors](#) to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the [Strategic Director's](#) behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. Specifically, authorised signatories and the limits of financial responsibility should be formally recorded in line with the procedure issued by the 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.

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The Cabinet 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 Strategic Director – Resources.

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5.5 Imprest and Petty Cash Accounts

The Director of Finance in consultation with Strategic Directors 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.

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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.

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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.

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5.6 VAT & Taxation

The Director of Finance is responsible for advising Strategic Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

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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.

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5.7 Trading Accounts

It is the responsibility of the Director of Finance to advise on the establishment and operation of trading accounts.

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5.8 Financial Information and Communications Systems

It is essential that the council's 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.

Strategic Directors will need to liaise with the Director of Finance and the Head of ICT on any major proposals either to purchase ICT equipment or software, or to undertake a major upgrade of existing systems.

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5.9 Control of Contracts

It is essential that all [Strategic Directors](#) 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.

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5.10 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 Cabinet shall approve all banking contract terms and conditions.

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5.11 Financial Limits

Financial limits need to be set in the interests of good governance and financial management. [Strategic Directors](#) are responsible for determining financial limits of authority, which are incorporated in their [service areas](#) scheme of financial delegation.

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6 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

6.2.1 The Executive 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.

6.2.2 The main reasons for entering into a partnership are:

- a) where required, to act as the statutory accountable body;
- b) the desire to find new ways to share risk;
- c) the ability to access new resources;
- d) to provide new and better ways of delivering services;
- e) to forge new relationships.

6.2.3 A partner is defined as either:

- a) 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

- b) a body whose nature or status give it a right or obligation to support the project or services.

6.2.4 Partners participate in projects or services by:

- a) acting as commissioner, deliverer or sponsor of projects or services, solely or in concert with others;
- b) acting as funder or part funder of projects or services;
- c) being the beneficiary group of the activity undertaken in a project or services.

6.2.5 Partners have common responsibilities:

- a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation;
- b) to act in good faith at all times and in the best interests of the partnership's aims and objectives;

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- c) be open about any conflict of interests that might arise;
- d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors;
- e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature;
- f) to act wherever possible as ambassadors for the project.

6.2.6 The Executive can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority’s Constitution. Where functions are delegated, the Executive remains accountable for them to the full council.

6.2.7 The Chief Executive represents the authority on partnership and external bodies, in accordance with the scheme of delegation.

6.2.8 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the council.

6.2.9 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.

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6.2.10 Strategic Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

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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.

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6.4 Work for Third Parties

The Executive 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.

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SCHEDULE OF OFFICER RESPONSIBILITIES

Monitoring Officer

Financial Regulations including Standard Financial Procedures refer to the Monitoring Officer. The Head of Legal & Democratic Services is responsible for this role.

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Chief Finance Officer

The role of Chief Finance Officer is undertaken by the Director of Finance.

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PART 8.4 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, Executive Head of a Delivery Unit or Head of a Resource or a Finance Unit.

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Deleted: a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more of the Chief Officers outlined above.¶ ¶ but¶ ¶ For the purposes of these Officer Employment Procedure Rules, a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a

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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.

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- (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. That committee or sub-committee must include at least one member of the Cabinet.

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 Executive 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. The Committee, Sub-Committee or Panel must include at least one member of the Cabinet.

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6.2 Whenever a Panel is convened in accordance with paragraph 6.1 above, it shall be constituted as follows:

- (i) The Panel shall consist of [6](#) Members appointed to reflect the political

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composition of the Council providing all the Groups in the Council are represented (on current numbers, this works out 3 Conservative, 1 Labour, 1 Green and 1 Lib Dem).

(ii) The Strategic Director of Resources shall appoint Members of the Panel in accordance with the wishes of the relevant Group/Convenor.

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(iii) A Cabinet Member shall be one of the 6 Members of the Panel.

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(iv) The Panel shall be chaired by a member of the Group with the largest number of seats in the Council.

(v) 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 Chairman shall have a casting vote.

(vi) The Strategic Director of Resources is authorised to take all steps necessary or incidental to supporting this appointments process

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6.3 (1) In this paragraph, “appointor” means, in relation to the appointment of a person as Head of Paid Service, Full Council, or, in relation to the appointment of a person to one of the other officer roles referred to in 6.1 above, the person or body making the appointment.

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(2) An offer of appointment as Head of paid Service or as any of the officers referred to in 6.1 above must not be made by the appointor until –

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the proper officer has notified every member of the executive of –

- (i) The name of the person to whom the appointor wished to make the offer;
- (ii) Any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
- (iii) The period within which any objection to the making of the offer is to be made by the Leader on behalf of the executive to the proper officer; and

(c) either –

(i) the Leader has, within the period specified in the notice under 6.3 (2)(b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

7. Other Appointments

- 7.1 **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.
- 7.2 **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.

8. Disciplinary Action - Head of Paid Service, Monitoring Officer and Chief Finance Officer

- 8.1 **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.
- 8.2 **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.

9. Disciplinary Action - Chief Officers and Deputy Chief Officers

- 9.1 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.

10. Disciplinary Action - Other Officers

- 10.1 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.

11. Dismissal

- 11.1 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.

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