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# Bath & North East Somerset Council

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Improving People's Lives

Bath and North East Somerset Council

## **Constitution**

19/09/2024

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# **PART 1 SUMMARY AND EXPLANATION**

## 1.1 WHAT IS IN THE CONSTITUTION

The Constitution has six parts:

- **Part 1** is this summary and explanation.
- [Part 2](#) sets out which parts of the Council are responsible for carrying out the various functions of the Council (who does what).
- [Part 3](#) contains the various Procedure Rules – which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.
- [Part 4](#) includes codes and protocols that govern how Councillors (also known as “Members” of the Council) and officers of the Council must behave in performing their duties.
- [Part 5](#) is the Councillors’ Allowances Scheme which sets the level of financial allowances which Councillors receive for performing their duties.
- [Part 6](#) is a Glossary which explains some of the terminology used in this document.

There are a number of other codes, protocols and policy documents that govern how the Council operates which do not form part of this Constitution. Where the Constitution refers to these documents, they will be made available on the Council's website via a hyperlink.

## 1.2 PURPOSE OF THE CONSTITUTION

Bath and North East Somerset Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that the Council’s business is efficient, transparent and accountable to local people. Some matters addressed in this Constitution are required by the law, while others are a matter for the Council to choose.

This is a document to help residents, businesses, partners, stakeholders, Councillors and Officers to understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are [coloured blue like this](#).

## 1.3 THE COUNCIL

The Council comprises 59 Councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

All Councillors meet together as the Council. Meetings of the Council are open to the public, (unless when meetings resolve to exclude the public). Here, Councillors decide some of the Council's overall policies and set the budget each year. Certain decisions must be taken by full Council, but most may be delegated to other decision making bodies or officers. Further information about who has responsibility for the Council's functions is set out in [Part 2 of the Constitution](#).

There are three different types of Council meeting

- The Annual Meeting of the Council.
- Ordinary meetings; and
- Extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules.

You can find details of Council meetings on the Council's website

## 1.4 COUNCILLORS

Councillors are directly accountable to residents and local businesses for the running of the Council. They have a duty to represent all constituents in their Ward (including those who did not vote for them) and they must make decisions in the best interests of the area as a whole. They are involved in decision making in accordance with the Council's Procedure Rules. Councillors can also represent the authority on external bodies.

The regular election of Councillors will be held on the first Thursday in May once every four years, with all Councillors being elected at the same time. The last election was in 2023. The term of office of Councillors will start on the fourth day after being elected and will

finish on the fourth day after the date of the next regular election (except for the Leader who remains in office until the Annual Meeting). You can find out more about [Councillors, the political groups that they may represent, committee memberships, declarations of interest on the Council's website](#).

## 1.5 POLITICAL GROUPS

For a political group to be recognised by the Council, the following must occur:

- the Chief Executive must receive a notice signed by at least 2 Councillors who wish to be treated as a political group;
- the notice must identify the name of the political group and the name of the group's Leader and any Deputy Leader(s) (who must be one of the Councillors signing the notice);
- All Councillors who wish to be regarded as Members of the political group must sign the notice.

Political Groups on the Council may nominate Members to act as informal points of liaison for Cabinet Members.

Councillors carry out the following roles and functions, they:

- collectively are the ultimate policy makers and determine certain of the Council's policies and budget;
- represent their communities and bring their views into the Council's decision-making process i.e. become the spokesperson of and for their communities;
- contribute to the good governance of the area and actively encourage community participation and resident involvement in decision making;
- deal with individual casework and act as a spokesperson for constituents in resolving particular concerns or grievances;
- respond to constituents' enquiries and representations, fairly and impartially, balancing different interests identified within the ward or electoral division to represent it as a whole;
- take decisions at full Council, and through membership of Cabinet, or the Council's Committees or Panels;

- participate in reviewing and scrutinising decisions made or actions taken in the exercise of the Council's functions;
- are available within the terms of the Constitution to represent the Council on other bodies; and
- promote and maintain the highest standards of conduct and ethics in the way they undertake their duties.

Councillors are required to comply with the Members' Code of Conduct, the Protocol on Councillor/Officer Relations and any other [Codes and Protocols set out in Part 4](#) of this Constitution.

The Council's Monitoring Officer is responsible for the provision of training and advice to Councillors on the role of a Councillor including the Code of Conduct.

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme, following review and recommendations by an Independent Allowances Panel, as set out in [Part 5 of this Constitution](#).

## 1.6 THE CABINET

The Cabinet (which is also called "the Executive") is the part of the Council which is responsible for most of the significant decisions. The Cabinet is made up of the Leader of the Council, who is elected by the Council, and up to nine other Councillors appointed by the Leader. One or more of the Cabinet Members is also appointed by the Leader as their deputy. The Leader determines which executive decisions will be made by the Cabinet collectively and which decisions may be taken either by a committee of Cabinet or by individual Cabinet Members or Officers.

When "Key Decisions" are to be discussed or made, these are published in the Cabinet's Forward Plan (except in cases of urgent decisions where this is not possible). If Key Decisions are on the agenda for a meeting of the Cabinet, this will generally be open for the public to attend except where, for example, personal or confidential matters are being discussed (further details are set out in the [Access to Information Procedure Rules](#)). The Cabinet has to make decisions which are in line with the Council's overall Policy and Budget framework. If Cabinet wishes to make a decision which is outside this framework, this must be referred to the Council as a whole to decide.



Each Member of Cabinet is responsible for a particular functional area (known as a "Portfolio"), and the allocations of [portfolios to Cabinet Members](#) is determined by the Leader. The Leader may allocate a portfolio area to be shared (joint portfolio) between two Cabinet Members, in which case, it remains a single portfolio and the allowance is shared between the Cabinet Members.

The Leader may allocate [Cabinet Project Leads](#) to support Cabinet Members, in research and project work. The decision making responsibility remains with the Cabinet Member, and the Cabinet Project Lead may not substitute at Cabinet meetings for the Cabinet Member.

The Leader may amend and update the Executive arrangements at any time and shall notify the Monitoring Officer of any changes.

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedures Rules set out in [Part 3 of this Constitution](#).

## **1.7 THE ROLE OF THE COUNCIL CHAIR**

The Council will, at its Annual Meeting, elect a Councillor to be its Chair for the Municipal Year i.e. until the next Annual Meeting. The Council will also appoint a Councillor to be the Vice Chair.

The functions of the Chair of Council are as follows:

- To uphold and promote the purposes of the Constitution insofar as they relate to the conduct of Council meetings;
- To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- To make rulings at meetings of the Council on the interpretation of the Council's procedural rules in the context of efficient and effective decision making;
- To exercise discretion in the management of public and Councillor submissions;
- To ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- To promote the Council's strategic objectives and values in

exercising all functional responsibilities;

- To promote public involvement in the Council's activities;
- To attend such civic and ceremonial functions as the Council and s/he determines appropriate.

The Chair will be guided by the Chair's Civic Handbook.

*[Note;*

*The Chair (person) of the Council is a different office to that of the Civic Mayor of Bath. The latter is an office conferred by Civic Charter on the person selected by the Charter Trustees of the City of Bath to hold that position for any given year. The Mayor of Bath is a civic and ceremonial office.*

*The Charter Trustees comprise all the Bath & North East Somerset Councillors elected to represent wards within the City of Bath. The Charter Trustees have no local government administrative powers and are a separate corporate body from the Council.]*

## **1.8 OFFICERS**

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely with certain officers having extra responsibilities.

The structure of management roles within the Council is set out in the [Management Structure chart](#).

The functions and responsibilities which the Council and the Cabinet have given to officers are detailed in [Part 2 of the Constitution](#).

A protocol governs the relationships between officers and Members of the council. This protocol is included within [Part 4 of the Constitution](#).

The Council has a [Code of Conduct for Employees](#)

The Council produces an annual Pay Policy Statement which sets out the Council's approach to setting the pay of its employees (other than those working in local authority schools).

## 1.9 RESIDENT RIGHTS & RESPONSIBILITIES

Everyone has an equal right to access Council services. Residents also have the following rights to:

- vote in Council elections (if they are registered);
- attend meetings of the Council, the Cabinet and Council committees except where confidential or exempt information (as defined in the Local Government Act, 1972 as amended and in accordance with Part 4B) is likely to be disclosed, and the meeting or part of it is therefore held in private;
- ask questions, present petitions or make statements to the Council, the Cabinet or any of the Council's committees;
- report on the proceedings at open meetings of the Council, Cabinet and Committees, by filming, photographing, audio-recording or by any other means, and to provide written commentaries during a meeting and oral commentaries outside a meeting;
- find out from the published [forward plan](#) of executive business what key and other decisions will be taken by the Cabinet or individual Cabinet Members and when;
- see reports and background papers, and any records of decisions made by the Council and the Cabinet (subject to restrictions in connection with exempt or confidential information);
- inspect the Council's accounts and make their views known to the external auditor;
- attend Councillors' Ward Surgeries (if they take place);
- stand for election as a Councillor;
- contact the Council in person, in writing, by telephone, using e-mail or by accessing the Council's web site;
- be consulted where required by law or where the Council chooses to consult;
- expect the Council to strive to meet its targets for responding to correspondence, telephone calls, electronic messages and complaints;

- complain to;
  - the Council itself under its [complaints scheme](#);
  - the Local Government Ombudsman if they feel the Council has not followed its procedures properly, but only after first exhausting the Council's own complaints scheme (this is a normal requirement of the Ombudsman);
  - the Council's Monitoring Officer about an alleged breach of the Council's Local Code of Conduct by an elected Member or a co-opted member.
- Residents on the electoral roll for the area have the right to demand a referendum on a directly elected mayor form of executive arrangement under the Local Government Act 2000 by raising a petition comprising 5% of the electorate. Residents on the electoral roll may request referenda on other matters by petitioning the Council. Residents may petition the Council on any other matters relating to the Council's activities or within its general powers of wellbeing.
- Residents must not be violent, abusive or threatening to Councillors or officers and must not wilfully or recklessly harm things owned by the Council, Councillors or officers.

## 1.10 JOINT ARRANGEMENTS

The Council is able to enter into various forms of joint arrangements with other Local Authorities and Bodies. Details of Joint Arrangements which the Council has entered into are available in [Part 2 of the Constitution](#).

## 1.11 OVERVIEW & SCRUTINY ARRANGEMENTS

The Council at its Annual Meeting will appoint at least one Overview and Scrutiny Panel (in this Authority, currently known as a Policy Development & Scrutiny Panel). Overview and Scrutiny Panels allow residents to have a greater say in Council matters by holding public inquiries into some matters of local concern. These lead to reports and recommendations to the Cabinet and to the Council on its policies, budget and service delivery. Overview and scrutiny Panels also monitor the decisions of the Cabinet and other executive persons/bodies.

The scope, functions and composition of the Council's Scrutiny Panels are set out in [Part 2 of the Constitution](#).

## **1.12 DECISION MAKING (INCLUDING KEY DECISIONS)**

The Local Government Act 2000 ("the 2000 Act") divides functions of the Council into two categories; executive and non-executive. Non-executive functions (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to planning, licensing and registration. Non-executive functions may be delegated to committees, sub-committees or officers under section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.

Executive Decisions may be taken by the Leader, the Cabinet as set out in paragraph 1.6 above or delegated to a committee of Cabinet, a portfolio holder or an officer, under the Local Government Act 2000.

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in [Part 2 of the Constitution](#). Local schemes of delegation maintained by the Council's Chief Officers are held in the [Library](#).

Where a decision is delegated under this Constitution, that does not prevent the person or body that has delegated the function from taking back the delegation and themselves exercising the function.

A "key decision" is defined in law as one which is likely to:

- result in the local authority incurring expenditure, or the making of savings, over a financial threshold of £500k; and/or
- be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The definition of key decision does not apply to proposals or decisions of the Leader acting in their capacity as Shareholder of a Local Authority Company owned or operated by the Council.

## **1.13 DUTY TO MONITOR AND REVIEW THE CONSTITUTION**

The Monitoring Officer will monitor, review and evaluate the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Monitoring Officer has delegated authority to update the Constitution arising from;

- decisions of the Council or Cabinet;
- where legislation requires a change in wording or terminology;
- minor or inconsequential changes;
- changes that are predominantly managerial in their nature where there is agreement from the other two statutory officers (the Chief Executive and the Executive Director - Resources (S151)) and where the matter has been subject to consultation with the appropriate Members (normally the relevant Cabinet Member and Group Leaders).

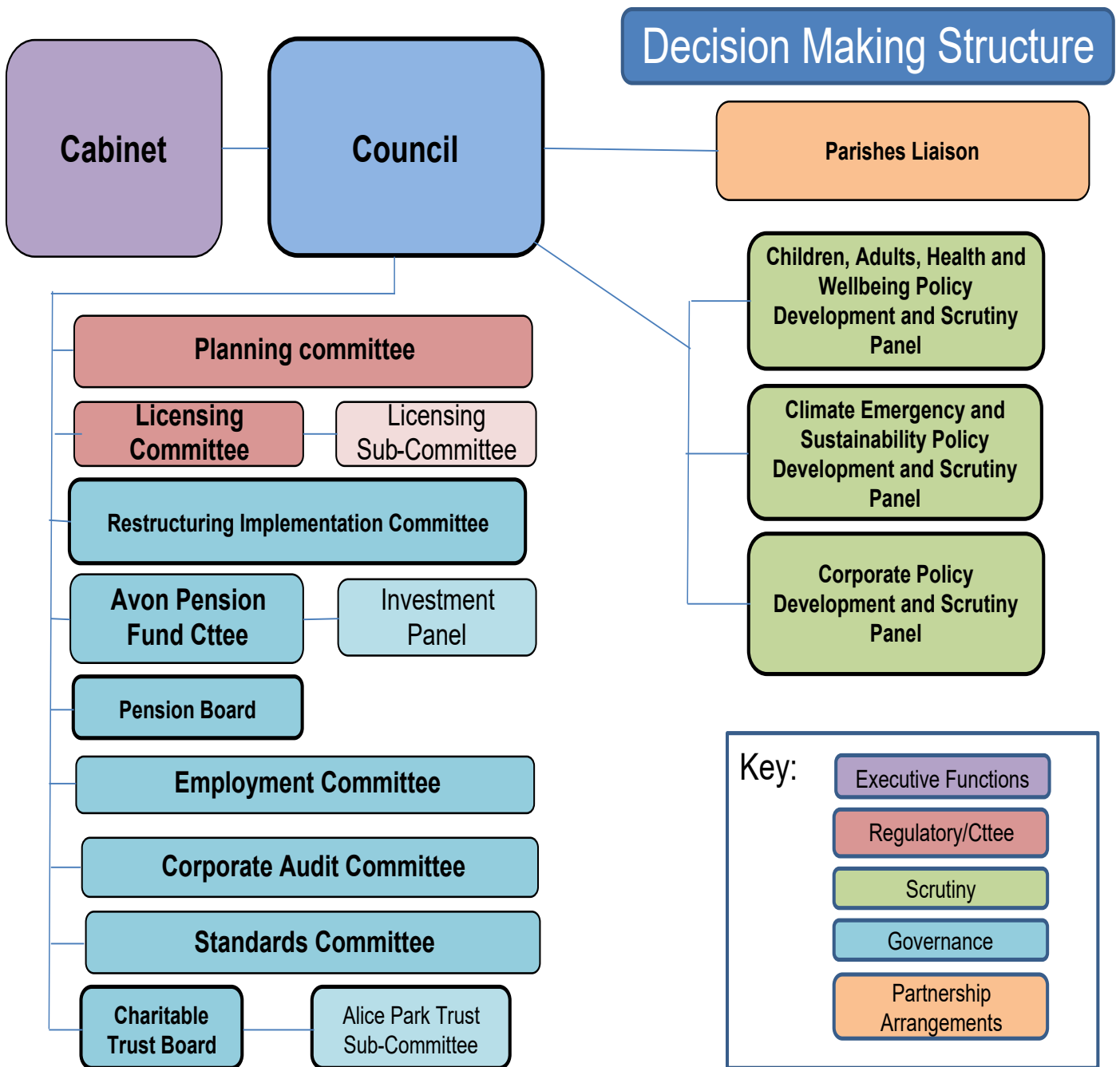
## **1.14 SUSPENSION OF THE CONSTITUTION**

There are occasions when it is helpful to the conduct of a meeting, or for other reasons, not to apply the Procedural Rules (to the extent permitted within the law). Any such motion to suspend must be supported by at least one half of the whole number of voting Members present. The extent and duration of suspension must be stated in the proposal. This is usually done to facilitate the smooth running of a meeting eg; proposing an extension to the 10pm meeting close, so that business can be concluded.

Any issues of interpretation of the Constitution shall be determined by the Monitoring Officer after consultation with the Chief Executive.

**PART 2 RESPONSIBILITY FOR  
FUNCTIONS AND DELEGATION  
SCHEMES**

# Diagram Of Council's Decision Making Bodies





## 2.1 COUNCIL

### 2.1.1 Functions

The Council will exercise the following functions:

- i. adopting and changing the Constitution;
- ii. approving or amending the Policy and Budget Framework and the budget;
- iii. deciding matters relating to the discharge of executive functions where a possible decision is considered contrary to the Policy and Budget Framework or contrary to or not wholly in accordance with the budget (this does not apply in cases of urgency)
- iv. appointing a Councillor to be the Leader of the Council (except where there is a directly elected Mayor in which case no Leader shall be appointed) or removing the leader. The removal will take effect immediately on the passing of the resolution. Where the Council has resolved to remove the leader, a new leader is to be elected either at the same meeting or at a subsequent meeting.
- v. agreeing and/or amending the terms of reference and powers and duties of committees of the Council, including overview and scrutiny panels, deciding on their composition, making appointments to them and determining the allocation of chairing arrangements and seats between political groups;
- vi. appointing representatives to outside bodies and Joint Arrangements (including Statutory and other Joint Committees) unless the appointment is an executive function or has been delegated by the Council. Appointments are made in accordance with the Council's [Outside Bodies Policy](#);
- vii. adopting an allowances scheme for Councillors, taking into account the recommendations of an Independent Panel;
- viii. conferring the title of Honorary Alderman/Freeman of B&NES. [The Schemes of Appointment are found here](#);
- ix. approving the appointment of the Head of Paid Service, Chief Financial Officer and Monitoring Officer (on a recommendation of the Employment Committee);

- x. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- xi. undertaking all functions in relations to elections;
- xii. approving the annual accounts;
- xiii. accepting or otherwise a delegation from another local authority or the Cabinet of another authority;
- xiv. all local choice functions set out in [Part 2 of this Constitution](#) which the Council decides should be undertaken by itself rather than by the Cabinet;
- xv. undertaking all other matters which, by law, must be reserved to Council.

### **2.1.2 Composition**

The Council comprises 59 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Where a change in the political proportionality of the Council occurs, (proportionality addresses the number of Council seats held by each confirmed political group and the number of committee places allocated in proportion), the Council will, as a consequence, review this Constitution and make such changes as are appropriate to reflect the new position and which are consistent with the law.

### **2.1.3 Quorum**

No business shall be transacted at a meeting of the Council unless at least one quarter of the whole number of Members of the Council is present. This is taken to be 15 elected Councillors of Bath & North East Somerset.

## **2.2 CABINET**

### **2.2.1 Scope**

This section sets out the functions and responsibilities of the Executive/Cabinet. The Cabinet, as the Executive, will carry out all of the local authority's functions which are not the responsibility of any other part of the Council whether by law or under this Constitution.

### **2.2.2 Functions**

The business of Cabinet includes;

- To propose key Policy and Budget Framework items to the Council, including the budget;
- To ensure that all action is taken to implement the key policies and objectives of the Council as contained in the Policy Framework, including the setting of secondary policies;
- To maintain an active dialogue with Overview and Scrutiny bodies in ensuring that the overall integrity of the decision making process and the delivery of Council services is maintained;
- To respond directly or through the Council meeting as appropriate to Overview and Scrutiny activity or to individual Member initiatives formally proposed at a Council meeting;
- To receive performance management reports including updates on action plans and major projects;
- To pursue as appropriate negotiations on local area agreements or similar in order to promote the economic, social and environmental wellbeing of the area and to determine such agreements except where it relates to a matter reserved to the Council for determination;
- To perform its functional responsibilities in accordance with the arrangements prescribed in the [Executive Procedural Rules](#) within the Council's Constitution.

### **2.2.3 Composition**

The Cabinet consists of the Leader of the Council and up to nine other Cabinet Members, one of whom will be appointed by the Leader as his or her statutory Deputy Leader. All such appointments

will be notified in writing to the Proper Officer of the Council.

The Cabinet comprises of the following individual Cabinet Members whose allocated portfolios of responsibility are detailed on the Council's website;

- The Leader
- Climate Emergency & Sustainable Travel (Deputy Leader – statutory)
- Council Priorities and Delivery (Deputy Leader)
- Resources
- Economic and Cultural Sustainable Development
- Adult Services
- Children's Services
- Highways
- Neighbourhood Services
- Built Environment and Sustainable Development

The Leader may allocate [Cabinet Project Leads](#) to support Cabinet Members, in research and project work. The decision making responsibility remains with the Cabinet Member, and the Cabinet Project Lead may not substitute at Cabinet meetings for the Cabinet Member.

The Cabinet may appoint Advisory Bodies to help it in its work. Those bodies will normally make their minutes available to all Council Members. They may receive specific requests for advice from the Cabinet collectively or from an individual Cabinet Member. These advisory bodies will not be prevented from giving advice directly to an Overview and Scrutiny Panel when asked to do so.

The Cabinet may appoint Committees to fulfil executive functions on its behalf. The details of any such committees will be included in the Scheme of Delegation maintained by the Monitoring Officer.

The Leader will be a Councillor elected as Leader at a meeting of the full Council. The Leader will hold office until the annual meeting immediately following the next local government elections, unless:

- a) he/she resigns from the office;
- b) he/she becomes disqualified from membership of the Council, either for a specific period, or indefinitely;
- c) he/she is no longer a Councillor; or
- d) he/she is removed from office by resolution of the Council or otherwise.

Where a Councillor has been elected as Leader for a term which expires at an Annual Meeting of the Council then their term as Leader (and their position as a Councillor) will continue until the Annual Meeting of the Council notwithstanding that he/she may have otherwise ceased to be a Councillor following an election.

It is now a function of the Leader to appoint Executive Councillors who remain in office until they are removed from office by the Leader or until they are no longer Councillors.

The Leader must approve a scheme of delegation of executive functions. The Leader may vary the allocation of portfolio responsibilities, or the scope of any portfolio responsibility.

Arrangements for the undertaking of business in the event of absence, or where for any reason it is considered that the decision should not be made by a particular Councillor (conflicted), are set out below.

The Leader of the Council may designate any other Member of the Cabinet to take temporary responsibility for the absent Member's portfolio and for any associated decision making during the period of absence/conflict. The Leader may alternatively designate such decisions for the whole Cabinet to determine, during the period of absence/conflict. The Leader's decisions on how to deal with such business will be notified to and published by the Chief Executive.

Where the Leader of the Council is absent and unable to exercise his or her functions for a period exceeding 3 consecutive working days, or as otherwise agreed by the Leader in advance, or is otherwise unable to act by virtue of a prejudicial interest or for any other reason whereby he or she considers it would be inappropriate to act, the Deputy Leader shall have the power to exercise all the executive and

leadership functions of the Leader. If there is no Deputy Leader appointed, the Council will determine what arrangements are to operate in the event of the Leader being absent for a stated period of time.

If the Leader, the Cabinet or a committee of the Cabinet, or an individual Cabinet Member responsible for an executive function, decides to delegate to a committee of the Cabinet, an Area Committee (where these are established), a joint Committee or an officer, or amend or withdraw a delegation, written notice must be given to the Chief Executive. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person or body. Even when executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated, nor obliges the person/body to exercise that power or duty. These amendments will be published via the Weekly list.

A Cabinet Member may require that a decision within their portfolio is made instead by the Cabinet.

#### **2.2.4 Quorum**

No business shall be transacted at a meeting of the Cabinet unless 50% of the membership is present.

#### **2.2.5 Substitution**

No substitutes for Cabinet Members are permitted.

## 2.3 ALLOCATION OF LOCAL CHOICE FUNCTIONS

Certain functions of local authorities are classified as “Local Choice” functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. The Council will decide which of these decisions should be taken by the Full Council and which should be taken by Cabinet.

The following table sets out the decision-maker for each Local Choice Function:

Function	Decision Making Body
1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Cabinet
2. The determination of an appeal against any decision made by or on behalf of the authority (where a right of appeal exists)	Council
3. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils)	Cabinet
4. The making of arrangements pursuant to section 94 (1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals).	Cabinet
5. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Cabinet
6. Any function relating to contaminated land ( <b>see footnote a</b> ).	Cabinet
7. The discharge of any function relating to the control of pollution or the management of air quality ( <b>see footnote b</b> ).	Cabinet
8. The service of an abatement notice in respect of statutory nuisance ( <b>see footnote c</b> ).	Cabinet

9. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area <b>(see footnote d)</b> .	Cabinet
10. The inspection of the authority's area to detect any statutory nuisance <b>(see footnote e)</b> .	Cabinet
11. The investigation of any complaint as to the existence of a statutory nuisance <b>(see footnote f)</b>	Cabinet
12. The obtaining of information under section 330 of the Town and Country Planning Act 1990 <b>(see footnote g)</b> as to interest in land.	Cabinet
13. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 <b>(see footnote h)</b> .	Cabinet and all non-executive committees in relation to their functions
14. The making of agreements for the execution of highways works <b>(see footnote i)</b> .	Cabinet
15. The appointment of any individual: (a) To any office other than an office in which he is employed by the authority; (b) To anybody other than – (i) the authority (ii) a joint committee of two of more authorities; or (c) to any committee or sub-committee of such a body. and the revocation of any such appointment	Cabinet in relation to executive functions. Non-executive committees in relation to non-executive functions delegated.
16. The responsibility for preparation, submission and modification of a draft Local Area Agreement	Cabinet

- (a) Part IIA of the Environmental Protection Act 1990 (c.43) and subordinate legislation under that Part.
- (b) See the Pollution Prevention and Control Act 1990 (c.24), Part IV of the Environment Act 1995 (c.25), Part I of the Environmental Protection Act 1990 (c.43) and the Clean Air Act 1993 (c.11).
- (c) Section 80(1) of the Environment Protection Act 1990.



- (d) Section 8 of the Noise and Statutory Nuisance Act 1993 (c.40).
- (e) Section 79 of the Environmental Protection Act 1990.
- (f) Section 79 of the Environmental Protection Act 1990.
- (g) 1990c.8.
- (h) 1976c.57.
- (i) Section 278 of the Highways Act 1980 (c.66), substituted by the New Roads and Street Works Act 1991 (c.22), Section 23

## **2.4 THE ROLE OF THE POLICY & BUDGET FRAMEWORK IN DECISION MAKING**

The terms “Policy and Budget Framework” and “the Budget” are used throughout this Constitution. The meanings of these terms are set out below;

### **2.4.1 Policy and Budget Framework**

The Policy and Budget Framework means the list of plans and strategies agreed by the Council as being those that collectively form the Framework and which are determined by the Council. The current list of such plans and strategies is contained in the [Policy and Budget Framework Procedure Rules](#).

### **2.4.2 Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of budget transfer limits, as defined in the [Budget Management Scheme](#).

## **2.5 COMMITTEES, PANELS AND BOARDS - GENERAL**

The Council has delegated responsibility for certain functions to a number of Committees, Panels and Boards. The functions, roles and responsibilities of these bodies are set out later in Part 2.

In summary, the Committees, Panels and Boards are as follows;

- Alice Park Trust Sub-Committee
- Avon Pension Fund Committee, Investment Panel, Brunel Board & working groups

- Charitable Trust Board
- Children, Adults, Health & Wellbeing Policy Development & Scrutiny Panel
- Climate Emergency & Sustainability Policy Development & Scrutiny Panel
- Corporate Audit Committee
- Corporate Policy Development & Scrutiny Panel
- Employment Committee
- Health & Care Board
- Health & Wellbeing Board
- Independent Persons Panel
- Independent Remuneration Panel
- Licensing Committee & Sub-Committee
- Local Pension Board
- Parish Liaison meeting
- Planning Committee
- Restructuring Implementation Committee
- Standards Committee

## 2.6 OVERVIEW & SCRUTINY – GENERAL

### 2.6.1 Role of Policy Development & Scrutiny Panels

In accordance with Section 9FA – 9FI of the Local Government Act 2000, the Council is required to appoint at least one Overview and Scrutiny Panel to discharge these functions.

Overview and Scrutiny is the name in legislation given to the system of checks and balances implemented by the rest of the Councillors as they monitor the activity of the Cabinet, and also assist them in developing policy. In Bath & North East Somerset Council, it is known as Policy Development and Scrutiny and is a key part of local government allowing citizens to have a greater say in Council matters by holding public inquiries into matters of local concern.

The main decision-making powers in Bath & North East Somerset Council lie with Councillors who sit on the Cabinet, intended to create clear leadership and accountability for service delivery. By contrast, Policy Development and Scrutiny is intended to review the work of the Cabinet and to enhance the performance of services. It is also designed to provide a forum through which policy review and development can be extensively examined before consideration and decision by the Cabinet and/or Full Council.

The proceedings of all overview and scrutiny bodies will be conducted in accordance with the [Overview and Scrutiny Procedure Rules](#) set out in this Constitution.

The Policy Development & Scrutiny Panel Chairs and Vice Chairs group is an informal group which meets quarterly and has oversight of the overall Policy Development and Scrutiny work planning and responsibility for co-ordinating the Council's scrutiny activity, as follows:

- Share and co-ordinate individual Panel work plans, in order to prioritise resources effectively;
- Decide how to deal with cross-boundary issues, or issues that do not readily fall into the remit of any of the Panels (Integrated forward plan);
- Decide how to respond to/programme instructions from Council or requests from Cabinet;
- Identify training, development and support needs for all Panel members;
- Consider progress and direction of the scrutiny function and

working practices, and identify and implement future developments;

- Have oversight of financial, staff and other resources made available to support scrutiny;
- Discuss or propose variations to Panel membership, operating framework and Terms of Reference (constitutional) for Council approval where appropriate;
- Champion the scrutiny process within the Council and externally;
- Compile (with officers) and approve the Annual Report for submission to Council.

Policy Development and Scrutiny has two key roles:

### **Overview**

- To assist the Council and the Cabinet in the development of new policy.
- To assist the Cabinet by giving comments on issues identified as "key decisions" prior to a decision being made.
- To assist the Cabinet by giving comments on service and budget plans at their draft stage and assisting in the development of its budget and policy framework.

### **Scrutiny**

- To scrutinise performance management information to ensure that the Council is performing to agreed targets and to agreed action plans.
- To determine "call-ins" of decisions made but not yet implemented by the Cabinet.
- To scrutinise particular "key decisions" and other aspects of Cabinet activity to ensure compliance with agreed Council policies and plans.
- Evaluate the impact of Council and or Cabinet decisions and policies.

Within their allocated remits, each Panel has a broad-based responsibility for Policy Development and Scrutiny in its particular area of responsibility, including;

- carrying-out of in-depth reviews, as set out in their work plan;
- reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions;
- making recommendations to the Cabinet arising from the outcome of the scrutiny process;
- undertaking scrutiny of particular Key Decisions and other aspects of Cabinet activity, including evaluating the impact of Council and Cabinet decisions and policies;
- offering overview advice and reports of policy development issues;
- dealing with any relevant Councillor Call for Action;
- sending communications and reports directly to other Policy Development and Scrutiny Panels, Cabinet and Council, and providing them to any Member of the Council, subject to provisions regarding confidential and exempt information;
- inviting persons to be co-opted non-voting members (excepting those statutory co-optees with voting rights);
- inviting participants to give evidence, either verbally or in writing, on any issue contained within their work plan, giving a minimum of two weeks' notice unless mutually agreed otherwise
- requiring officers of the Council and Members of the Cabinet to attend to give evidence, subject to the provisions of the Overview and Scrutiny Procedural Rules
- forming discretionary joint bodies with other Councils for the purpose of enabling joint scrutiny of bodies/activities beyond the remit of Bath and North East Somerset, without delegation of any responsibilities or powers.
- conducting research, community and other consultation in the analysis of policy issues and development of possible options for the future, and implementing mechanisms to encourage and enhance community participation in the development of policy options;
- liaising with other external organisations to ensure that the interests of local people are enhanced by collaborative working.

## **2.7 ALICE PARK TRUST SUB-COMMITTEE**

### **2.7.1 Committee Scope**

The Sub-Committee shall discharge the Council's functions as sole corporate trustee in respect of the Alice Park Trust, the site and its resources in accordance with Trust's objects and the duties it owes pursuant to the Charities legislation.

To report to the Charitable Trust Board on an annual basis detailing the work undertaken by the Trust in the preceding year and confirming to the Board that the Trust has complied with the objects of the charity and the Charities Legislation.

Appointed by: The Charitable Trust Board

### **2.7.2 Functions**

To discharge the Council's role as Corporate Trustee for the Alice Park Trust, in line with Charities Commission guidance. The objects of the Alice Park Trust are for use as a public park and children's recreation ground.

To agree the Trust's annual budget and business plan.

To approve the use of any reserves.

To agree the Trust's annual accounts.

To receive and respond to the audit findings relating to the annual accounts.

To receive reports on the effective day to day management and financial performance of the Trust.

To allow interested parties to give their view on the performance and direction of the Trust.

### **2.7.3 Composition**

3 Councillors from the membership of the Charitable Trust Board (excluding the lead Cabinet Member) and the 2 Ward Members (voting) for Lambridge plus 2 non-voting independent members.

The Sub-Committee may co-opt other non-voting members as appropriate.

### **2.7.4 Quorum**

3 voting Members.

### **2.7.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).

## **2.8 AVON PENSION FUND COMMITTEE**

*[Approved by the Avon Pension Fund Committee 22 March 2024]*

### **2.8.1 Committee Scope**

Bath and North East Somerset Council, in its role as administering authority, has executive responsibility for the Avon Pension Fund. The Council delegates its responsibility for administering the Fund to the Avon Pension Fund Committee which is the formal decision-making body for the Fund.

The Avon Pension Fund is a member of the Brunel Pension Partnership (Brunel). Brunel Pension Partnership Ltd (BPP Ltd) will be responsible for implementing the Fund's Investment Strategy. Most of the Fund's assets have transferred to portfolios offered by Brunel with only less liquid legacy assets remaining under direct management of the Fund. Once Avon's assets are held within a Brunel portfolio, the appointment, monitoring and deselection of managers will be the responsibility of BPP Ltd.

### **2.8.2 Functions and Duties**

To discharge the responsibilities of Bath and North East Somerset Council in its role as lead authority for the administration of the Avon Pension Fund. These include determination of all Fund specific policies concerning the administration of the Fund, the investment strategy and the investing of Fund monies and the management of the Fund's solvency level. In addition, the Committee is responsible for all financial and regulatory aspects of the Fund. At all times, the Committee must discharge its responsibility in the best interest of the Avon Pension Fund.

The key duties in discharging this role are:

1. Having taken appropriate advice determining the following:
  - a. the investment strategy and strategic asset allocation
  - b. the administration strategy
  - c. the funding strategy.
2. Monitoring the performance of the investment strategy, scheme administration, and external advisors.

3. Ensuring that the investment strategy can be delivered by the portfolios offered by BPP Ltd. If not, agree alternative arrangements. In relation to Brunel Pension Partnership:
  - a. Monitoring the performance of BPP Ltd in delivering investment services to the Fund. Make representations to the Brunel Oversight Board on matters of concern regarding the service provided by BPP Ltd and the performance of its portfolios.
  - b. Monitoring the governance of Brunel Pension Partnership and making recommendations to the Brunel Oversight Board. Terminating the Service Agreement with BBP Ltd.
4. Approving and monitoring compliance of statutory statements and policies required under the Local Government Pension Scheme Regulations.
5. Approving the annual budget and 3-year Service Plan and resource requirements to deliver the work plan.
6. Approving variances to budget within a financial year.
7. Approving the annual budget for the Pension Board subject to the approval of Pension Board's work plan.
8. Commissioning actuarial valuations in accordance with the provisions of the Local Government Pension Scheme Regulations.
9. Making representations to government and responding to consultations as appropriate concerning any proposed changes to the Local Government Pension Scheme.
10. Nominating a representative (and named substitute) from the Committee to represent the Committee on the Oversight Board for Brunel Pension Partnership.

### 2.8.3 Delegations

In discharging its role, the Committee can delegate any of the above or implementation thereof to the Sub-Committee (referred to as the Investment Panel) or Officers. The current delegations are set out below.

### 2.8.4 Composition

Voting Members (14)	<p>5 elected Members from B&amp;NES (subject to the rules of political proportionality of the Council)</p> <p>3 independent members</p> <p>1 elected Member nominated from each of Bristol City Council, North Somerset Council and South Gloucestershire Council</p> <p>1 nominated from the Higher and Further education bodies</p> <p>1 nominated from the Academy bodies</p> <p>1 nominated by the trades unions</p>
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Non-voting members (3)	1 nominated from the Parish Councils Up to 2 nominated from different Trades Unions
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The Council will nominate the Chair and Vice Chair of the Committee. The Vice Chair will be the Chair of Investment Panel.

### **2.8.5 Meetings**

Meetings will be held at least quarterly. Meetings will be held in public, though the public may be excluded from individual items of business in accordance with the usual exemption procedures.

### **2.8.6 Quorum**

The quorum of the Committee shall be 5 voting members who shall include at least 1 Member not from Bath and North East Somerset Council.

### **2.8.7 Substitution**

Named substitutes to the Committee are allowed.

## **2.9 AVON PENSION FUND INVESTMENT PANEL**

### **2.9.1 Committee Scope**

The role of the Avon Pension Fund Committee Investment Panel shall be to consider, in detail matters relating to the investment of the assets within the strategic investment framework and performance of investment managers in achieving the Fund's investment objectives.

### **2.9.2 Functions**

The Investment Panel will:

1. Review strategic and emerging opportunities outside the strategic asset allocation and make recommendations to the Committee.
2. Review the performance of the investment and risk management strategies
3. Report matters of strategic importance to the Committee.

And have delegated authority for:

4. Monitoring the transition of assets to the Brunel portfolios and allocate assets to the relevant portfolio offered by Brunel
5. Approve and monitor tactical positions within strategic allocation ranges.
6. Approve allocations to emerging opportunities within the strategic allocations.

7. Approve commitments to Brunel's private market portfolios at each commitment cycle to maintain strategic allocations.
8. For the Risk Management Strategies monitor the outcome versus strategic objectives and consider whether any strategic changes are required to manage emerging risks.
9. For assets held outside Brunel:
  - a) Implement investment management arrangements in line with strategic policy.
  - b) Monitor investment managers' investment performance and make decision to terminate mandates on performance grounds.
10. Monitor the investment performance of the portfolios managed by BPP Ltd and report to Committee on investment matters with specific reference to strategy delivery.
11. Delegate specific decisions to Officers as appropriate.

### **2.9.3 Composition**

The Panel shall comprise a maximum of 6 voting Members of the Avon Pension Fund Committee, of which 3 shall be Bath and North East Somerset Councillors and 3 shall be the independent members of the Committee. (The membership shall include the Chair of the Committee and /or the Vice- Chair).

Note: The appointment of Bath and North East Somerset Councillors to the Panel is subject to the rules of political proportionality of the Council.

Members shall be appointed to the Panel for a period of four years in line with the Avon Pension Fund Committee.

The Council will nominate the Chair of the Panel.

### **2.9.4 Panel Meetings**

Though called a "Panel", it is an ordinary sub-committee of the Committee. Accordingly, meetings must be held in public, though the public may be excluded from individual items of business in accordance with the usual exemption procedures.

The Panel shall meet at least quarterly ahead of the Committee meeting on dates agreed by Members of the Panel.

### **2.9.5 Quorum**

The quorum of the Panel shall comprise 3 Members, who shall include at least one Member who is not a Bath & North East Somerset Councillor.

## **2.9.6 Substitution**

Substitutes for the Panel must be Members of Committee or their named Committee substitute.

## **2.9.7 Minutes**

Minutes of Panel meetings (whether or not approved by the Panel) shall appear as an item on the next agenda of the meeting of the Committee that follows a meeting of the Panel.

## **2.10 BRUNEL OVERSIGHT BOARD REPRESENTATIVE**

### **2.10.1 Committee Scope**

Brunel Oversight Board (the Board) is the primary governance body within the Brunel Pension Partnership. Each Fund within the partnership has a representative on the Board and this representative represents the Committee when discharging its duties.

### **2.10.2 Functions**

Acting for the administering authorities in their capacity as shareholders in BPP Ltd., the Board has responsibility for ensuring that BPP Ltd delivers the services required to achieve investment pooling across the Brunel Pension Partnership.

Subject to the terms of reference for the Board and the applicable shareholder documentation, the Board's role is to consider and address relevant matters on behalf of the administering authorities. These include the monitoring and strategic oversight functions necessary to its role, as well as acting as a conduit and focus of shareholder requirements and views.

Consistent with this role, the Board's duties include reviewing and discussing any matter which it considers appropriate in relation to BPP Ltd including BPP Ltd.'s services, performance, operations, governance, strategy, financing and management.

The main duties of the Board Representative are:

1. To represent the Committee and Shareholder on the Brunel Oversight Board.
2. To ensure that the Committee's views are communicated to the Board and BPP Ltd.

3. To ensure the Fund's and shareholder's interests are protected within Brunel in line with the legal framework within which Brunel operates.
4. To report back to the Committee and Shareholder all relevant issues discussed by the Board and recommendations to the Brunel Client Group and/or the Shareholders.
5. To seek the consensus view of the Committee for Shareholder and Board matters where necessary.
6. To raise issues with the Board at the request of Committee Members, the shareholder representative or Head of Pensions.

## **2.11 BRUNEL PENSION PARTNERSHIP WORKING GROUP**

### **2.11.1 Committee Scope**

This is a group of Committee Members whose role is to consider in greater detail any issues arising from Brunel Pension Partnership with Officers, for example Reserve Matters, papers to be discussed at BOB. This will not include routine investment matters which are monitored by the Investment Panel.

### **2.11.2 Functions**

With regard to any matters arising from Brunel Pension Partnership where the Avon Pension Fund have an interest:

- a) to consider each matter that will be brought to the Pension Committee and / or Shareholder representative for decisions in due course
- b) to provide guidance to the Pension Committee and / or Shareholder Representative in relation to each matter when they are being considered
- c) to provide guidance to the BOB representative as required
- d) to make recommendations to the Pension Committee regarding general oversight of the pool, as considered appropriate.

### **2.11.3 Composition**

This group will consist of:

- a) the BOB Representative,
- b) named BOB substitute

- c) the Chair and/or Vice Chair if not the BOB representative /substitute
- d) an independent committee member.
- e) Head of Pensions
- f) Group Manager, Funding, Investments and Risk

#### **2.11.4 Quorum**

The Working Group shall be quorate if three Members are in attendance, with at least 2 that are not fund officers. The Head of Pensions shall chair the Working Group.

#### **2.11.5 Meeting Arrangements**

The Working Group shall meet as and when required as determined by the Head of Pensions. Meetings may be via telephone conference.

Key discussions and action points from the Working Group will be recorded and the committee will be updated at the next committee meeting.

### **2.12 OFFICER DELEGATIONS AVON PENSION FUND**

In addition to the responsibilities listed in the Council's scheme of delegation, some additional responsibilities for functions specifically related to pension fund activities and the authorisation of transactions have been delegated to officers by the Pension Fund Committee. These are set out in the Fund's Scheme of Delegation and include the following:

1. Implementation and day to day monitoring of the administration, investment and funding strategies and related policies.
2. Implementing investments in emerging opportunities within strategic allocations, either to be managed outside Brunel or instruct allocation to Brunel portfolio.
3. Implementing investment management arrangements in line with the strategic policy as follows:
  - a. For assets managed outside Brunel, this includes the setting of mandate parameters and the appointment of managers, in consultation with the Investment Panel.
  - b. For assets managed within Brunel, deciding and instructing the allocation to each Brunel portfolio.

4. Implement the strategic risk management objectives of the Fund and take necessary action to ensure delivery of strategic outcomes. Ongoing consideration of these issues will be undertaken by the Funding and Risk Management Group (see section 6) who will report decisions and ongoing considerations to the Investment Panel.
5. Rebalancing the investment assets to target strategic allocations, when deemed prudent to do so, taking account of tactical allocations approved by the Investment Panel.
6. Representing the Fund on the Brunel Client Group to develop Brunel investment strategies and policies which effectively support the interests of the Fund.
7. Commissioning Elective Services from BPP Ltd and issuing instructions as permitted by the Brunel Service Agreement to BPP Ltd.
8. The appointment of specialist advisors to support the Committee and Officers in discharging their functions.
9. Determining policies that support the investment and funding strategies having taken expert advice.
10. In consultation with the Chair of the Committee, the Head of Pensions will approve the draft Statement of Accounts and Annual Report for audit.
11. Authorising expenditure from the Fund in accordance with the annual budget.
12. Admitting new admitted bodies into the Fund subject to them meeting Fund policy.
13. The Director of One West & Avon Pension Fund (or Executive Director - Resources (S151) in their absence) has authority to dismiss investment managers, advisors and 3<sup>rd</sup> party providers if urgent action is required (does not refer to performance failures but to their inability to fulfil their contractual obligations or a material failing of the company).
14. The Director of One West & Avon Pension Fund & Avon Pension Fund (or Executive Director - Resources (S151) in their absence) has authority to suspend policy (in consultation with the Chairs of Committee and Panel) in times of extreme market volatility where protection of capital is paramount.
15. Under its wider delegated powers, the Director of One West & Avon Pension Fund & Avon Pension Fund (or Executive Director - Resources (S151) in their absence) has delegated authority to effectively manage the liabilities of the Fund including the recovery of debt.
16. Exercising the discretions specified in the Local Government Pension Scheme Regulations in connection with deciding entitlement to pension benefits or the award or distribution thereof.
17. Decisions regarding the Local Impact Portfolio Framework are delegated to The Head of Pensions in conjunction with the working

group. The Working Group will consist of at least 3 Panel members including the Chair of the Panel and 1 independent member, plus the Head of Pensions, Group Manager Investments and the Investments Manager. The formal decision is taken by the Head of Pensions as an Officer Decision Report via the democratic reporting processes within Bath and North East Somerset Council.

## **2.13 FUNDING AND RISK MANAGEMENT GROUP**

### **2.13.1 Committee Scope**

The Funding and Risk Management Group (FRMG) is a group of Avon Pension Fund officers and specialist advisors whose role is to consider in greater detail all strategic and operational aspects of the Risk Management Strategies.

### **2.13.2 Functions**

In addition, it has specific delegated authority as follows:

1. Agree the operational structures to meet the strategic objectives determined by the Avon Pension Committee
2. Make changes to the structures as needed to ensure strategic outcomes continue to be achieved or to manage emerging risk
3. Implement the strategies including
  - a. Counterparty selection
  - b. Trigger frameworks
  - c. Collateral arrangements
  - d. Setting benchmarks
4. Determine the framework for monitoring the strategies and reporting to Panel & Committee

### **2.13.3 Composition**

The Group will consist of the following:

From the Avon Pension Fund:

- Head of Pensions
- Group Manager, Funding, Investments and Risk
- Investment Manager
- Senior Investments Officer

- Other Fund Officers as required (for example Funding Manager, Governance & Risk Advisor)  
Advisors
- Investment Consultant or deputy
- Risk Consultant or deputy
- Scheme Actuary or deputy
- Investment Manager as required

### **2.13.3 Quorum**

FRMG shall be quorate if the following are in attendance:

- 2 Pension Fund Officers one of which must be the Head of Pensions or Group Manager, Funding, Investments and Risk
- Risk Consultant or deputy
- Investment Consultant or Scheme Actuary

### **2.13.4 Meeting Arrangements**

FRMG will meet as and when required as determined by the Head of Pensions/Group Manager, Funding, Investments and Risk, but at a minimum quarterly. Meetings will be virtual/ by telephone conference.

Meetings will be chaired by the Head of Pensions or Group Manager, Funding, Investments and Risk. Key discussion and action points will be recorded, and minutes will be circulated to the Investment Panel. The group will also update the Panel at the following meeting.

## **2.14 CHARITABLE TRUST BOARD**

### **2.14.1 Committee Scope**

The purpose of the Charitable Trust Board is to facilitate the management of the charitable trusts for which the Council is the sole trustee; independently, in accordance with their governing documents and in the best interests of the charity.

### **2.14.2 Functions**

In respect of the charities listed in Schedule 1 the Charitable Trust Board shall have the following powers delegated to it.



The Role of the Board is to exercise the powers delegated to it for the management of the trust, namely;

- to manage the charity in pursuit of the charitable purposes,
- to manage the finances of the charity and ensure its solvency,
- to ensure the charity acts within the governing documents,
- to ensure the charity deals with their regulatory and public accountability obligations, and
- to identify and manage potential conflicts of interest.

In respect of the charities listed in Schedule 2 the Charitable Trust Board shall investigate the governing documents of each charity and recommend to Council the inclusion of any Charity suitable for incorporation into Schedule 1 and until such time as the Council decides to delegate its functions in respect of such Trust to the Charitable Trust Board it shall advise the Council as trustee on;

- the strategic direction of those Trusts,
- the financial resources needed to operate those Trusts;

The Charitable Trust Board shall, in respect of all Trusts, ensure compliance with the Charity Commission's registration and reporting requirements and periodically consider if Trust's assets could be consolidated and more efficiently /effectively used in conjunction with another Trust. Where appropriate it should consult on consolidation proposals with the Charity Commission and interested parties and make any recommendations for consolidation in its annual report to Council.

Decisions about requests for works to be undertaken, or events to be approved that fall outside of the Charitable Trust Board cycle shall be delegated to the Chair of the Trust Board in consultation with the Lead Officer.

Urgent works required under health and safety legislation shall be delegated to the Lead Officer to action promptly.

The Board shall have the power to create a sub-committee for each charity listed in Schedule 1 to ensure that each charity shall be separately administered. Each sub- committee shall consist of at least 3 Councillors and co-opted voting members consisting of the ward Councillor(s) for the area where any land subject to the Trust is situated and any other non-voting members who may be able to assist it in its work. The Trust Board and each sub-committee shall undertake its duties through meetings as required and will meet at least twice annually.

In any meeting, the affairs of each Trust will be considered separately and in relation to the purpose and governing document of each Trust.

Each sub-committee will report annually to the Trust Board after submitting any annual report to the Charity Commissioners and the Trust Board shall

thereafter provide an annual report to Council on the financial standing of each Trust and update the Council on the work undertaken by each Trust in the preceding year

### 2.14.3 Composition

- Five Councillors  
(to include the Cabinet Member responsible for Neighbourhood Services and at least one Councillor who is not a Member of the controlling group but whose appointment is determined by the controlling group), and
- One independent person with suitable skills, experience or interests to be appointed by the Board from applicants who wish to be considered following advertisement of the role.

The Board will elect a Chair and Vice Chair.

### 2.14.4 Quorum

Quorum will be three Councillors. Decisions will be by a majority of the Councillors present.

### 2.14.5 Substitution

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).

### 2.14.6 Support Arrangements

Support for the Board and sub-committees as necessary will be provided through the relevant Council sections. Lead advisors will be identified for each Charitable Trust in Schedule 1.

<p align="center"><b>Schedule 1</b> <b>Charitable Trust for which the Council is sole trustee</b></p>	<p align="center"><b>Schedule 2</b> <b>Charitable Trusts for which the Council is responsible</b></p>
<p>The Alice Park Free Fields (Rainbow Woods)</p>	<p>Weston Recreation Ground 4, The Circus Firs Field Beechen Cliff Backstones Innox Park Post Office Museum</p>

## **2.15 CHILDREN, ADULTS, HEALTH & WELLBEING POLICY DEVELOPMENT AND SCRUTINY PANEL**

### **2.15.1 Committee Scope**

To undertake a system of checks and balances to monitor and review the activity of the Cabinet and to assist with policy development in respect of the functions set out below.

### **2.15.2 Functions**

The Panel remit is:

- Health Scrutiny including Healthwatch and Community Safety
- Public Health
- Integrated Commissioning including, Mental Health & Substances, Children, Better Care Fund, Learning disability, Transformation
- Safeguarding Outcomes
- Care Outcomes including Corporate Parenting
- Inclusion (SEND)
- Prevention (CYP)
- Safeguarding Children & Young People
- Safeguarding of Adults & Quality Assurance including Data Protection & Complaints
- Service Development
- Health, Safety & Wellbeing
- Education Transformation including Virtual Schools, School Improvement and Music
- Delegated Committee for the statutory health scrutiny function under the Health & Social Care Act 2012
- Delegated Crime & Disorder Panel
- Delegated Curriculum Complaints Panel

In addition to General Terms of Reference:

Further to the **Police and Justice Act 2006** (and associated regulations), the designated Crime and Disorder Panel in relation to responsible authorities (or co-operating bodies or persons) may:

- a. review the decisions and performance at least once per year
- b. with reasonable notice, require the attendance of an officer or employee to answer questions, and more recently to include the new Police and Crime Commissioner
- c. require a response in writing to reports and recommendations of the Panel within 28 days, or as soon as reasonably possible

Further to the **Local Government and Public Involvement in Health**

**Act 2007** (and associated regulations), the designated Health Scrutiny Committee may:

- a. receive referrals from the Local Healthwatch and acknowledge receipt,
- b. decide which if any of its powers are exercisable in relation to the matter and whether to exercise them (either by Council or by the delegated Committee), and
- c. keep the referrer informed of the Committee's actions and decisions in relation to the matter.

**Health Scrutiny** - The Health and Social Care Act 2012 requires local authorities with social services responsibilities to have in place arrangements to scrutinise health services. This function is bestowed on the local authority's Full Council but can be delegated however the Full Council sees fit. In Bath & North East Somerset Council, the function is delegated to the Scrutiny Panel with responsibility for health. Councillors on this Panel therefore have a role, as representatives of the public, to hold to account local Health organisations when they are making big decisions about the future of health care provision in Bath & North East Somerset.

### **Provisions of the Health Scrutiny Regulations**

- The council's overview and scrutiny body can scrutinise any NHS Commissioning Board, Clinical Commissioning Group or NHS body that provides services for people in the council's area.
- Local NHS bodies must provide any information the council reasonably requires (excluding information about individuals), and NHS staff can be required to attend and provide information.
- Scrutiny reports can be made to the council and to NHS bodies. If requested, the NHS body must respond within 28 days.
- NHS bodies must consult the designated health scrutiny function of the council about proposals for substantial development or variation of NHS services in the area. Health overview and scrutiny committees and other interested parties can write to request (via a call-in request form) that the Secretary of State consider calling in a proposal if the local authority is not satisfied of the merits for change or if it considers there has been inadequate consultation on the proposals. DHSC expects requests only to be used in exceptional situations where local resolution has not been reached.
- Councils can set up joint health scrutiny committees with one or more other councils. Councils can delegate aspects of this role to another council's overview and scrutiny body. Joint Health Scrutiny Committees also have the power to directly refer a matter to the Secretary of State for Health.
- County councils can co-opt neighbouring authority council members

onto their scrutiny committees dealing with health scrutiny, either for an indefinite time or for a particular project.

- Following any health overview & scrutiny topic undertaken, the Committee will make a report with recommendations to NHS bodies and B&NES Council. Such reports will also be copied to key stakeholders including local MPs, Healthwatch, Clinical Commissioning Groups and/or the NHS Commissioning Board.

### **2.15.3 Composition**

The size of the Panel will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#).

### **2.15.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

### **2.15.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#)

## **2.16 CLIMATE EMERGENCY AND SUSTAINABILITY POLICY DEVELOPMENT AND SCRUTINY PANEL**

### **2.16.1 Committee Scope**

To undertake a system of checks and balances to monitor and review the activity of the Cabinet and to assist with policy development in respect of the functions set out below.

### **2.16.2 Functions**

The Panel remit is:

- Tackling Climate Emergency<sup>1</sup>
- Natural Environment & Green Infrastructure

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<sup>1</sup> Whilst this Panel will have primary responsibility for climate change issues, tackling the climate emergency will need consideration by all Panels.

- Planning Policy, including Conservation and Enforcement
- Building Control & Public Protection including Health & Environment
- Housing, including Strategy, Enabling & Development, Standards & Improvement and Homelessness Policy
- WECA (Housing & Transport)
- Transport & Parking
- Highways & Traffic
- Neighbourhoods including Environmental Services
- Waste
- Development & Management
- Designated Flood Risk Management Panel

### **2.16.3 Composition**

The size of the Panel will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#).

### **2.16.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

### **2.16.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).

## **2.17 CORPORATE AUDIT COMMITTEE**

*[Revised 5.7.23 by CAC, approved by Council 21.9.23]*

### **2.17.1 Committee Scope**

The Corporate Audit Committee is responsible for the Council's powers and duties relating to the annual accounts, audit plans, the Annual Governance Statement, risk management arrangements and the other key financial governance procedures.

### **2.17.2 Functions**

1. To approve on behalf of the Council its Annual Accounts, as prepared in accordance with the statutory requirements and guidance.
2. To review and note on behalf of the Council the audited accounts of Council owned companies, in accordance with Council company governance arrangements, statutory requirements and guidance.
3. To note the External Auditors' Audit Plan and to monitor its delivery and

effectiveness during the year.

4. To approve the Internal Audit Plan within the budget agreed by the Council and to monitor its delivery and effectiveness (including the implementation of audit recommendations).
5. To consider, prior to signature by the Leader of the Council and Chief Executive, the Annual Governance Statement (including the list of significant issues for action in the ensuing year), as prepared in accordance with the statutory requirements and guidance; and to monitor progress on the significant issues and actions identified in the Statement.
6. To review periodically the Council's risk management arrangements, make recommendations and monitor progress on improvements.
7. To review periodically the Council's key financial governance procedures, i.e. Financial Regulations, Contract Standing Orders, Anti-Fraud & Corruption Policy and to recommend any necessary amendments.
8. To consider the Auditor's Annual Report from the External Auditor and to monitor progress on accepted recommendations.
9. To monitor and promote good corporate governance within the Council and in its dealings with partner bodies and contractors, including review of the [Council's Code of Corporate Governance](#) and in any such other ways as the Committee may consider expedient (within the budget agreed by the Council).
10. To consider and make recommendations of any other matters relating to corporate governance which are properly referred to the Committee or which come to its attention e.g. the procurement of External Audit Services, monitoring the governance of Council owned companies.
11. To make an annual report to Council on the work [and findings] of the Committee, including (if necessary) any measures necessary to improve the effectiveness of the Committee.

In all of the above, the Committee will, as appropriate, wish to develop effective liaison with the following:

- a) the Standards Committee of the Council with regard to matters of ethical governance;
- b) the relevant Policy Development and Scrutiny Panel(s) - to complement but not to duplicate the exercise of their legitimate role in checking compliance with Council processes and policies and in reviewing policies and practice;
- c) relevant Cabinet Members, in particular the Leader and the Cabinet Member with responsibility for Resources, whose

portfolios include executive functions related to the matters covered by these terms of reference

- d) the Council when developing the Council's Code of Corporate Governance

### **2.17.3 Composition**

The size of the Panel will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#). There will also be one independent non-voting co-opted member.

### **2.17.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

### **2.17.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).

## **2.18 CORPORATE POLICY DEVELOPMENT AND SCRUTINY PANEL**

### **2.18.1 Committee Scope**

To undertake a system of checks and balances to monitor and review the activity of the Cabinet and to assist with policy development in respect of the functions set out below.

### **2.18.2 Functions**

The Panel remit is:

- Democratic & Legal Services including Registration and Electoral Services
- Corporate Finance
- Procurement & Commissioning
- Pensions & Financial Administration
- Management Accounts
- Human Resources & Organisation Development
- Strategy, Engagement & Marketing Including Equalities
- Business Support, Programmes & Performance



- Digital & Customer Services
- Commercial Including Audit & Assurance<sup>2</sup>
- Property Investment including Estates
- Construction Maintenance & FM
- Heritage, including Tourism & Arts
- Growth & Enterprise including Regeneration, Employment & Skills, Business Growth, Bath Enterprise Area
- WECA (Skills & Business)

### **2.18.3 Composition**

The size of the Panel will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#).

### **2.18.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

### **2.18.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#).

## **2.19 EMPLOYMENT COMMITTEE**

### **2.19.1 Committee Scope**

The committee fulfils a number of functions relating to the Council's role as an employer.

### **2.19.2 Functions**

To exercise all powers and duties of the Council under section 112 of the Local Government Act, 1972 relating to its role as an employer, except those reserved to the Restructuring Implementation Committee.

To hear staff appeals requiring Member level involvement, under accepted national or Council schemes of conditions of service.

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<sup>2</sup> While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role which is undertaken by the Council's Corporate Audit Committee

To conduct investigatory hearings requiring Member level involvement under accepted national or Council schemes of conditions of service, including those relating to disciplinary, capability, grievance and redundancy matters for all staff, including teachers.

To determine on behalf of the Council its powers and duties as an employer relating to pensions.

### **2.19.3 Composition**

The Committee when meeting to consider ordinary business, or as a hearing, will comprise 3 Members having regard to the rules on political proportionality. A chair will be elected at each hearing.

### **2.19.4 Quorum**

3 Members.

### **2.19.5 Competency**

Members shall not sit on the Employment Committee until they have received the necessary training.

### **2.19.6 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4](#) provided they have received the necessary training.

## **2.20 HEALTH & WELLBEING BOARD**

### **2.20.1 Background**

Health and Wellbeing Boards were required to be established in all local authorities under the Health and Social Care Act 2012 as a key mechanism for driving joined up working at a local level.

Health and Wellbeing Boards are committees of the local authority.

The legislative framework for Health and Wellbeing Boards is within the Health and Social Care Act 2012 and the Health and Care Act 2022.

### **2.20.2 Vision**

Together we will address inequalities in Bath and North East Somerset so people have the best start in life, live well and age well in caring,

compassionate communities, and in places that make it easier to live physically and emotionally healthy lives

BaNES local authority works with local partners, in partnership with Swindon and Wiltshire as part of the Integrated Care System and with other local authority partners in the West of England Combined Authority to ensure that those services that are shared across a wider population meet the requirements.

### **2.20.3 Functions**

The Board must undertake the following statutory functions:

- Prepare and publish a Joint Health and Wellbeing Strategy (JHWS) for B&NES, setting the vision for desired population level outcomes, strategic direction and high-level priorities for system partners to operationalise, to meet needs identified in the Joint Strategic Needs Assessment (JSNA), referred to locally as the Strategic Evidence Base.
- Prepare and publish a JSNA (Joint Strategic Evidence Base) of current and future health, care and wellbeing needs of the population and ensure this informs the B&NES JHWS and the B&NES, Swindon and Wiltshire (BSW) Integrated Care Strategy.
- Encourage integrated working between health and social care commissioners, and the use of the Health and Care Act 2022 and the NHS Act 2006 flexibilities to increase joint commissioning, pooled and aligned budgets (where appropriate), to support the effective delivery of the JHWS.
- Encourage closer working in planning, commissioning and delivery of services to improve the health and wellbeing of the population of B&NES and reduce health inequalities.
- Prepare and publish a Pharmaceutical Needs Assessment for pharmaceutical services in B&NES.
- Receive and respond to the draft/revised joint forward plan of the BSW Integrated Care Board.
- Be the accountable partnership for the Better Care Fund.

Achieving the vision and fulfilment of the statutory functions will be supported by the following actions. The Board will:

- Be visible and influential, championing the improvement of health and wellbeing and reduction in inequalities as important strategic issues. It will influence organisations and partnerships both within and external to the B&NES locality and wider Integrated Care System in reflecting this in their operational and commissioning plans.

- Develop strong links with and influence developments in wider services that impact on health and wellbeing including planning, transport, housing, environment, economic development, education and community safety in order to address the wider determinants of health, wellbeing and inequalities, and ensure a focus on mental well-being in conjunction with good physical health.
- Ask partners to show how they embed and deliver meaningful action against the priorities in the Health and Wellbeing Strategy.
- Periodically refresh the Health and Wellbeing Strategy in line with evidence from the Joint Strategic Evidence Base.
- Monitor progress of implementation of the Health and Wellbeing Strategy, and ensure action is taken to improve outcomes when monitoring or performance indicators show that plans are not working.
- Ensure there are effective and sufficient mechanisms and resource to communicate, engage on and co-produce Health and Wellbeing Strategy priorities with local people and stakeholders, working closely with the Third Sector.
- Consider the Integrated Care Partnership's Integrated Care Strategy when preparing or revising its Health and Wellbeing Strategy; and be active participants in the development of the Integrated Care Strategy.
- Consider whether the ICB's joint forward plan (previously the CCG's commissioning plan) has given due regard to the Health and Wellbeing Strategy.
- Strengthen its attention on community resilience and on identifying and building on community assets.
- Work closely with the B&NES Healthwatch and Third Sector partners to ensure appropriate engagement, involvement and feedback with residents, patients and service users.
- Listen to issues brought to Board meetings through the public speaking standing agenda item.
- Encourage partners to consider sufficient resourcing, both fiscal and human, of the prevention and inequality agendas.
- Seek to secure collaboration in the system to reduce duplication and make best use of available resources.
- Receive a copy of the ICB's joint capital resource plan outlining planned capital resource use, so to help align local priorities and provide consistency with strategic aims and plans.
- Provide strategic oversight and direction to ensure that the approaches adopted for health and wellbeing services are aligned with the aspirations of local partners to operate in a sustainable manner and to address the climate emergency.
- Produce an annual report presented to Cabinet/full Council outlining achievements of the Board in respect of the improvement of health and

wellbeing, a reduction of health inequalities for the population of B&NES and influencing Council priorities on the wider determinants of health.

Responsibility for the scrutiny of health and wellbeing will continue to lie with the Council's Policy Development and Scrutiny Panels.

#### **2.20.4 Scope**

The Board's scope shall be set out within the Joint Health and Wellbeing Strategy.

The Health and Wellbeing Board may consider services beyond health and social care enabling the Board to look more broadly at factors affecting the health and wellbeing of the B&NES population.

#### **2.20.5 Accountability**

Those stakeholders with statutory responsibilities will retain responsibility for meeting their individual duties and responsibilities.

The Board will establish on-going and short lived sub-groups as needed that will report to it. Subgroups established will reflect the priorities of the Health and Wellbeing Board such as children and young people, JSNA, updating the Health and Wellbeing Strategy etc.

Accountability for safeguarding lies with the B&NES Community Safety and Safeguarding Partnership (BCSSP).

### **PROCEDURE**

#### **2.20.6 Membership**

The Membership of the Board is:

- B&NES Council x 7 (Cabinet Member for Adult Services, Cabinet Member for Children's Services, Chief Executive, Director of Adult Social Care, Director of Children & Education, Director of Public Health, Executive Director - Sustainable Communities)
- B&NES Swindon and Wiltshire Integrated Care Board x 2 (ICB Executive Place Director, nominated ICB Officer)
- Healthwatch B&NES x 1
- Avon and Somerset Police x 1
- Avon Fire and Rescue x 1
- Housing provider representative x 1
- Higher and further education representative x 3

- Health and social care provider and Third Sector representatives x 5 (acute care, community care, primary care, mental health service, and voluntary, community and social enterprise sector)
- NHS England x 1

The Board will be chaired by a Cabinet Member nominated by the Leader of the Council and supported by a Vice Chair agreed by the Board.

The Council will provide secretariat support to the Chairperson in setting dates for meetings, preparing agendas, and minuting meetings

In the event of a vote on a substantive matter, the quorum for the meeting will be:

- 3 members of the Council
- 1 member of the Integrated Care Board
- 1 member of Healthwatch B&NES
- 1 health and social care provider or Third Sector representative
- 1 member from either of Avon and Somerset Police or Avon Fire and Rescue
- 1 member from either Higher and Further Education or Housing

Board members may nominate a named substitute from an appropriate member of their organisation or service.

### **2.20.7 Wider engagement**

By working together the Health and Wellbeing Board will proactively embed good public and patient engagement within the day-to-day business of the Board through adhering to the following principles:

- Taking responsibility for good public engagement
- Clarity about purpose
- Harnessing a range of engagement methods
- Engaging with everyone
- Committed to cultural change
- Providing access to information
- In partnership with Healthwatch B&NES and 3SG
- Feeding back engagement results
- Evaluating engagement

The Board will seek to engage all stakeholders (including key health and social care providers) on the JHWS and commissioning plans.

The Council's policy development and scrutiny function offers an opportunity for broader engagement on key issues.

It is intended that one representative of each Political Group on the council, not currently represented on the board, be invited to formal Board meetings in an observer capacity.

### **2.20.8 Business management**

The Board is a statutory committee of the Council and will be treated as if it were a committee appointed by the Council under section 102 of the Local Government Act 1972.

The Board will act in accordance with the Council's committee procedures.

Formal Board meetings shall be held in public. The Board may resolve to hold closed sessions in accordance with the Access to Information rules.

The Board will develop a work programme framed by the HWS which will guide its work.

The Board will meet at least 5 times per year in public as a minimum, with the flexibility for development sessions and agenda planning meetings held in private.

## **2.21 INDEPENDENT PERSON PANEL**

The Independent Person Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purpose of advising on matters relating to the dismissal of officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (the "Statutory Officers") in accordance with Schedule 3 to the Local Authorities (Standing orders) (England) Regulations 2001 as amended.

The Independent Panel will:

- a) hear, consider, ask questions and comment in respect of Statutory Officer discipline that could lead to dismissal; and
- b) make a report and recommendation to Full Council in accordance with the Council's policies and Employment Procedure Rules

The quorum is 2 Independent Persons (minimum).

The panel will operate in accordance with the following procedure rules:

- a) The Employment Procedure Rules and Council Procedure Rules will apply to this Panel.
- b) The Independent Person Panel may meet concurrently with the Restructuring Implementation Committee where a hearing or meeting could result in a recommendation to Council for dismissal of a Statutory Officer; or meet separately.
- c) All of the Council's Independent Persons appointed pursuant to section 28 (7) Localism Act 2011 shall be invited to attend and, if at the relevant time there are fewer than two such persons who are able to attend, then the Independent Persons appointed by another neighbouring Council shall be invited to attend.
- d) The Panel shall be appointed from those Independent Persons who have accepted an invitation to be considered for appointment in the following priority order:
  - An Independent Person who has been appointed by the Council and who is a local government elector in the Council's area;
  - Any other Independent Person who has been appointed by the Council;
  - An Independent Person who has been appointed by another local authority or local authorities.
- e) Independent Persons must have undertaken appropriate training.
- f) The Panel shall have access to external legal and professional advice as necessary, via the Monitoring Officer.

## **2.22 INDEPENDENT REMUNERATION PANEL**

### **2.22.1 Preamble:**

The Members' Allowances Independent Remuneration Panel is established in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. This requires local authorities to establish and maintain



an independent remuneration panel which will broadly have the functions of providing the local authority with recommendations on its remuneration scheme and the amounts to be paid.

### **2.22.2 Objects:**

- 1) To make recommendations to the Council on the appropriate form and level of remunerations (as required) for
  - all Councillors (i.e. the basic allowance);
  - special responsibility allowances;
  - childcare and dependent carer's allowances for Councillors;
  - travel and subsistence allowances;
  - conference and meetings allowances.
  
- 2) In providing such advice, the Panel will have regard to:
  - the roles which Councillors are expected to fulfil and the differing roles and responsibilities of particular Councillors;
  - the current method of local administration;
  - practice amongst other local authorities in the UK;
  - the current statutory framework for the remuneration of Councillors and the scope which the Council has to establish and vary its own arrangements, and any commentary on that (from the Audit Commission, Local Government Association, Local Government Management Board and other interested parties).
  - the previous recommendations and decisions taken by the Council in respect of the last review.
  
- 3) To make recommendations to the Avon Pension Fund (if requested) on the level of remuneration of the Chair and Members.
  
- 4) To make recommendations to the Council (if requested) on any other issues.
  
- 5) To make recommendations to any parish council (if requested) on allowances schemes.

### **2.22.3 Frequency of Meetings**

The Panel will meet as and when necessary, to meet the obligations set out above.

### **2.22.5 Membership and chairing**

The Panel will comprise 4 independent members and the Chair of the Panel will be appointed by the Panel.

#### **2.22.6 Remit of the Panel**

The Panel is an independent body and should not be seen to be influenced by the Council. All Members will be expected to assist the Panel with their deliberations. In recognition of the work the Panel will be required to undertake, administrative support will be provided by the Head - Legal and Democratic Services.

Information provide to the Panel will be dealt with on a confidential basis unless otherwise agreed and the Panel will ensure their confidentiality is maintained.

#### **2.22.7 Terms of Office**

- 6) The members of the Panel agree to comply with the Bath & North East Somerset Code of Conduct for Members.
- 7) The Council will have the right to remove particular members from the Panel in special circumstances such as:
  - a) Becoming disqualified from serving on the Panel for any of the reasons set out in the person specification
  - b) Persistent non-attendance
  - c) Breach of confidentiality
  - d) Any conduct that brings the Panel into disrepute and/or prejudices its impartiality or its effective operation.

#### **2.22.8 Indemnity**

- 8) The members of the Panel will be indemnified by the Council for their work on the Panel.

### **2.23 LICENSING COMMITTEE**

#### **2.23.1 Committee Scope**

The Licensing Committee is a statutory committee of the Council appointed to discharge the local authority's licensing functions, except the approval of licensing policies, the setting up of the Committee and the resolution not to issue casino licences.

Licensing policies shall be the responsibility of the Cabinet Member with responsibility for Community Services except where there is a statutory requirement for Full Council to determine policies.

The setting up of a Licensing Committee shall be the responsibility of Full Council and its members shall operate in accordance with the [Good Practice guide](#) approved by Council.

### **2.23.2 Functions**

- 1) At the request of the Council, to review the Council's licensing policies at any time within the statutory period under the Licensing Act 2003 and Gambling Act 2005 and to make recommendations to the Council for change, after the prescribed consultation has been completed.
- 2) To carry out all of the Council's licensing functions as covered in the Licensing Act 2003 and the Gambling Act 2005, excluding the making of licensing policies, the setting up of a Licensing Committee and the resolution not to issue casino licences (these being functions of the Council).
- 3) To determine individual licence applications which fall outside Officer delegations, or which are referred by Officers for Member attention, in relation to the issue and renewal of all registrations, licences, permits, consents etc. in relation to the enactments listed below and all such enactments as may fall within the remit of the Committee.
- 4) To determine appeals against decisions made by the Proper Officer under the Marriages and Civil Partnerships (Approved Premises) Regulations 2005.
- 5) To establish one or more Sub-Committees and, subject to statutorily prescribed exceptions, to delegate any of its functions to such Sub Committee(s).
- 6) Subject to statutorily prescribed exceptions, to delegate any of its functions to an Officer of the authority.

### **2.23.3 Composition**

The size of the Committee will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#).

#### **2.23.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

#### **2.23.5 Competency**

Members of the Licensing Committee shall not sit on the Licensing Committee until they have attended training.

#### **2.23.6 Substitutions**

Substitute Members are permitted in line with [Council Procedure Rules](#) and having received licensing training.

### **2.24 LICENSING SUB-COMMITTEE**

#### **2.24.1 Committee Scope**

This Licensing Sub-Committee shall hear and determine all licence applications as set out in the Bath and North East Somerset Council [Statement of Licensing Policy](#)

#### **2.24.2 Functions**

The Licensing Sub Committee has appointed by the Licensing Committee to discharge the Council's licensing functions.

#### **2.24.3 Composition**

Licensing Sub-Committee shall consist of 3 Members in accordance with political proportionality.

#### **2.24.4 Quorum**

The quorum shall be three.

### **2.24.5 Substitutions**

Substitutes for the Licensing Sub Committee will be drawn from the membership of the Licensing Committee. Any Member of the Licensing Committee substituting at a Licensing Sub-Committee meeting will do so in accordance with the wishes of the political group arranging the substitution.

A substitute will substitute for the entirety of the meeting.

## **2.25 PARISH LIAISON MEETING**

### **2.25.1 Committee Scope**

Parish Liaison is a partnership meeting between Bath & North East Somerset Council and the parishes within its district to facilitate the way in which they work together to serve the people of Bath and North East Somerset.

The [Parish Charter](#) is the framework within which the Parish Liaison meetings operate and support the implementation of the Charter's key principles of:

- Respecting and valuing each other
- Strengthening relationships
- Providing practical support
- Making the best of our skills and resources

### **2.25.2 Functions**

The Parish Liaison meeting does not have any decision-making powers but can advise and make representations to Bath & North East Somerset Council.

### **2.25.3 Composition**

Membership of the Parish Liaison meeting is limited to elected representatives of Bath & North East Somerset Council and representatives of the parishes within the district.

Bath & North East Somerset Council will appoint representatives to the Parish Liaison meetings in such numbers as it decides.

The parishes will each be entitled to send their nominated representative (usually the Chair of the Council) and their Clerk to the meetings. Additional parish representatives may attend subject to notification to Democratic Services prior to the meeting and the subsequent approval of the Chair of the meeting.

The Avon Local Councils Association for Bath and North East Somerset will be entitled to send representation to the meetings in their own right.

Officers of Bath & North East Somerset Council will attend meetings as necessary to advise and assist discussion.

#### **2.25.4 Meetings**

There will normally be three meetings per year, held in open session.

Meetings will usually be held in the evening for no longer than three hours.

There is an option for one of these meetings to be 'conference style' for networking and to provide training; updates; briefing and presentations on good practice from parishes. Where appropriate these will also be provided at other meetings in the cycle.

The meetings will be chaired by an agreed, elected representative of Bath & North East Somerset Council. The meeting Chair shall act independently and work on behalf of the Parish Liaison meeting for the wider benefit.

The Parish Liaison meeting is not a statutory meeting of the Council.

The general public may attend Parish Liaison meetings as observers but have no automatic right to speak or make statements. The Chair may exercise their discretion if a member of the public has given notice prior to the meeting date that they wish to raise an item of general interest and relevance to the membership.

Agendas and papers for meetings will be circulated a minimum of seven calendar days before a meeting. A record of each meeting will be taken.

#### **2.25.5 Conduct at Meetings**

The Parish Liaison meeting recognises that the Council and parishes have a common purpose to promote the wellbeing of Bath and North East Somerset; and serve the same residents. While the meeting relies on open discussions there is a need to respect and value each other's views and opinions.

Attendees will:

- Engage positively in discussions
- Working together on finding solutions
- Sharing good practice
- Help strengthen relationships

All those attending Parish Liaison meetings shall be accorded the same degree of respect, dignity and consideration by all other attendees, irrespective of people's protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation and with regard to equalities legislation.

### **2.25.6 Agenda Setting**

Parish Liaison will convene a sub-group for the purpose of setting the agendas for Parish Liaison as well as monitoring the Parish Charter. The sub-group will consist of representatives from the Council, parishes and Avon Local Councils' Association for Bath and North East Somerset.

Agenda items of relevance for discussion at Parish Liaison meetings will be those:

- That are strategic or legislative issues
- That have direct impact on all, or a significant number of parishes
- That support an effective working partnership between tiers of local government
- That relate to the Parish Charter
- Where a collective view from parishes would be helpful

Items that are not relevant for Parish Liaison will be those:

- That relate to a single, or small number of parishes, other than important items raised by a single parish or a small number of parishes that are agreed by the Parish Liaison agenda setting group which will be included on the agenda
- For which other, effective channels of communication exist
- That are day to day operational issues
- That need to be addressed immediately

The agenda items will take account of other local Forums' interests in discussions on topics and will avoid duplication where possible. Further information on protocols can be found in the Parish Toolkit.

The infrequency of Parish Liaison meetings means that it is not a practical forum through which to engage in routine enquiries and those that require immediate action.

## **2.25.7 Review**

The Terms of Reference will be reviewed annually, and any agreed changes will be ratified at the Annual General Meetings of Bath & North East Somerset Council and Avon Local Councils' Association for Bath and North East Somerset, usually held in May.

## **2.25.8 Definition of terms**

For the purposes of these Terms of Reference, the term 'parishes' relates to Town, Parish and Village Councils and Parish meetings.

## **2.26 PLANNING COMMITTEE**

### **2.26.1 Committee Scope**

The Committee will exercise the Council's functions as Local Planning Authority. The Committee will also discharge the Council's powers and duties in respect of public rights of way and commons registration. All of the Committee's decisions are subject to the applicable schemes of delegation, depending on the specific decision being taken. In addition, decisions of the Committee on planning matters are subject to the limit on delegations of functions as described below. With regard to planning decisions, the Committee will act in accordance with the planning policy framework for B&NES which includes National Planning Policy Guidance, the National Planning Policy Framework and in accordance with the [Council's Planning Code of Conduct](#).

### **2.26.2 Functions**

The Committee has delegated authority to exercise the Council's functions as Local Planning Authority.

The Committee has delegated authority to exercise the Council's powers and duties in respect of public rights of way and commons registration.

The Committee has delegated authority to establish working practices and protocols for operation on a District-wide basis.

The Committee has delegated authority to exercise all the Council's powers and duties in respect of:

- (1) Modification Orders, Reclassification Orders and Public Path Orders where the matters are contentious.
- (2) Commons Registration (including Town and Village Greens)



where the matters are contentious.

**Note 1** – *The Assistant Director Highways and Transport and Team Manager - Highway Maintenance and Drainage have been delegated general as well as specific responsibility in respect of these functions.*

**Note 2** – *For these purposes, ‘contentious’ is defined as an application which receives more than 12 objections or an application which has received an objection from either the affected parish/town council or one of the affected ward Members.*

#### Limitation on delegation of functions

The exercise of this delegated authority is subject to the Director with overall responsibility for planning, or the Head of Planning (or any of the other Managers specifically listed in the Planning Scheme of Delegation when standing in for the Head of Planning) being authorised, in exceptional circumstances, to refer any decision or determination of the Planning Committee which is clearly contrary to law or locally or nationally adopted planning policy and against officer advice, to a subsequent meeting of the Planning Committee. When such a decision or determination is referred, it shall be of no effect until the Committee has fully reconsidered the matter in the light of all the information originally before the Committee plus such additional information and advice as the Director or the Head of Planning (as the case may be) considers necessary. Further to such reconsideration, the Committee shall be entitled to make such decision or determination as it sees fit.

The [Planning scheme of delegation](#)

#### **2.26.3 Composition**

The size of the Committee will be determined by Council. Appointments will be made having regard to rules on political proportionality – as set out in the [proportionality table](#).

#### **2.26.4 Quorum**

One quarter of the membership or 3 Councillor/voting Members of the Committee whichever is greater.

#### **2.26.5 Competency**

Members of the Committee shall not sit on the Committee until they have attended training.

### **2.26.5 Substitution**

Substitutions will be permitted at meetings of the Committee from among other Members of the Council having attended training.

A substitute will substitute for the entirety of the meeting.

### **2.26.6 Support arrangements**

In exercising the above powers and duties, the Committee may also:

- establish such sub committees and working parties as are considered helpful in exercising the above functions.
- delegate any of its functions to a sub-committee and to delegate any of its non-policy making functions to Officers (see delegation scheme).
- To monitor service delivery and service trends and to make recommendations.
- To be a body of influence across its geographical area of responsibility and with the community in its area.
- To engage in consultation with the community and specifically with other bodies which have an interest in the span of responsibility of this Committee.
- To participate with others in joint initiatives on planning.

## **2.27 RE-STRUCTURING IMPLEMENTATION COMMITTEE**

### **2.27.1 Committee Scope**

To determine all necessary arrangements for implementing the indicative senior management structure.

### **2.27.2 Functions**

To decide on numbers of 1<sup>st</sup> and 2<sup>nd</sup> Tier officers and the span of work responsibility allocations for those officers.

To determine appointments to or dismissal from the posts of Director and other JNC Officers reporting to the Chief Executive, or Head of Paid Service, subject to there being no objection to the appointment / dismissal being lodged by the Leader of the Council.

To recommend to the Council the appointment or dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer in accordance with the Statutory Officers Disciplinary process including the power to suspend a statutory officer and appoint external advisors as appropriate.

To take any disciplinary action short of dismissal in respect of a Statutory Officer in accordance with the Statutory Officers disciplinary process.

Approving any special severance cases for any employee above £20,000 up to a maximum of £100,000. Approving all voluntary redundancy and flexible retirement cases for any employee that are in excess of £100,000 on total costs including redundancy, pay in lieu of notice, holiday pay and pension costs.

Compulsory redundancy cases in excess of £100,000 do not require approval of the RIC, but a note will be shared at the next available meeting for information, or communicated to RIC Members if no meeting is scheduled.

### **2.27.3 Composition**

The Committee shall comprise one Member from each political group (by convention, this is the Group Leaders).

## **2.28 STANDARDS COMMITTEE**

### **2.28.1 Committee Scope**

Promote and maintain high standards of conduct by Councillors; Parish Councillors; co-opted members and church and parent governor representatives.

Oversee the effectiveness of the Council's Constitutional arrangements from an ethical perspective and make recommendations to the Council on any desirable or necessary changes.

Recommend to the Council Codes of Conduct and Practice or Protocols for Members and/or employees of the Council, including planning issues and Arrangements for dealing with complaints.

Monitor and review such Codes and Protocols and the Register of Members interests

### **2.28.2 Functions**

Consider and determine any allegations of misconduct against Members of the Council in accordance with the Codes and the Arrangements for dealing with complaints against Councillors

Grant dispensations to Councillors; Parish Councillors; co-opted members and church and parent governor representatives relating to disclosable pecuniary interests as set out in the Localism Act 2011.

Consider

- any application for exemption from political restrictions in respect of a post, by the holder of that post, and
- any application from any person for a direction requiring a post to be included in the list of politically restricted posts.

Consider any reports from the Council's Monitoring Officer regarding illegality, unlawfulness or maladministration and any report of the Local Government Ombudsman.

Consider and determine the Council's response to any internal or District Audit regulatory recommendations referred to the Committee by the Monitoring Officer.

Make representations to the Government, Local Government Association and other external bodies on matters relating to the general principles of conduct for Members and employees of the Council.

Make arrangements for training to Councillors; Parish Councillors; co-opted members and employees in connection with any matter within the terms of reference of the Committee.

Liaise with the District Auditor and the Local Government Ombudsman in connection with any matter within the committee's terms of reference;

Recommend to the Council from time to time as necessary the appointment of Independent Members to the Committee following open advertisement, short listing and interview.

### **2.28.3 Composition**

- 5 x elected Members (voting)
- 3 x independent members - one of whom will chair the Committee (non-voting)
- 3 x Parish representatives (non-voting)
- The Independent Persons will be invited to attend the meeting and provide relevant comment.

### **2.28.4 Quorum**

For ordinary business, the quorum is 3 Members, plus one independent member. When considering parish matters, the quorum shall include at least one parish representative.

For considering individual cases, the quorum shall be 5 Members, including at least one independent member, and if a parish matter, at least one parish representative.

No more than one Cabinet Member may be appointed to the Committee. The Leader of the Council may not be a member of the Committee. In no circumstances may a Cabinet Member chair a meeting of the Standards Committee.

### **2.28.5 Substitution**

Substitute Members are permitted in line with [Council Procedure Rule 3.1.4.](#)

## **2.29 FUNCTIONS CARRIED OUT THROUGH JOINT ARRANGEMENTS**

The Council and Cabinet are able to enter into various forms of joint arrangements with other local authorities and bodies.

The Council and Cabinet may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions jointly or, advise the Council. Such arrangements may involve the delegation of functions to another authority, an officer of the authority or the establishment of a joint committee with those other local authorities.

Where three or more Councillors are appointed to a non-executive function joint committee, those Members must be appointed in political balance. Subject to below, the Cabinet may only appoint Cabinet Members to a joint committee that exercises executive functions, and those Members need not reflect the political composition of the local authority.

Where a joint committee involves mixed functions then there is no need for political balance but both Cabinet and Council must approve the arrangements.

The Cabinet may appoint Members to a joint committee from outside the Cabinet in the following circumstances:

- a) the joint committee has functions for only part of the area of the Council, and that area is two-fifths (or smaller) of the Council by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a Member for a ward which is wholly or partly contained within the area; and
- b) the joint committee is discharging a function in relation to five or more local authorities; or the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee.

In these cases, the political balance requirements do not apply to such appointments.

Where a joint committee is formed with health bodies pursuant to section 75 of the National Health Service Act 2006 and Regulation 10 of the NHS Bodies and Local Authorities Partnership Arrangement Regulations 2000, then a non-executive Member may be appointed in addition to Cabinet Members.

Where arrangements provide for the discharge of functions by a joint committee and one or more, but not all, of the functions to be

discharged by the joint committee are the responsibility of the Cabinet, then

- a) where only one Councillor is a Member of the joint committee, that person may be, but need not be, a Member of the Cabinet; and
- b) where more than one Councillor is a Member of the joint committee, at least one Member of the Cabinet must be a Member of the joint committee.

Details of joint arrangements including any delegations to joint committees shall be maintained by the Proper Officer.

The [Access to Information Procedure Rules](#) apply to Joint Arrangements.

If all the Members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

If the joint committee contains members who are not on the Cabinet of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

The Cabinet may delegate executive functions to another local authority or to the Cabinet of another local authority in certain circumstances.

The decision whether or not to accept a delegation from another local authority shall be reserved to a meeting of the Council.

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

Current Joint arrangements are detailed below;

## **2.30 WEST OF ENGLAND COMBINED AUTHORITY**

Since 9 February 2017 the Council has been part of the West of England Combined Authority <https://www.westofengland-ca.gov.uk/wp-content/uploads/2021/09/ConstitutionJune2020.pdf.pdf>

The Combined Authority was created by The West of England Combined Authority Order 2017 (“the Order”). The Order covers the area of 3 local authorities (Constituent Councils):

- Bath & North East Somerset Council
- Bristol City Council
- South Gloucestershire Council

The Combined Authority operates with a directly elected Mayor and is responsible for a number of Local Transport, Strategic Planning and skills functions as well as powers to grow the local economy.

The Combined Authority Operates an executive model, with a Cabinet comprising:

An elected Mayor

Representatives of each of the Constituent Councils

The Chair of the West of England Local Enterprise Partnership (Participant)

The Leader of the Council is the Council’s appointed Member of the combined Authority. The deputy Leader is the substitute Member of the Combined Authority, in the absence of the Leader.

## **2.31 WEST OF ENGLAND JOINT COMMITTEE**

Since 28 June 2017 the Council has been part of the West of England Joint Committee. The West of England Joint Committee is responsible for any relevant functions that fall outside those set out in the West of England Combined Authority Order. The Joint Committee was formed to provide cross boundary engagement to cover all four Unitary Authorities across the West of England. The Joint Committee covers the area of 4 local authorities:

- Bath & North East Somerset Council
- Bristol City Council
- North Somerset Council
- South Gloucestershire Council



The Joint Committee is an executive joint arrangement exercising executive functions and comprises:

- The elected Mayor
- Representatives of each of the Constituent Councils
- The Chair of the West of England Local Enterprise Partnership (Participant)

The Leader of the Council is the Council's appointed Member of the Joint Committee. The deputy Leader is the substitute Member of the Joint Committee, in the absence of the Leader.

## **2.32 AVON FIRE AUTHORITY**

Avon Fire Authority provides the Avon Fire & Rescue Service.

Avon Fire Authority ("the Authority") is a corporate body and for many purposes, has the status, rights and duties of a Local Authority under the Local Government Act 1972 and other local government legislation. It is funded from Government Grants and by precepting the constituent councils of Bristol, Bath and North East Somerset, North Somerset and South Gloucestershire. The Authority's membership comprises 20 Elected Members who are appointed by their Council on a politically proportional basis who are accountable in their decisions to the Authority rather than their individual council. B&NES Council holds 3 places on the Fire Authority. The Authority may also appoint other Members from time to time, as permitted by law, such as the local Police & Crime Commissioner(s). The Authority is statutorily responsible for the functions set out in:

- Fire and Rescue Services Act 2004
- Civil Contingencies Act 2004
- Regulatory Reform (Fire Safety) Order 2005
- Policing and Crime Act 2017

The Authority has overall control over the strategic direction, establishment, budget and functions of a fire and rescue service and over the acquisition, disposal and alteration of premises and appliances. The Chief Fire Officer/Chief Executive (CFO) is responsible for the day-to-day management of the organisation and is accountable to the Fire Authority for its efficient operation.

Link to: [Avon Fire Authority](#)

## **2.33 AVON & SOMERSET POLICE AND CRIME PANEL**

The Police Reform and Social Responsibility Act 2011 requires each police area outside of London to have a police and crime panel. The purpose of the panel is to hold the Police and Crime Commissioner to account. Where, as in the case of Avon & Somerset Police, a police force covers a number of local authorities, the police and crime panel for that area takes the form of a joint committee between a number of local authorities. Somerset Council is the lead authority of the Avon & Somerset Police and Crime Panel, which includes the following local authorities;

- Bath and North East Somerset
- Bristol
- North Somerset
- Somerset
- South Gloucestershire

More details about the role of the Avon & Somerset Police and Crime Commissioner can be found on the official site of the <http://www.avonandsomerset-pcc.gov.uk>

The Avon and Somerset Police and Crime Panel has 14 elected members and three independent co-opted members of the public.

## **2.34 JOINT HEALTH SCRUTINY FUNCTION**

### **2.34.1 Working across Local Authority Boundaries**

Some health issues will be specific to the B&NES area whilst others (e.g. performance of large hospitals or regional health services with a wide catchment area) will extend beyond the B&NES local authority boundaries. B&NES will participate in cross-boundary overview and scrutiny of health services with other local authorities, including the establishment of joint committees and/or the delegation of functions to another local authority, as appropriate.

## 2.35 DELEGATION OF FUNCTIONS TO OFFICERS

The following paragraphs and tables explain the Council's [Scheme of Delegations to Officers of the Council](#).

This scheme of delegation is of general application and applies to all of the functions of the authority, both executive and non-executive. It gives senior officers the necessary delegated powers to carry out those functions of the authority which fall within their areas of responsibility.

The Council operates a cascade principle of delegation which means that any officer given powers under this scheme can further delegate those powers to other officers through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas).

Under the provisions of this Scheme, the Council makes arrangements for the discharge of its functions by officers of the Council.

[Section A](#) defines these Officers and sets out what they may do.

[Section B](#) sets out the range of activities that may be undertaken by such Officers.

[Section C](#) sets out some activities which may only be undertaken by certain Officers.

[Section D](#) sets out the general provisions of the Scheme, indicating the limits on the powers conferred, conditions prior to their exercise and other necessary information.

[Section E](#) sets out the consideration that could justify the issue in question being referred to a Cabinet Member or the Cabinet for resolution.

### 2.35.1 SECTION A

The Chief Executive, Executive Director - Chief Operating Officer, Directors and Heads of Service have delegated power to take any decision falling within their area of responsibility other than

- a. those reserved to certain officers (see Section C) where delegated power subsists only for those officers.
- b. The general conditions set out in Section D and

- c. An issue which, under Section E, should be referred to a Cabinet Member or Cabinet Members for resolution.

## 2.35.2 SECTION B

Applicable to all officers specified in Section A.

The Council has made arrangements for the Officers specified in Section A to discharge the responsibilities outlined therein. Subject only to the limitations set out in Section D below, Officers are authorised to take all action and decisions deemed necessary to enable those responsibilities to be effectively discharged in accordance with the following schemes or arrangements: -

- Budget Management Scheme
- Scheme of Delegation to Officers in respect of day to day human resource management and Employee Code of Conduct
- Financial Regulations
- Corporate Legal Standards
- Standing Orders relating to Contracts
- Protocol for Member/Officer relations

Without prejudice to the generality of this, Officers are authorised to:-

- determine the amount(s) of any fee or charge the Council is entitled or authorised to levy or make in respect of the discharge or any of its functions subject to such charges:
  - a) being in line with the Council's financial plan; and
  - b) in the opinion of the officer concerned, not involving major restructuring of charges or the introduction of any new charges.
- recruit, manage and dismiss staff necessary to enable the Council's powers and duties to be discharged in accordance with the Council's scheme for the management of the employment matters and the employee Code of Conduct referred above.
- prepare and implement necessary or required plans or strategies for appropriate approvals.

- make bids or requests for financial or other support from any government or other agencies with responsibilities which encompass those of the Council.
- determine all applications for financial assistance or grant from the Council.
- manage any allocated building premises or land.
- implement any approved service or business plans.
- liaise with the media (to the extent appropriate for officers) and issue publicity (in accordance with the requirements of the Statutory Code of Guidance and the law).
- respond to government or other consultation papers or documents and make representations on matter of interest to the Council to appropriate authorities.
- take decisions necessary or appropriate to give effect to approved capital and revenue budgets and programmes and take any other decisions necessary or authorised under the provisions of financial regulations the Budget management scheme and Standing Orders relating to contracts.
- manage Council funds, stock and material including taking any necessary action to protect them.
- make comments/objection to any statutory or other body necessary to give effect to a decision of the Council.
- enter into and manage contracts and grant exemptions from contract standing orders for contracts of all values (other than those specifically reserved to specified officers outlined in Section C).
- serve any notices and make, amend or revoke any orders falling within their area of responsibility.

## **NOTE**

The Scheme of Delegation to Officers in respect of day to day human resource management includes within it the right for management to issue instructions. Without prejudice to the generality of the Scheme, the Chief Executive is authorised to issue instructions and directions to any officer of the Council save in

respect of the Council's statutory officers when acting in such capacity. The Council's statutory officers for this purpose are the Director (Finance) as Chief Finance Officer, and the Head of Legal and Democratic Services as Monitoring Officer.)

### **2.35.3 SECTION C – PROPER OFFICER FUNCTIONS**

*[See [Proper Officer Functions table](#)]*

#### **EXECUTIVE DIRECTOR - RESOURCES (\$151)**

To carry out the functions of Chief Finance Officer conferred by law and the Council's financial regulations and the budget management scheme.

#### **PEOPLE TEAM LEADER, PLACE TEAM LEADER, RESOURCES TEAM LEADER, LEGAL SERVICES MANAGER AND HEAD OF LEGAL & DEMOCRATIC SERVICES**

- To discharge the powers conferred by resolution of the Council dated October 1999 both under hand or electronically.
- The power as an approved signatory to:
  - electronically affix to documents and witness a digitally formatted Common Seal of the Council;
  - electronically add a digitised signature to a document and as witness to a document;
- To institute and conduct all civil and criminal proceedings by the Council.
- To defend or participate in any legal proceedings brought against the Council (or its employees as a result of actions incurred during the course of their employment) or where the Council's interests are affected and to negotiate settlement.
- To institute and conduct all proceedings and procedures to implement and enforce any decision of the Council.
- To select and instruct Counsel and other legal service providers.

- To enter into contracts for the provision of legal advice and services with public bodies as defined by the Local Authorities (Goods and Services) Act 1970.
- To enter into and merge contracts and grant exemption from Contract Standing Orders for contracts of all values.

## **DIRECTOR OF PEOPLE & CHANGE**

To approve any special severance cases up to a maximum of £20,000 in accordance with the Council's published policy for severance payments.

'To suspend a Statutory Officer and if necessary to suspend a Statutory Officer immediately in accordance with the [Statutory Officers disciplinary process](#). The exercise of the power of suspension to be subject to consultation with the Chair of Council.

## **DATA PROTECTION OFFICER**

To carry out the functions under the GDPR and the Data Protection Act 2018 as a public authority responsible for the handling of personal data in the role of controller or otherwise and for the control and release of data under the Freedom of Information Act 2000, the Environmental Information regulations 2004 and Local Government (Access to Information) Act 1985.

### **2.35.4 SECTION D**

#### **SCHEME OF DELEGATION TO OFFICERS – GENERAL PROVISIONS**

The exercise of the arrangements for the discharge of functions in this document are subject to the provisions of Standing Orders, Financial Regulations, Contract Standing Orders, the Budget Management Scheme, Corporate Legal Standards all relevant legal provisions and the provisions of the Constitution.

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

The exercise of a delegated power, duty or function:

- a. shall be subject to the Council's policies;
- b. shall not amount to a new policy or extension of or amendment to an existing policy; and
- c. shall be subject to the requirements set out above.

Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.

Delegations to officers are subject to:-

- a. the right of the Cabinet or a Cabinet Member to decide any matter in particular case, where they have the power to do so;
- b. the Head of Service or other Officer may in any case in lieu of exercising their delegated power refer to the Cabinet, a Member of Cabinet, a Committee or Sub-Committee for a decision where that body has the power to act; and
- c. any restrictions, conditions or directions of the Leader of the Council.

In exercising delegated powers, the Chief Executive, Executive Director - Chief Operating Officer, Director, Head of Service or other officers shall:-

- a. comply with the requirements of the Corporate Legal Standards and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
- b. exercise the delegation so as to promote the efficient, effective and economic running of that service, and the Council, and in furtherance of the Council's visions and values;
- c. keep a full record of action taken and, where and when appropriate, report back to the decision making body as to the exercise of those delegated powers, and;
- d. carry out necessary consultations

In exercising delegated powers, officers shall not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by Contract Standing Orders or Financial Regulations.

In exercising delegated powers, officers shall have regard to any advice of the Head of Paid Service, the Monitoring Officer or of the Chief Financial Officer.



An Officer to whom a power, duty or function is delegated may nominate or authorise another Officer to exercise that power, duty or function, provided that Officer reports to or is responsible to the delegator.

Subject to any express instructions to the contrary from the Cabinet, Cabinet Member, Council, Committee or Sub-Committee, any power to approve also includes the power to refuse and the power to impose appropriate conditions.

The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation: so, the delegations apply to whoever holds that post title at any time – not to the individual person.

Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

Where a power or duty is delegated to an Officer and the exercise of the power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the Officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.

References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments. Whenever new legislation relevant or related to those functions exercised by the senior officer is introduced, that officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the full Council, the Executive, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.

Any reference to any Act of Parliament includes reference to Regulations, subordinate and European legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.

When exercising delegated powers, officers shall act as “duly authorised officers” (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):

- Applying for warrants

- Carrying out investigations, inspections or surveys
- Entering land and premises
- Taking samples and seizing property
- Issuing (or declining to issue), revoking or withdrawing licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information.

The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Monitoring Officer and detailed amendments are added to it as they are made by the Leader of the Council, the Council, Committees and Sub-Committees, the Chief Executive and other Officers. Officers should take care to inform themselves of any subsequent changes to the Register before relying on this document.

Following consultation with the Monitoring Officer, the Chief Executive will have the power to amend the Register to reflect re-organisations, changes in Job Titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.

All matters of interpretation of this document will be determined by the Monitoring Officer.

Officers shall devolve responsibilities for service delivery and management (whether or not involving sub-delegation under this scheme) to the nearest practicable point to the service user and in a way which clearly identifies accountabilities.

All responsible Officers of the Council are authorised and required to consider and discharge on the Council's behalf its powers and duties under the following statutory provisions:-

Crime and Disorder Act 1988 Section 17

Equalities Act 2010

Data Protection Act 1998

Human Rights Act 1998

Localism Act 2011 Sections 1 – 4

Freedom of Information Act 2000

Environmental Information Regulations 2005

Officers are required to consider before exercising delegated powers, whether in their opinion the criteria set out in Section E below are applicable.

The officers referred to in Section A may make arrangements within their area of responsibility for the discharge of functions to

be carried out by other specified officers. Such arrangements must be recorded in writing and notified to the Monitoring Officer who will ensure such arrangements are recorded in the Register referred to above.

### **2.35.5 SECTION E – CRITERIA FOR REFERRAL OF AN OFFICER ISSUE FOR MEMBER LEVEL CONSIDERATION OR DECISION**

If any of the following criteria apply, the matter is to be considered by Cabinet or a Cabinet Member. The opinion of the Chief Executive in consultation with the Leader of the Council, as to the interpretation and application of these criteria shall be final and conclusive.

- (i) matters of significant political impact including those which impact significantly on the issue of Members' accountability to the electorate;
- (ii) matters of substance relating to key and significant projects;
- (iii) matters which raise specific issues requiring choices between options which themselves might have knock-on effects elsewhere- eg on funding;
- (iv) where significant risks have been identified in proceeding with the issue as a result of risk analysis;
- (v) where issues of timing, presentation, or relationships with other bodies (eg other Councils, outside bodies, central government) have become critical to resolve;
- (vi) where there is a significant deviation from the original intention of a project plan etc;
- (vii) where a decision is required which was not anticipated in the Council's agreed plans or policies;
- (viii) a proposal for a detailed Strategy/Action Plan which is consistent with, but goes beyond the intended scope of an agreed Council Policy;
- (ix) where a high level implementation decision is required.

The relevant lead Officer will be responsible for determining, which is the relevant member body, having considered any advice from the Chief Executive who will be the final arbiter in such matters.

## **2.36 PROPER OFFICER FUNCTIONS**

The Council has appointed the following Proper Officers for the purposes of the statutory provisions set out below. Subject to the proper officer appointments set out below, the Chief Executive and the Executive Director - Chief Operating Officer shall be authorised to act as the Proper Officer for the statutory responsibilities which fall within their area of responsibility.

## LOCAL GOVERNMENT ACT 1972

<b>Section</b>	<b>Purpose of Appointment</b>	<b>Proper Officer</b>
83	To witness and receive declarations of acceptance of the office of Chair and Vice Chair of the Council and of Councillors.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
84	To receive written notice of the resignation from the office of Chair and Vice Chair of the Council and of Councillors.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services
86	To declare the office of Councillor vacant.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services
88(2)	To convene, if necessary, a meeting of the Council when the office of Chair of the Council is vacant.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services
89(1)(B)	To receive written notice from two local government electors of a casual vacancy in the office of Councillor.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services
100B(2) Inserted by Local Government	To decide whether part or the whole of reports should be excluded from public inspection before a meeting if they relate	Monitoring Officer & Head of Legal & Democratic Services

(Access to Information Act 1985)	only to items during which the meeting is likely not to be open to the public.	Democratic Services Manager
100B((7)(c)	To supply to the press additional material supplied to Members of the Council in connection with the item to be discussed.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
100C(2)	To prepare a written summary of proceedings taken by a Committee in private.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
100D(1)	To compile a list of background papers to a report to a Committee.	Executive Director - Chief Operating Officer and Director or other officer in whose name the report is written.
100D(5)(a)	Identifying background papers of reports.	Executive Director - Chief Operating Officer, Director or other officer in whose name the report is written.
100F(2)	Identifying which documents contain exempt information not open to inspection by Members of the Council.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
146	To sign the statutory declaration to enable the transfer of securities in the event of a change in the name or status of the Local Authority.	Executive Director - Resources (S151)
191	To receive applications made under Section 1 of the Ordnance Survey Act 1841 for assistance in surveying disputed boundaries.	Executive Director - Chief Operating Officer

210	To exercise certain residual functions relating to charities.	Monitoring Officer & Head of Legal & Democratic Services
225	To receive and retain documents deposited with the Local Authority.	Monitoring Officer & Head of Legal & Democratic Services
229	To certify, for the purpose of any legal proceedings, that a document is a photographic copy of the original document.	Monitoring Officer & Head of Legal & Democratic Services (generally) and all Directors and Executive Director - Chief Operating Officer - within their areas of responsibility
234	To sign any notice, order or other document on behalf of the Authority; any document purporting to be so signed being deemed to be issued by the Authority.	Monitoring Officer & Head of Legal & Democratic Services
236	To send to the Council of every Parish in the area a copy of every byelaw made by the Council and confirmed by the Secretary of State.	Monitoring Officer & Head of Legal & Democratic Services
238	Certification of copy of byelaws.	Monitoring Officer & Head of Legal & Democratic Services
<b>Schedule 12</b> (Paragraph) 4(2)(b)	To sign and send to all Members of the Council the summons to attend meetings of the Council, specifying the business to be transacted.	Chief Executive  Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
4(3)	Receiving notice from a Member of the address to which a summons to the meeting is to be sent.	Democratic Services Manager

## REGISTRATION SERVICES

4	Appointment of Interim Superintendent Registrars or Interim Registrars of Births and Deaths under Section 9 of the Registration Service Act 1953.	Monitoring Officer & Head of Legal & Democratic Services
4	In relation to the Registration of Births, Deaths and Marriages, to exercise the functions under the Marriage Act 1949	Monitoring Officer & Head of Legal & Democratic Services
4	In relation to the approval of premises for the solemnisation of marriages under Section 26(1)(bb) and Section 46A of the Marriage Act 1949 (as amended by the Marriage Act 1994) and the Marriages and Civil Partnerships Act (Approved Premises) Regulations 2005.	Monitoring Officer & Head of Legal & Democratic Services

## MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES) REGULATIONS 2005

	To be the Proper Officer for the purposes of the Registration Act 1953, the Marriage Act 1949 (as amended by the Marriage Act 1994) the Civil Partnership Act 2004, and the Marriages and Civil Partnerships (Approved Premises) (Amendment) Regulations 2011 and to set fees and offer discounts where applicable.	Monitoring Officer & Head of Legal & Democratic Services
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## LOCAL GOVERNMENT ACT 1974

30(5)	Giving public notice of receipt of report by a Local Commissioner	Monitoring Officer & Head of Legal & Democratic Services
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## HIGHWAYS ACT 1980

59(1)	To certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight or extraordinary damage.	Director of Place Management
205(3)(4) & (5)	To undertake duties in relation to private street works.	Executive Director - Sustainable Communities
210(2)	To certify any amendments to estimated costs and provisional apportionment of costs of street works under the private street works code.	Executive Director - Sustainable Communities
211(1), 212(4), 216(2), and (3)	To make a final apportionment of expenses of street works executed under the private street works code as detailed in the Schedules.	Executive Director - Sustainable Communities
Section 295	Issuing a notice requiring owners to remove materials from non-maintainable streets in which works are due to take place.	Executive Director - Sustainable Communities
Section 321	Authentication of notices, consents, approvals, orders, demands, licenses, certificates or other documents.	Executive Director - Sustainable Communities
Schedule 9, Paragraph 4	Signing plans showing proposed improvement or building lines.	Executive Director - Sustainable Communities

## LOCAL GOVERNMENT FINANCE ACT 1988

116(1)	Responsibility for notifying the external auditor of arrangements for a meeting to consider a report from the "Chief Financial Officer"	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
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## LOCAL GOVERNMENT AND HOUSING ACT 1989

2	To receive on deposit a list of politically restricted posts.	Director of People & Change
3A	In consultation with the Monitoring Officer, to determine applications for exemption from political restriction or for designation of posts as politically restricted.	Chief Executive (as Head of Paid Service)
15 and 16	To undertake all matters relating to the formal establishment of political groups within the membership of the Council.	Democratic Services Manager

## FOOD SAFETY ACT 1990

49(3)	Signing any document authorised or required to be given, made or issued by the Food Authority.	Director of Place Management
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## LOCAL GOVERNMENT ACT 2000

### SECTION 9G AND 9GA: MEETINGS AND ACCESS TO INFORMATION ETC

### LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012 (SI 2012/2089)

Regulation 7	Exclusion of whole or part of any reports to the Cabinet or Cabinet Member where they relate only to items during which the meeting is likely not to be open to the public.	Monitoring Officer & Head of Legal & Democratic Services
Regulation 10	Informing the relevant Select Committee Chair or the Committee Members by notice in writing of decisions to be made, where it has been impracticable to comply with	Monitoring Officer & Head of Legal & Democratic Services

	the publicity requirements (in the “Forward Plan”) and making available for public inspection notices relating to this.	Democratic Services Manager
Regulation 12	Producing a written statement of Cabinet decisions made at meetings.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
Regulation 13	Producing a written statement of decisions made by individual Cabinet Members.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
Regulation 14	Making a copy of written statements of Cabinet and Cabinet Member and officer executive decisions and associated reports available for inspection by the public.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
Regulation 15 and Regulation 2	Making available for inspection a list of background papers.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
Regulation 16(5)	Determining whether certain documents contain exempt information.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
Regulation 16(7)	Determining whether certain documents contain advice provided by a political adviser or assistant.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager

Regulation 20	Determining whether documents contain confidential information, exempt information or the advice of a political adviser or assistant.	Monitoring Officer & Head of Legal & Democratic Services  Democratic Services Manager
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## **LOCAL GOVERNMENT ACT 2000**

### **SECTION 34: LOCAL AUTHORITIES (REFERENDUMS) PETITIONS AND DIRECTIONS) REGULATIONS 2000 (SI 2000/2852)**

Regulations 4 and 5	Publishing the verification number of local government electors for the purpose of petitions under the Local Government Act 2000.	Monitoring Officer & Head of Legal & Democratic Services  Electoral Services Manager
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## **LOCALISM ACT 2011**

29	Establish, maintain and publish a Register of Interests.	Monitoring Officer & Head of Legal & Democratic Services
33	Grant a dispensation in circumstances where without the dispensation: <ul style="list-style-type: none"> <li>the number of persons prohibited by having a DPI from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, or</li> <li>the representation of different political groups</li> </ul>	Monitoring Officer & Head of Legal & Democratic Services

	<p>on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;</p> <ul style="list-style-type: none"> <li>• each Member of the authority's executive would be prohibited by DPs from participating in any particular business to be transacted by the authority's executive.</li> </ul>	
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**LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001**

1 (Part 11)	Notifications to the Cabinet concerning appointments and dismissals.	Director of People & Change
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**REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000**

21, 22, 27, 28 and 29	<p>The Senior Responsible Officer for RIPA.</p> <p>Designation of officers empowered to grant authorisation for the carrying out of directed surveillance, to authorise the use of covert human intelligence sources and communications data checks.</p>	<p>Monitoring Officer &amp; Head of Legal &amp; Democratic Services</p> <p>Chief Executive</p>
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**FREEDOM OF INFORMATION ACT 2000**

36	Acting as a "qualified person" in respect of information held by the Council.	Monitoring Officer & Head of Legal & Democratic Services
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		Chief Executive
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**LOCAL GOVERNMENT, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009**

31	Designated Statutory Scrutiny Officer	Policy Development & Scrutiny Officer  Chief Executive
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**DATA PROTECTION ACT 2018**

Part 3, Chapter 4, section 69	Designated Data Protection Officer for Council as Data controller	Director - Financial Services, Assurance & Pensions  Chief Executive
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**LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 2013**

Reg 2 (3B) & Statutory Guidance	Designated LGPS Senior Officer	Director - Financial Services, Assurance & Pensions
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**REPRESENTATION OF THE PEOPLE ACT 1983**

RPA 1983 section 8(2)	Act as Electoral Registration Officer and Returning Officer (ERO/RO) for all elections taking place in Bath & North East Somerset, undertaking all the duties associated with the role.	Chief Executive
RPA 1983 section 35(1)		
RPA 1983 section 18(2)	Power to designate a polling place in an area outside the polling district where no	Chief Executive

	suitable venue is available within the polling district.	
	Power to nominate a deputy and delegate the above duties	Chief Executive

# **PART 3 PROCEDURAL RULES**

## **3.1 COUNCIL PROCEDURE RULES**

### **3.1.1 ANNUAL MEETING**

#### **DATE OF ANNUAL MEETING OF COUNCIL**

In a year when there is an ordinary election of Councillors, the annual meeting is held either on the 8<sup>th</sup> day after the day of retirement of Members or within 21 days immediately following the day of retirement. The Council will decide which alternative in each election year. In any other year, the annual meeting will take place in March, April or May. The annual meeting may be combined with the business of an ordinary meeting.

### **3.1.2 CHAIR AND VICE CHAIR OF THE COUNCIL**

The first business at the Annual Meeting of the Council is to elect a Councillor to be Chair of the Council for the Municipal Year (i.e. until a successor is appointed at the next Annual Meeting). The current Chair will preside at the meeting over the appointment of their successor unless, in accordance with the provisions of the Local Government Act 1972, he or she is ineligible to do so. In this case the Vice Chair shall preside. No Councillor shall preside over his or her own election as Chair or Vice Chair. The Annual Meeting will also appoint a Councillor to be Vice Chair of the Council for the Municipal Year. Both the Chair and the Vice Chair have the right to declare their preference for how they wish to be addressed.

### **3.1.3 APPOINTMENT OF COMMITTEES**

At its Annual Meeting, the Council will decide:

- which Overview and Scrutiny Panels, non-executive and other Committees to create for the Municipal Year;
- what roles and responsibilities they will have; and
- the proportional allocation of seats to political groups.

The current appointments: [Political Proportionality Table](#)

### **3.1.4 SUBSTITUTION**

All non-executive Members of a committee or Overview and Scrutiny Panel (subject to the rules on membership of such bodies) are eligible to be appointed as a substitute for any Committee or Overview and Scrutiny Panel Member of any political group in accordance with the wishes of that political group. Substitute Members will have all the powers and duties of



any ordinary Member of the committee but will not be able to exercise any special responsibilities or duties exercisable by the Member for whom they are substituting.

Substitute Members may attend meetings in that capacity to take the place of the ordinary Member for whom they are substituting, where the ordinary Member will be absent for the whole of the meeting (including any adjournment). The Member being substituted shall cease to be a Member of the relevant body for the duration of the meeting (including any adjournment of the meeting to another date). The substitute Member shall be a full Member of the body for the same period. Cabinet Members cannot act as a substitute on any Overview and Scrutiny Panel.

### **3.1.5 ORDER OF BUSINESS AT ANNUAL MEETING OF COUNCIL**

The annual meeting will:

- (i) elect a person to preside if the Chair of the Council and the Vice Chair is not present;
- (ii) elect the Chair of the Council;
- (iii) appoint the Vice Chair of the Council;
- (iv) approve the minutes of the last meeting as a correct record and authorise the Chair to sign as such;
- (v) receive any announcements from the Chair or from the Chief Executive;
- (vi) elect the Leader of the Council, following elections held every 4 years;
- (vii) appoint at least one Overview and Scrutiny Committee, a Licensing Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
- (viii) determine the size, terms of reference and delegated powers of those committees and bodies established under part (vii) above on the basis that these matters may also be reviewed during the Municipal Year;

- (ix) determine the allocation of seats on Committees and Overview and Scrutiny Panels to political groups in accordance with the rules on political balance and arrangements for the appointment of substitute (or temporary) Members (see [Council Procedure Rules](#));
- (x) receive nominations from political groups for Members to serve on Committees and Overview and Scrutiny Panels. Similarly, the Council will receive nominations to serve on outside bodies where the making of such appointments has not been delegated by the Council or is exercisable only by the Cabinet;
- (xi) agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree as set out in [Part 2 of this Constitution](#).
- (xii) approve a programme of ordinary meetings of the Council and of its Committees for the year; and
- (xiii) consider any other relevant business set out in the notice convening the meeting.

The agenda and any relevant reports will be endorsed with the name of any local ward to which the business specifically relates.

### **3.1.6 BUSINESS AT ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice Chair are not present;
- (ii) receive any declarations of interest from Members;
- (iii) approve the minutes of the last meeting as a correct record and authorise the Chair to sign as such (*There is no discussion on matters arising from the minutes other than to draw attention to any inaccuracy*);
- (iv) receive any announcements from the Chair or the Chief Executive, and with the approval of the Chair of the meeting receive from the Leader of the Council, a statement on an urgent

matter, provided that the Leader of the Opposition shall have an equivalent opportunity to reply to such a statement;

- (v) deal with any business remaining from the previous Council meeting;
- (vi) receive questions, statements, or petitions from members of the Public;
- (vii) receive questions, statements, or petitions from Councillors at the end of the published order of business;
- (viii) receive reports on Policy and Budget Framework matters (normally from the Cabinet);
- (ix) receive and consider any report from the Cabinet on its business since the previous Council meeting;
- (x) receive reports from its committees;
- (xi) consider any other business specific in the summons to the meeting including reports from Officers on Council functions;
- (xii) consider any agenda motions submitted by Members of the Council.

The agenda and any relevant reports will be endorsed with the name of any local ward to which the business specifically relates.

### **3.1.7 SPECIAL OR EXTRAORDINARY MEETINGS**

Occasionally, it will be necessary to call a special or extraordinary meeting of the Council to deal with specific business only. A special or extraordinary meeting may be called:

- i) by resolution of the Council;
- ii) by the Chair of the Council on her/his own initiative;
- iii) by the Chair of the Council, in response to a written request signed by 5 Members;

- iv) by the Monitoring Officer or the Chief Financial Officer, after consultation with the Political Group Leaders and the Chair of the Council.

Those calling the special or extraordinary meeting may specify a date and time for the meeting. This specific business will be limited to that identified by those calling the meeting. Questions from the Public and Councillors will not be permitted unless these relate to the business to be discussed.

When 5 Members submit a written request for a meeting, the Chair may:

- call a meeting within a reasonable time;
- refuse to call a meeting; or
- take no action

If the Chair refuses to call a meeting within 7 days (*i.e. the summons to the meeting is not sent out within 7 days*) or takes no action, the 5 Members who have signed the request may require the Chief Executive in writing to convene a meeting on a date and time they will determine. The Chief Executive shall then convene a meeting on the specified date and at the time stated.

### **3.1.8 MINUTES AT EXTRAORDINARY MEETINGS**

Minutes of an ordinary meeting of the Council will be presented for consideration as a correct record at the same or the next ordinary meeting of the Council. A special or extraordinary meeting of the Council will not be asked to consider for approval the minutes of any ordinary meeting of the Council held prior to the special or extraordinary meeting.

### **3.1.9 GENERAL PROVISIONS**

#### **3.1.10 DATES AND TIMES OF MEETINGS**

The time and place of all Member meetings will be determined by the Monitoring Officer and notified in the summons. The Chief Executive, in consultation with Political Group Leaders, is responsible for determining whether a programmed meeting of the full Council should be postponed or cancelled. For committees and panels, this decision is taken in consultation with the Chair.

#### **3.1.11 AGENDA DESPATCH**

Items to be discussed at any meeting of the Council will be set down in the agenda. The agenda will be sent to every Member of the Council at least 5 clear working days before the meeting. A “clear working day” is a day on which the Council offices are open and does not include the day of despatch or the day of the meeting. In the case of an extraordinary meeting of the Council called to consider an urgent item, a shorter period of notice may be given.

The draft agenda for a Council meeting shall be submitted to each Political Group sufficiently far in advance of the formal agenda despatch to enable all Members of the Council, through Group discussion, to have an opportunity to influence the agenda content for the meeting.

The Chief Executive, in consultation with the Political Group Leaders shall prepare and maintain an annual work plan for the Council for circulation to all Members.

#### **3.1.12 MINIMUM NUMBER OF MEMBERS PRESENT (QUORUM)**

No business shall be transacted at a meeting of the Council unless at least one quarter of the whole number of Members of the Council is present. This is 15 elected Councillors of Bath & North East Somerset Council. The quorum for all other committees or panels shall be one quarter of their respective membership, or 3 Councillor/voting Members whichever is the greater or, unless otherwise stated in [Part 2 of the Constitution](#)

If, at the start of or during any meeting of the Council, the Chair, after requiring a count of the number of Members present, declares that there is not a minimum required number present, the meeting shall immediately stand adjourned. The consideration of any business not transacted shall be adjourned to the next ordinary meeting of the Council unless the Chair, or the Council, decides that the meeting should be re-convened at another time or on another date to transact or complete its business. When this

happens, the Chair or the Council may also decide the date and / or time at which the meeting shall re-convene.

### **3.1.13 RECORD OF ATTENDANCE**

The names of the Members present during the whole or part of a meeting shall be recorded.

### **3.1.14 SUSPENSION OF RULES**

There are occasions when it is helpful to the effective conduct of a meeting, or for other reasons, not to apply a particular Procedural Rule. It is therefore open to any meeting to suspend one or more of its operational Rules. It is necessary for the suspension of a Rule to be proposed by a Councillor who should make it clear which Rule is being suspended and for how long. A majority of Members present at a meeting must support the proposal to suspend a rule.

### **3.1.15 CHANGING THE ORDER OF BUSINESS**

The Chair may at her/his discretion vary the order of business at the meeting. The Council meeting may also decide to vary the order in which agenda items are taken.

### **3.1.16 RULES OF DEBATE**

### **3.1.17 CHAIR OF MEETING**

At a meeting of the Council, the Chair, if present, shall preside. If the Chair is absent from a meeting, then the Vice Chair, if present, shall preside. If both the Chair and Vice Chair are absent from a meeting, another Member of the Council chosen by the meeting shall preside. The person presiding at the meeting may exercise any power or duty of the Chair in relation to the conduct of the meeting.

### **3.1.18 POWERS OF THE CHAIR**

The powers and duties of the Chair are as follows:

- a) to act as the focal point for debate;
- b) to preserve order and ensure the proper and efficient conduct of the meeting;
- c) to ensure that members of the Public and Councillors are able to follow proceedings;
- d) to confine discussion to the issue under consideration;
- e) to ensure all Councillors have an equal opportunity to participate;

- f) to decide whether proposals put to the meeting are in order;
- g) to decide procedural matters;
- h) to conduct voting and to declare the result;
- i) to sign the minutes of the previous meeting(s) as a correct record when authorised to do so by the meeting;
- j) to adjourn the meeting if circumstances justify such action;
- k) to declare the meeting closed when its business has been completed;
- l) to exercise powers conferred by law on the chair of a meeting.

### **3.1.19 CHAIR TAKING PART IN DEBATE**

The Chair will not normally take part in debate. The Chairperson must, if present, preside and it is not permissible for the Chair to vacate the Chair during consideration of an item. However, in special circumstances signified to the meeting, the Chair may speak but will ensure that his or her contribution to debate is made in such a way as to ensure that the efficient conduct of the meeting is not prejudiced.

### **3.1.20 MEMBERS TO ADDRESS THE CHAIR**

When speaking at a meeting, Members shall address the Chair.

### **3.1.21 MINUTES**

The Chair will invite the meeting to approve the minutes of the previous meeting as a true and correct record. There will be no discussion on the minutes other than on their accuracy. When so approved, the Chair is authorised to sign them.

### **3.1.22 QUESTIONS FROM COUNCILLORS AND THE PUBLIC**

Councillors and [the Public](#) have the right to put forward questions for answer at a Council meeting but not at a special/extraordinary Council meeting unless these relate to the business to be discussed. All questions must be submitted in writing (this to include transmission by e mail).

A maximum of 3 questions will be accepted from each member of the Public and from each Councillor (each question to have no more than 2 sub-sections). A question in multiple parts will be treated as a series of individual questions. Notice of the question must be given to the Monitoring Officer no later than close of business 4 clear working days before the day of the meeting (e.g. 5pm on a Thursday for a meeting on the following Thursday).

If a meeting is postponed, or adjourned, once an agenda has been published, all deadlines for public engagement associated with the original meeting still apply.

All questions will be circulated to Members of the Council and the public in advance of the meeting. There is no requirement of the questioner to read out the question, nor of the relevant Councillor to read out the answer if circulated. Where a written answer is circulated in advance, the relevant Councillor may add to that answer orally at the meeting.

A Councillor who is asked a question may

- nominate another Councillor to reply on his or her behalf;
- indicate that a written answer will be provided, in which case that written answer shall be provided no later than 5 clear working days after the day of the meeting, where practicable.

Questions must only be asked of:

- a Cabinet Member (where the matter falls within his or her portfolio) or
- the Leader of the Council or the Deputy Leader (about any aspect of Council policy and practice, service delivery or community interest) or
- a/all Group Leader/s (about an issue not related to executive business)
- a committee or Panel chair

but not an individual Member of the Council who does not hold any of the above positions.

For Policy Development & Scrutiny Panels, and Committees, questions must only be asked of the Chair.

The Chair may rule on the adequacy of an answer given at the meeting by a Cabinet Member (or their nominee).

A question will not be accepted under this Rule if

- the answer would require exempt or confidential information to be divulged;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where the question/answer process might prejudice the proper consideration of such an application;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- is defamatory, frivolous or offensive;
- it contains an allegation against, or comments about, the conduct of individual Councillors or officers.

The text of written questions to Council, and their written or published responses, should contain no reference to political groups/parties.



### 3.1.23 PETITIONS AND STATEMENTS FROM COUNCILLORS OR THE PUBLIC

Councillors and [members of the Public](#) have the right to put forward petitions and statements at a Council meeting. The submission must be relevant to the Council and/or the Bath & North East Somerset area. Advance notice of all statements (including those supporting a petition) must be submitted in writing (this to include transmission by e mail) stating the subject matter, and must be lodged with the Monitoring Officer no later than close of business 2 clear working days before the day of the meeting at which the submission is to be made (e.g. Monday 5pm for a meeting on a Thursday). Where possible, members of the public and Councillors are strongly encouraged to submit the text of their statement in advance to enable Members to read it before the meeting.

If a meeting is postponed, or adjourned, once an agenda has been published, all deadlines for public engagement associated with the original meeting still apply.

[Guidance](#) is available on drafting/submitting a statement.

There is no minimum number of signatures required for a petition.

A submission under this Rule will not be accepted if

- it seeks to address exempt or confidential matters;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where this Procedural Rule might prejudice the proper consideration of such an application or consent;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- is defamatory, frivolous or offensive;
- it contains an allegation against, or comments about, the conduct of individual Councillors or officers.

There is a limit of one submission per item per individual member of the Public.

There is a limit of one hour for items from the Public, extended at the Chair's discretion.

Individual submissions will be limited to a maximum of 3 minutes.

If the submission relates to a general matter not on the agenda for the meeting, it will be taken at the start of the meeting. If it relates to an item on the agenda for the meeting, the person making the submission will be invited to address the meeting either at the start of the meeting or

immediately before the item is debated. *[For Councillor items to Council, these are taken at the end of the agenda, in accordance with rule 3.1.6.]*

Once the submission has been made, the Chair will invite each Group Leader once, if they require any clarification on the submission, to ask factual questions of the person making the submission. The Group Leader can defer this right to another Member within the Group. The meeting will then determine what action it wishes to take on the matters contained in the submission.

[The above provision regarding Group Leader factual questions only relates to Council.]

### **3.1.24 MOTIONS MOVED WITHOUT NOTICE**

The following matters may be proposed as a motion during a meeting, by a Member of the Council, without the need to give notice:

- a) Appointment of a Chair of the meeting
- b) The accuracy of the minutes
- c) To change the order of agenda business
- d) To adopt a recommendation or some other course of action arising from a report to the meeting
- e) Extending the time limit for speeches, for Public and Councillor questions
- f) Amendments to matters raised
- g) That the meeting proceeds to the next business (applies only to certain Members - See Rule 3.1.34)
- h) That the question be now put
- i) That the debate be now adjourned
- j) That the meeting now adjourns
- k) That the meeting continue beyond the prescribed deadline to end no later than a specified time
- l) Suspending Procedural Rules in accordance with Rule 3.1.14
- m) To resolve under Section 100A of the Local Government Act 1972 to exclude the press and the Public
- n) That a Member named under Rule 3.1.39 be not further heard or leave the meeting

### **3.1.25 NOTICE OF AGENDA MOTIONS**

Except for motions which may be moved without notice, written notice of every motion, signed by or on behalf of the Member(s) giving notice, with the name of the political group shown after the Member's name (unless the motion is to stand in the name of the Member only) must be delivered to the Monitoring Officer (on behalf of the Chief Executive) not later than 7 clear working days before the date of the meeting.

- Motions will be listed on the agenda in the order in which notice was received by the Monitoring Officer unless, after consulting the Group Leaders, the Chief Executive and the Chair, the Monitoring Officer decides that it would be more effective for the conduct of the Council's business to place them in a different order;
- Motions must be about matters for which Bath & North East Somerset Council has a responsibility or which affect Bath & North East Somerset Council, its functions, its area or part of it or the inhabitants of that area or part of it.

If notice is given of any motion which the Monitoring Officer considers does not fall within the scope of the above or that is ultra vires or otherwise illegal, that motion will be submitted to the Chair. The Chair shall decide to either rule the motion as out of order or to place it on the agenda if he or she considers that the motion required to be properly considered by the Council with a view to determining its validity. In the event of a motion being rejected and not being placed on the agenda, the Monitoring Officer will inform the Member who gave notice of the motion as soon as possible.

A Councillor submitting an agenda motion has the right to speak to it at the Council meeting for no longer than 5 minutes. That Councillor, or their nominee may also attend at any meeting of any other committee or body to which the Council refers the matter. However, he or she will be able to speak to the matter only at the discretion of the Chair of the meeting to which the matter has been referred. The Councillor may not vote on the matter unless s/he is a voting Member of the meeting considering the matter and has no conflict of interest in respect of that matter.

The meeting has the right to determine with advice from Officers whether it wishes to defer the matter to a future meeting for further Officer report/advice.

Notices of motion will not be accepted at the Budget Council meeting, or the Annual meeting of Council.

### **3.1.26 MOTIONS**

A motion is a proposal from a Member at the meeting aimed at opening a debate on an agenda item. A motion once proposed needs a second Member to indicate a willingness for it to be considered. This is called "seconding" the motion. A motion usually takes the form of a proposal to adopt a course of action based on a recommendation in a report. It can be a different proposal to that which is recommended in the report. [A recommendation in a report is not of itself a motion unless or until a Member proposes its adoption].

A Member who moves a proposal may, with the agreement of the seconder, accept a suggestion for a minor adjustment to the wording of the proposal. In indicating acceptance or not, only a brief response is expected (extended at the Chair's discretion if useful to facilitate a helpful outcome). Where a proposed adjustment is not accepted by the mover, or considered at the meeting to be of significance and not therefore "minor", it will be treated instead as if it was a formal amendment.

Members will have access to the advice of the Chief Executive and/or Monitoring Officer in drafting motions.

### **3.1.27 AMENDMENT**

An amendment is a proposal by a Member to change the words of a motion which has been moved and seconded. The amendment shall be relevant to the subject matter of the motion and shall be: -

- a. to leave out words, or
- b. to leave out words and insert or add other words, or
- c. to insert or add words, or
- d. to refer the matter to a Committee/Sub Committee, the Cabinet or an Overview and Scrutiny Panel for consideration or reconsideration
- e. to defer consideration of the matter.

An amendment must not;

- be a direct negative of a motion; or
- seek to introduce into the motion a new issue unrelated to the subject dealt with in the motion.

If an amendment seeks to achieve something that is relevant but cannot be achieved by merely voting against the motion, it is likely to be ruled as a valid amendment. The meeting will be advised by the Chief Executive on the validity of amendments and the ruling of the Chair thereon will be final.

Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of.

Notice of intention to move any further amendment and the nature thereof may, at the discretion of any Member, be given to the Chair before a vote is taken on the current amendment being considered at the meeting.

If an amendment is defeated, other amendments may be moved to the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendments may be moved in turn.

[A flow diagram which illustrates the debating process: Debating Flow Chart](#)

### **3.1.28 SECONDING**

Any motion or amendment is only able to be discussed once a second Member has indicated a willingness for it to be considered. This is called “seconding”.

### **3.1.29 RIGHT OF REPLY**

At the end of a debate about a motion, the Member who proposed the substantive motion may exercise a right to reply to the points raised in the debate.

The right to reply to a debate on an amendment also rests with the Member who proposed the motion, not with the Member who proposed the amendment.

If a motion is successfully amended, the mover of the original motion which opened the debate shall be given an opportunity to respond to points made during debate, before the formal right of reply goes to the mover of the substantive motion.

A Member exercising a right of reply shall confine her/his speech to answering points raised by the previous speakers, and shall not introduce new material. The Chair’s ruling in this regard shall be final.

After every right of reply to which this Rule refers, a vote shall be taken without further discussion.

### **3.1.30 WITHDRAWAL OF MOTION**

A motion or amendment may be withdrawn by the mover with the consent of her/his seconder, which shall be signified without discussion. No Member may speak upon it after the mover has asked permission for its withdrawal, unless permission to withdraw it has been refused, in which case it remains open for debate.

### **3.1.31 RIGHT TO REQUIRE PROPOSAL IN WRITING**

Unless notice of the motion or amendment has already been given and published, the Chair may require it to be written down and handed to him/her before it is discussed at the meeting.

### **3.1.32 NO SPEECHES UNTIL MOTION SECONDED**

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

### **3.1.33 CONTENT AND LENGTH OF SPEECHES**

A Member shall direct her or his speech to the question under discussion or to a personal explanation or to a point of order (see Rule 3.1.35 below). A Member proposing a motion, a Cabinet Member or a Chair of a Council body when presenting a report from such a body, will be allowed no more than 5 minutes for her or his speech. No other speech by any Councillor or invited other person will exceed 3 minutes.

### 3.1.34 CLOSURE MOTIONS

A Member who has not spoken in a debate may move without comment at the conclusion of a speech of another Member;

“That the meeting proceed to the next business”,

“That the question be now put” (*In effect “That the vote be now taken”*),

“That the debate be now adjourned”, or

“That the meeting do now adjourn”,

on the seconding of which the Chair shall proceed as follows:-

- a) On a motion “to proceed to next business”: unless in her/his opinion the matter before the meeting has been insufficiently discussed, the Chair shall first give the mover of the substantive motion a right of reply, and then put to the vote the motion “to proceed to the next business”.
- b) On a motion “that the question be now put”: unless in her/his opinion the matter before the meeting has been insufficiently discussed, the Chair shall first put to the vote the motion “that the question be now put”. If that motion is passed, the Chair will invite the mover of the motion under discussion to exercise her/his right of reply under Rule 3.1.29 before putting that original motion to the vote.
- c) On a motion “to adjourn the debate or the meeting”: if in her/his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, the Chair shall put the adjournment motion to the vote without giving the mover of the substantive motion a right of reply.

**Votes on closure motions to be taken by Members standing. If a Member is unable to or prefers not to stand, a raised hand will be counted.**

### 3.1.35 POINTS OF ORDER/POINTS OF PERSONAL EXPLANATION

A Member may indicate a “point of order” or a “point of personal explanation” and shall be entitled to be heard immediately.

- a. A "Point of Order" shall relate only to an alleged breach of a Procedural Rule or statutory provision. The Member shall specify the Procedural Rule or statutory provision and the way in which s/he considers it has been broken.
- b. A "Personal Explanation" shall be confined to some material part of the Member's former speech which may appear to have been misunderstood in the present debate.

The ruling of the Chair on a point of order, or on the admissibility of a personal explanation, shall be final.

### **3.1.36 SIX MONTH RULE**

The Council will not consider any matter which has already been considered by the Council within the previous 6 months, unless

- 1) the matter is coming to the Council meeting as part of a report from an Officer, the Cabinet, an Overview and Scrutiny Panel or a Committee of the Council;

OR

- 2) written notice, requesting the Chief Executive to arrange for the Council to reconsider the matter, and endorsed by no fewer than 15 Members of the Council, is submitted to the Chief Executive. The term "endorsed" shall include individual signatures on the notice or electronic communications from individual Members. The receipt of a communication from at least 15 Members signifying their endorsement of the action requested in the notice will be sufficient authority for the Chief Executive to take action to include the item on a Council agenda.

Any 6-month Rule notice to the Chief Executive should be couched in the following terms:

*I hereby require the Council to reconsider its decision of (date) as recorded in minute no (xx) about (subject) and accordingly request the Chief Executive to place an item on the agenda of the (next available) (specified date) Council meeting, together with such reports as s/he thinks appropriate, to enable this reconsideration to take place. - with the optional inclusion of a specific motion for the Council to consider.*

Similarly, no proposal which the Council has rejected within the previous 6 months may be put forward, other than in the circumstances described in (1) and (2) above.



### **3.1.37 VOTING**

Subject to the provisions of any enactment all questions coming or arising before the meeting shall be decided by a majority of the Members of the Council (or other persons entitled to vote) present and voting.

The Chair shall ensure that that the proposal to be voted on is clear. Voting will proceed by a show of hands or by means of an electronic voting system – first those voting “for” the proposal, those voting “against” the proposal, and then the abstentions.

Sometimes, the law requires special voting procedures and/or sets down the required numbers of votes or a proportion of voting Members required to be in favour. The Chief Executive will inform the Council when these requirements apply.

A recorded vote or votes shall take place when setting the Authority’s budget and determining the level of Council Tax to be levied in the district for each financial year.

If on any vote the numbers “for” and “against” a proposal are equal, the proposal is NOT CARRIED and it therefore falls. The record of the meeting will reflect the “NOT CARRIED” status of the proposal.

While by convention in this Authority, the Chair does not exercise a second or casting vote to resolve issues where there is an equality of votes, the decision on whether or not to exercise a second or casting vote is that of the Chair alone. S/he retains the legal right to proceed as s/he sees fit. Exercise of a second or casting vote will not invalidate the decision.

*(A second vote from the Chair means that s/he has voted in the original vote which resulted in tied numbers and votes again to break the deadlock.*

*A casting vote is exercised when the Chair did not take part in the original vote and casts a vote in favour or against in order to break the deadlock.)*

If before a vote is taken, a Member proposes it, and 5 other Members agree, a named vote will be taken of those in favour of or against a proposal, and those abstaining from voting. This information will be recorded in the minutes of the meeting.

Any Member is entitled on request made through the Chair at the meeting to have her/his individual vote or abstention recorded in the minutes.

A Political Group Leader or nominee may require a group vote or abstention to be recorded in the minutes.

### **3.1.38 EXCLUSION OF PRESS AND PUBLIC**

If Council, the Cabinet, Committee or sub-Committee pass a resolution pursuant to Section 100A of the Local Government Act 1972 in accordance with Part 3.5 of this Constitution to exclude the press and public from the whole or part of their proceedings, then the effect of such resolution shall extend to Members of the Council present at the meeting who are not Members of the Committee or sub-Committee concerned: provided that, except when the Committee or sub-Committee are acting in a judicial or quasi-judicial capacity, such Members of the Council shall be permitted to remain if invited to do so by resolution of the Committee or sub-Committee.

A Personal Assistant and/or nominated note taker for a disabled Councillor or other person entitled to remain at a meeting after it has passed a resolution under this Rule, shall also be entitled to remain, provided they have signed an undertaking in advance not to divulge the nature of any exempt or confidential business discussed or submitted.

### **3.1.39 DISORDERLY CONDUCT**

If at a meeting any Member of the Council, in the opinion of the Chair, misconducts her/himself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, the Chair or any other Member may move "that the Member named be not further heard", and the motion if seconded shall be put and determined immediately without discussion.

If the Member named continues the misconduct after a motion under the foregoing paragraph has been carried the Chair shall -

EITHER move "that the Member named leave the meeting" (in which case the motion shall be put and determined immediately without seconding or discussion):

OR adjourn the meeting for such period as s/he shall consider expedient.

In the event of general disturbance, which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair in addition to any other power vested in her/him may, without question put, adjourn the meeting of the Council for such period as s/he in her/his discretion shall consider expedient.

Members shall at all times conduct themselves in a proper, efficient, effective and courteous manner affording due respect to the office of the Chair and to the formality of the Council meeting

### **3.1.40 DISTURBANCE BY MEMBERS OF THE PUBLIC**

The provisions of Rule 3.1.38 (exclusion of the public and press) are without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

If a member of the public interrupts the proceedings at any meeting the Chair shall issue a warning. If the person continues the interruption, the Chair shall order the person's removal from the meeting room. In case of general disturbance in any part of the chamber open to the public, the Chair may order that part of the meeting room to be cleared and / or may adjourn the meeting for such period as s/he in her/his discretion shall consider expedient.

When the Chair stands during a debate or uses the gavel and invokes this rule, any Councillor or member of the public speaking at the time must stop (and sit down). The meeting must be silent.

### **3.1.41 DURATION OF COUNCIL MEETING**

No meeting of the Council will continue beyond 10pm.

A meeting may decide, on a proposal from the floor, to continue its proceedings to end at a time stated in its resolution arising from such a proposal.

If the meeting is unable to complete its business by 10 pm, and does not agree to continue beyond that time, or fails to complete its business by the alternative end time it has agreed under this Rule, the meeting will automatically stand adjourned. For any item of business being dealt with at the time, the substantive motion will be put immediately to the vote without further debate. All uncompleted business will stand adjourned to be considered at the next meeting or to an adjourned session.

The Chair or the meeting may decide the date and time of the adjourned session.

### **3.1.42 MEMBER ADVOCATES**

The Council may appoint Members from time to time to act as "Advocates" for particular interests both within the Council and outside. The Chief Executive, in consultation with Group Leaders will determine such guidance, protocols and support as is deemed necessary for the effective operation of such roles.

[Current Member Advocates](#)

### **3.1.43 APPLICATION TO COMMITTEES, SUB-COMMITTEES AND PANELS**

All of the Council Rules of Procedure apply to full Council. None of the Rules apply to meetings of the Cabinet.. Only paragraphs 3.1.10 to 3.1.40 apply to meetings of committees, sub-committees and panels (but not

3.1.37 in regard to a recorded vote in setting Council tax), with suitable adjustments

## **3.2 EXECUTIVE PROCEDURE RULES**

### **3.2.1 WHO MAY MAKE EXECUTIVE DECISIONS?**

The Leader of the Council will decide how executive functions are to be exercised. The arrangements may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a committee of the Cabinet;
- iii) an individual Cabinet Member;
- iv) an officer;
- v) an Area Committee;
- vi) another body under an approved joint or agency arrangement; or
- vii) another local authority.

These executive procedure rules apply to a committee of Cabinet.

### **3.2.2 PUBLICATION OF PROPOSED EXECUTIVE DECISIONS AND DECISIONS TAKEN**

All proposed executive decisions and executive (Cabinet) decisions taken will be published in accordance with the Access to Information Procedure Rules at Part 3.5 of this Constitution. The Public can access information about the Cabinet's forward agenda plan and executive decisions on the Council's website.

### **3.2.3 CABINET MEETINGS**

The Cabinet will decide the date and location of its meetings.

### **3.2.4 SPECIAL (OR EXTRAORDINARY) MEETINGS**

Those listed below may request the Chief Executive to call a special formal meeting of the Cabinet in addition to scheduled ordinary meetings:

- i. The Leader of the Council or a Deputy Leader
- ii. The Cabinet by resolution;

- iii. No less than 50% of the membership of the Cabinet if they have signed a requisition presented to the Leader and s/he has refused to call a meeting or has failed to call a meeting within 7 clear working days of the presentation of the requisition to the Chief Executive (i.e. the summons to the meeting is not sent out within 7 clear working days);
- iv. The Chief Executive, the Monitoring Officer or the Chief Financial Officer.

### **3.2.5 CONSULTATION ON AND NOTICE OF EXECUTIVE DECISIONS**

All reports to the Cabinet from any Member of the Cabinet or from an Officer on proposals relating to the Policy and Budget Framework must contain

- a) details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny bodies and Officers,  
  
and
- b) the outcomes of that consultation.

Reports about other matters (e.g. secondary policies – see Policy and Budget Framework Rule 3.7.7) will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and in any event will be consistent with the Council's consultation policy and practice.

The Cabinet collectively and Cabinet Members exercising portfolio responsibilities will be expected to consult with or inform local ward Councillors on all relevant issues.

### **3.2.6 INVOLVEMENT OF OFFICERS**

Where delegated decision making powers are given to them, the relevant Cabinet Member will discuss the matter fully with all relevant senior officers before making a decision or formulating a recommendation to another body.

All meetings of the Cabinet will have access to advice from the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer. These Officers will have the right to see all draft reports prior to publication and to attend all formal meetings for the purpose of giving advice as required. The Chief Executive will determine other Officer attendance required at formal meetings of the Cabinet.

### **3.2.7 RIGHT OF OVERVIEW AND SCRUTINY CHAIR (PERSON) TO SPEAK TO OVERVIEW AND SCRUTINY REPORTS & RESPONSE OF CABINET TO THESE REPORTS**

An Overview and Scrutiny body can present a report to a meeting of the Cabinet in accordance with Rule 3.3.15.

When it receives a report direct from a Policy Development and Scrutiny Panel, the Cabinet shall follow the procedure set out in the above Procedure rules.

### **3.2.8 SIX- MONTH RULE**

The Cabinet will not consider any matter which it has already considered within the previous 6 months unless:

1. the matter is coming to the Cabinet as part of a report from an Officer, an Overview and Scrutiny body or a Committee of the Council;

OR

2. written notice, requesting the Chief Executive to arrange for the Cabinet to reconsider the matter, and endorsed by no fewer than 3 Members of the Cabinet, is submitted to the Chief Executive. The term "endorsed" shall include individual signatures on the notice or electronic communications from individual Members. The receipt of a communication from at least 3 Members signifying their endorsement of the action requested in the notice will be sufficient authority for the Chief Executive to take action to include the item on a Cabinet agenda.

Any 6-month Rule notice to the Chief Executive should be couched in the following terms:

*"I hereby require the Cabinet to reconsider its decision of (date) as recorded in minute no (xx) about (subject) and accordingly request the Chief Executive to place an item on the agenda of the (next available) (specified date) Cabinet meeting, together with such reports as s/he thinks appropriate, to enable this reconsideration to take place."* - with the optional inclusion of a specific motion for the Cabinet to consider.

Similarly, no proposal which the Cabinet has rejected within the previous 6 months may be put forward, subject to (1) and (2) above.

Unless Access to Information Rule 3.5.15 (General Exception) or 3.5.16 (Urgency) applies, the issue coming forward will be required to be published in the Forward Plan of executive business before the matter can be considered. Those Councillors signing a notice to the Chief Executive

will be informed of the publication process and what that means in terms of the timetable for considering the issue.

### **3.2.9 PREPARATION FOR CABINET MEETINGS**

#### **3.2.10 AGENDA PREPARATION**

Prior to the agenda being finalised, Officers will brief the Leader of the Council, the Deputy Leader (if there is one) and relevant Cabinet Members on matters coming to the meeting for consideration.

No report shall be included on the agenda of a formal meeting of the Cabinet unless it has been discussed fully with the relevant Cabinet Member and with the Chief Executive, the Monitoring Officer and the Chief Financial Officer as appropriate.

#### **3.2.11 AGENDA DESPATCH**

Items to be discussed at any meeting of the Cabinet will be set down in the agenda. The agenda will be sent to every Member of the Cabinet at least 5 clear working days before the meeting.

In the case of an urgent meeting of the Cabinet, a shorter period of notice may be given.

#### **3.2.12 AGENDA CONTENT AND ORDER OF BUSINESS**

Formal meetings of the Cabinet which are required to make decisions will do so on the basis of clear agendas which identify:

- a) matters on which the Cabinet has authority to act in implementing the Policy and Budget Framework set by the Council
- b) matters on which the Cabinet is required to make recommendations to the Council
- c) matters relating to an ongoing dialogue with Overview and Scrutiny bodies;
- d) other business related to the discharge of executive functions.

In addition, each meeting will be invited to approve as a correct record the minutes of the previous meeting and to receive any declarations of interest.

Agendas for meetings of the Cabinet will be issued in advance of the



meeting in accordance with the Access to Information Procedure Rules within this Constitution.

The order of business will be determined by the Chief Executive in consultation with the Leader. The Leader, or the meeting itself, may agree to vary the order of business at the meeting.

The agenda and any relevant reports will be endorsed with the name of any local ward to which the business specifically relates.

### **3.2.13 WHO CAN PUT ITEMS ON THE CABINET AGENDA?**

The Chief Executive shall be responsible for the effective management of Cabinet business and shall have the right to place on the agenda of the Cabinet any matter relating to an executive function of the Council.

Any Member of the Council may request the Chief Executive to place an item on the agenda of the next available meeting of the Cabinet for consideration. This may include the submission of a form of words as a motion to be considered by the meeting, for which 7 clear working days' notice in advance of the meeting is required in order to satisfy the agenda despatch Rule 3.2.11 above. The motion will be signed by or on behalf of the Member(s) giving notice, with the name of the political group shown after the Member's name (unless the motion is to stand in the name of the Member only). The meeting has the right to determine with advice from Officers whether it wishes to defer the motion to a future meeting for further Officer report/advice.

The Council Leader, after consulting and taking into account the views of the Deputy Leader and of the Chief Executive, will determine whether or not to include the Member's item on the agenda.

If the item is included, the Member will have the right to attend the meeting and to speak to the item. If the item is not included, a reason will be given.

There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny bodies.

There will be a standing item on the agenda to enable the Cabinet to consider any items requisitioned by a Cabinet Member for consideration by the full Cabinet.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

Any Member of the Council may make a written submission to the Cabinet

or to the relevant Executive Councillor(s) about an item referred to in the forward agenda plan or on the published agenda of a Cabinet meeting or on the published notice of an imminent Cabinet Member decision.

The Cabinet/Cabinet Member is required to take into account the content of such a submission when making a decision or making a recommendation for consideration.

### **3.2.14 RULES RELATING TO PROCEDURES AT A MEETING OF THE CABINET**

### **3.2.15 MINIMUM NUMBER OF MEMBERS PRESENT AND SUBSTITUTION**

No business shall be transacted at a meeting of the Cabinet unless at least 50% of the membership is present. No substitute Cabinet Members are permitted.

### **3.2.16 CHAIR OF THE MEETING**

The Leader of the Council will normally preside at meetings of the Cabinet. In the absence of the Leader, the Deputy Leader (if there is one) shall preside. If both the Leader and the Deputy Leader are absent, the Cabinet will elect another Cabinet Member to preside at the meeting.

Council Procedural Rule 3.1.18 applies with regard to the powers and duties of the Chair. It is accepted that the proceedings of the Cabinet may need to be flexible and not structured rigidly in terms of debating process. Accordingly, there are no formal rules of debate set down for the Cabinet. The Chair has wide discretion to rule on conduct, process and procedural matters. However, such rulings shall not be inconsistent with the spirit of the Council Procedure Rules for conducting meetings or debate at meetings.

The Chair will exercise this discretion in a manner which preserves the best interest of the Council and the effective conduct of executive business

### **3.2.17 RECORD OF ATTENDANCE**

The names of the Cabinet Members present during the whole or part of a meeting shall be recorded.

### **3.2.18 SUSPENSION OF RULES**

There are occasions when it is helpful to the effective conduct of a meeting, or for other reasons, not to apply a particular Procedural Rule. It is therefore open to any meeting to suspend one or more of its operational Rules. It is necessary for the suspension of a Rule to be proposed by a Councillor who should make it clear which Rule is being suspended and for how long. A majority of Members present at a meeting must support the proposal to suspend a rule.

### **3.2.19 QUESTIONS FROM COUNCILLORS AND THE PUBLIC**

Councillors and [the Public](#) have the right to put forward questions for answer at a Cabinet meeting, but not at a special/extraordinary Cabinet meeting unless these relate to the business to be discussed. All questions must be submitted in writing (this to include transmission by e mail).

A maximum of 3 questions will be accepted from each member of the Public and from each Councillor (each question to have no more than 2 sub-sections). A question in multiple parts will be treated as a series of individual questions. Notice of the question must be given to the Monitoring Officer no later than close of business 4 clear working days before the day of the meeting (e.g. 5pm on a Thursday for a meeting on the following Thursday).

All questions will be circulated to members of the Cabinet and visiting Councillors and the public in advance of the meeting. There is no requirement of the questioner to read out the question, nor of the relevant Councillor to read out the answer if circulated. Where a written answer is circulated in advance, the relevant Cabinet Member may add to that answer orally at the meeting.

Questions must only be asked of:

- a Cabinet Member (where the matter falls within his or her portfolio) or
- the Leader of the Council or the Deputy Leader (about any aspect of Council policy and practice, service delivery or community interest) or

Councillors can ask up to two supplementary questions per Councillor at a meeting of the Cabinet.

A Councillor who is asked a question may

- nominate another Councillor to reply on his or her behalf;
- indicate that a written answer will be provided, in which case that written answer shall be provided no later than 5 clear working days after the day of the meeting, where practicable.

A question will not be accepted under this Rule if

- the answer would require exempt or confidential information to be divulged;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where the question/answer process might prejudice the proper consideration of such an application;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- is defamatory, frivolous or offensive;
- it contains an allegation against, or comments about, the conduct of individual Councillors or officers.

The text of written questions to Cabinet, and their written or published responses, should contain no reference to political groups/parties.

### **3.2.20 PETITIONS AND STATEMENTS FROM THE PUBLIC OR COUNCILLORS**

Councillors and [members of the Public](#) have the right to put forward petitions and statements at a Cabinet meeting. The submission must be relevant to the Council and/or the Bath & North East Somerset area. Advance notice of all statements (including those supporting a petition) must be submitted in writing (this to include transmission by e mail) stating the subject matter and must be lodged with the Monitoring Officer no later than close of business 2 clear working days before the day of the meeting at which the submission is to be made (e.g. Monday 5pm for a meeting on a Thursday). Where possible, members of the public and Councillors are strongly encouraged to submit the text of their statement in advance to enable Members to read it before the meeting.

[Guidance](#) is available on drafting/submitting a statement.

There is no minimum number of signatures required for a petition.

A submission under this Rule will not be accepted if

- it seeks to address exempt or confidential matters;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where this Procedural Rule might prejudice the proper consideration of such an application or consent;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- is defamatory, frivolous or offensive;
- it contains an allegation against, or comments about, the conduct of individual Councillors or officers.

There is a limit of one submission per item per individual member of the Public.

There is a limit of one hour for items from the Public, extended at the Chair's discretion.

Individual submissions will be limited to a maximum of 3 minutes.

If the submission relates to a general matter not on the agenda for the meeting, it will be taken at the start of the meeting.

If it relates to an item on the agenda for the meeting, the person making the submission will be invited to address the meeting either at the start of the meeting or immediately before the item is debated.

Once the submission has been made, the Chair will invite Cabinet Members, if they require any clarification on the submission, to ask factual questions of the person making the submission. The meeting will then determine what action it wishes to take on the matters contained in the submission.

### **3.2.21 OTHER OPPORTUNITIES FOR VISITING PUBLIC AND COUNCILLORS TO SPEAK AT MEETINGS**

During a meeting of the Cabinet, the Chair may extend an invitation to the public and Councillors in attendance to ask an oral question about, or to comment on, an agenda item. There is no requirement to have given advance notice. Where the Chair decides to exercise such discretion, the contribution from the public or from visiting Councillors will be sought before the meeting moves to a formal debate of the agenda item. The Chair has absolute discretion in such matters. In choosing whether or not to exercise this discretion the Chair shall have regard to the need for expediency and efficiency in the exercise of the meeting's business. See Rule 14 above regarding the right of a Chair of an Overview and Scrutiny body to speak at a meeting of the Cabinet when presenting a report from the relevant body.

### **3.2.22 EXCLUSION OF PRESS AND PUBLIC**

If Council, the Cabinet, Committee or sub-Committee pass a resolution pursuant to Section 100A of the Local Government Act 1972 in accordance with Part 3.5 of this Constitution to exclude the press and public from the whole or part of their proceedings, then the effect of such resolution shall extend to Members of the Council present at the meeting who are not Members of the Committee or sub-Committee concerned: provided that, except when the Committee or sub-Committee are acting in a judicial or

quasi-judicial capacity, such Members of the Council shall be permitted to remain if invited to do so by resolution of the Committee or sub-Committee.

A Personal Assistant and/or nominated note taker for a disabled Councillor or other person entitled to remain at a meeting after it has passed a resolution under this Rule, shall also be entitled to remain, provided they have signed an undertaking in advance not to divulge the nature of any exempt or confidential business discussed or submitted.

### **3.2.23 DISORDERLY CONDUCT**

If, at a meeting of the Cabinet, any Member of the Council, in the opinion of the Chair, misconducts her/himself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the meeting, the Chair or any other Member may move "that the Member named be not further heard", and the motion if seconded shall be put and determined immediately without discussion.

If the Member named continues the misconduct after a motion under the foregoing paragraph has been carried the Chair shall -

EITHER move "that the Member named leave the meeting" (in which case the motion shall be put and determined immediately without seconding or discussion):

OR adjourn the meeting for such period as s/he shall consider expedient.

In the event of general disturbance, which in the opinion of the Chair renders the due and orderly despatch of business impossible, the Chair in addition to any other power vested in her/him may, without question put, adjourn the meeting of the Council for such period as s/he in her/his discretion shall consider expedient.

Members shall at all times conduct themselves in a proper, efficient, effective and courteous manner affording due respect to the office of the Chair and to the formality of the Council meeting

### **3.2.24 DISTURBANCE BY MEMBERS OF THE PUBLIC**

The provisions of Rule 3.2.22 (exclusion of the public and press) are without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

If a member of the public interrupts the proceedings at any meeting the Chair shall issue a warning. If the person continues the interruption, the Chair shall order the person's removal from the meeting room. In case of

general disturbance in any part of the chamber open to the public, the Chair may order that part of the meeting room to be cleared and / or may adjourn the meeting for such period as s/he in her/his discretion shall consider expedient.

### **3.2.25 CALL-IN OF EXECUTIVE DECISIONS**

#### **3.2.26 WHO MAY REQUEST A CALL-IN?**

Elected Members who do not sit on the Cabinet have the right to request a “call-in” of an executive decision which has been made by the Cabinet, or a person or body to whom the power to make executive decisions has been delegated, but not yet implemented. These decisions could be made by

- the Cabinet
- a Cabinet Member,
- a committee of the Cabinet
- an Officer taking a key decision acting on delegated authority from the Cabinet
- an area committee
- a body under joint arrangements

Notice of the decision made shall be published to every Councillor and the publicity shall specify the period in which the “call-in” right may be exercised.

#### **3.2.27 SUBMISSION OF A “CALL-IN” NOTICE**

A notice requesting a “call-in” of an executive decision shall be in writing and signed by 9 or more elected Members (excluding Cabinet Members) making the request. The request shall be deposited with the Chief Executive. The request shall include individual signatures on the notice or electronic communications from individual Members signifying their support for the call-in. If a Member is unable to communicate in writing or electronically he/she may signify support by telephone but electronic or written confirmation must be received for the call-in to progress. The persons making the call-in request shall state the decision being called in, the decision maker, the date the decision was taken and shall give reasons for the call-in. No Member of the Council is entitled to sign up to more than 5 validated call-in requests in any Municipal Year.

The Chief Executive, and/or the Monitoring Officer, shall determine whether a call-in is valid (ie whether it has been received within 5 working days of the decision being published and requested by the appropriate number of Members and that the decision may properly be called in under the Constitution) and, if so, consult with Overview & Scrutiny Chairs to decide which Panel should consider it.

The Chief Executive, and/or the Monitoring Officer, shall make a report of



any validated call-in to a meeting of the relevant Overview and Scrutiny Panel which shall meet wholly in public within 14 working days of a valid call-in notice being verified.

A decision may only be called in once.

### **3.2.28 CONSIDERATION BY OVERVIEW AND SCRUTINY PANEL**

The Overview and Scrutiny Panel shall consider the issues raised in the “call-in” request and the stated reasons for the request. They have the following courses of action open to them;

- To dismiss the call-in: the decision shall then take effect immediately;
- To refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of the Panel’s concerns; or
- To refer the matter to Council to itself undertake the role of the Panel (which may necessitate an additional Council meeting to meet necessary timescales) [NB: the ultimate decision still remains with the original decision maker].

If the Panel consider any aspect of the decision requires further consideration, it must refer it back to the decision maker. If the call-in is dismissed, notification will be made to all interested parties and the original decision can be implemented. No amendments can be made to the decision [Six-month rule applies – Rule 3.2.8]. In total, the Panel shall ensure that the period of overview and scrutiny involvement in an individual call-in shall not exceed 21 working days.

### **3.2.29 CONSIDERATION BY DECISION MAKER**

The person or body which made the decision shall consider the report of the Overview and Scrutiny Panel or Council and must;

- (a) confirm the original decision; or
- (b) make some changes to the original decision; or
- (c) make a different decision.

The decision maker may not ignore the report. The decision maker shall undertake this consideration within 10 working days from the date of the Overview and Scrutiny (or Council) meeting. The decision made by the decision maker after considering the report of the Overview and Scrutiny Panel shall be final and will be implemented immediately. There is no further opportunity for “call-in” of the decision.

### **3.2.30 EXCEPTIONS TO “CALL-IN”**

The rights under this Procedural Rule shall not apply in the following circumstances:

- when the executive decision is urgent as defined in the Urgency Procedure Rules within this Constitution;
- the effect of the call-in alone would be to cause the Council to miss, or fail to comply with or fulfil, a deadline or duty;
- a decision taken under the General Exception and Special Urgency Access to Information Rules [Rules 3.5.15 and 3.5.16].

Decisions of quasi-judicial or Regulatory Committees, or proposals and decisions of the Leader acting in their capacity as Shareholder of a Local Authority Company owned or operated by the Council cannot be called-in.

[This flow chart illustrates the process: Call-in Procedure](#)

### **3.3 OVERVIEW & SCRUTINY & NON-EXECUTIVE PROCEDURE RULES**

#### **3.3.1 GENERAL PROVISIONS**

At its Annual meeting, the Council will decide which Committees are needed to discharge its non-executive functions, act as consultative bodies, make appointments or hear appeals or complaints.

#### **3.3.2 CHAIRING**

The Chair(persons) will be allocated to political groups on a basis to be agreed by the Council.

#### **3.3.3 SUBSTITUTES**

At its Annual meeting, the Council will appoint all non-executive Members of a committee (subject to the rules on membership of such bodies) as eligible to be appointed as substitute for any committee in accordance with the wishes of that political group.

Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the Member for whom they are substituting.

Substitute Members may attend meetings in that capacity subject to Specific Scrutiny provision – [Rule 3.1.4 \(substitution\)](#)

to take the place of the ordinary Member for whom they are substituting;

- i. where the ordinary Member will be absent for the whole of the meeting (including any adjournment);
- ii. after notifying the Monitoring Officer's representative of the intended substitution before the relevant meeting.

The effect of a substitute notice shall be that the Member giving notice of the substitution shall cease to be a Member of the relevant body for the duration of the meeting (including any adjournment of it to another date). The substitute Member shall be a full Member of the body for the same period. The Chief Executive will appoint a Member as a substitute in the event that s/he receives the required notice

#### **3.3.4 CASUAL VACANCIES**

The Chief Executive will use delegated powers to fill vacancies on these Panels, in consultation with the Chair of the relevant Policy Development and Scrutiny Panel, and in accordance with the wishes of the political group which has nomination rights to the vacancy.

### **3.3.5 DATES AND TIMES OF MEETINGS**

The time and place of all Member meetings will be determined by the Monitoring Officer and notified in the summons.

### **3.3.6 SPECIAL OR EXTRAORDINARY MEETINGS**

A special or extraordinary meeting may be called by the Chair. Alternatively, such a meeting may be called by at least one quarter of the Panel's membership signing a notice to the Chief Executive, setting out the business of the meeting and, if appropriate the time scale in which the meeting is to be held. The Chief Executive will convene the meeting as soon as practicable. The Chief Executive may also at their instigation convene a special or extraordinary meeting, having first consulted the relevant Chair and Vice chair.

### **3.3.7 JOINT MEETINGS**

Committees may have joint meetings with other committees to discuss matters of mutual interest and to make decisions. The agenda for the joint meeting will make clear whether any decision making is involved at the meeting in the matters identified and will set out the decisions each committee is recommended to make. The joint meeting will appoint from amongst its number a Chair for the meeting. Any decision making must be by the committee responsible for the matter and will be recorded appropriately.

If necessary, the joint meeting may need to adjourn to enable the constituent bodies to elect their own Chair and make their decisions. A single set of minutes will be taken of the joint meeting and any decisions taken by its constituent committees.

### **3.3.8 APPOINTMENT OF SUB-COMMITTEES & SUB BODIES**

Each Committee has the right to appoint sub committees and these may be given power to act on behalf of the Committee or may make recommendations to the Committee. Members of a sub committee may be drawn from outside the membership of the parent Committee (*with the exception of Licensing Sub-Committees for which the membership must be drawn from the main Licensing Committee and any other specific provisions*

*set out in individual Terms of Reference*). Committees will decide the size and membership of any sub committees and the proportionality of seats among political groups, subject to advice from the Chief Executive.

A Policy Development and Scrutiny Panel may appoint sub bodies. These must have a specified short - term task and a specified life span. Their establishment must be consistent with the overall work programme (See Rule 3.3.11 below).

### **3.3.9 SCRUTINY SPECIFIC PROVISIONS**

#### **3.3.10 MEMBERSHIP AND SUBSTITUTION**

Members of all political groups (except Members of the Cabinet) may be Members of a Policy Development and Scrutiny Panel. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

Any Policy Development and Scrutiny Panel dealing wholly or in part with education matters, shall include in its membership voting representatives of Parent Governors and from the Church of England and Roman Catholic Dioceses. They may vote only on education matters but their views may be sought on other issues discussed at such a Panel. The number of such representatives to be determined by the relevant Policy Development and Scrutiny Panel, but will include at least two representatives of Parent Governors.

A Policy Development and Scrutiny Panel designated as the Crime and Disorder Panel under Police and Justice Act 2006 may include in its membership, voting representation from the Community Safety Responsible Authorities Group, subject to the Panel's discretion. They may vote only on crime and disorder matters, but their views may be sought on other issues discussed at such a body.

The membership of a Policy Development and Scrutiny Panel shall, as far as practicable remain the same throughout the period of a specific review, whether within the programme of reviews or for unplanned work.

#### **3.3.11 WORK PROGRAMME**

A rolling programme of work for each Policy Development and Scrutiny Panel will be drawn up, with individual discretion as to the best means for achieving their individual work programme. Overview and Scrutiny Chairs and Vice Chairs will ensure work plan activities are maximised to the benefit of the whole Overview and Scrutiny function, within shared resources and available budgets.

The designated "Crime and Disorder Committee" will scrutinise the Community Safety Strategy as a minimum once each year, as required by the Police and Justice Act 2006.

### **3.3.12 ITEMS ON THE AGENDA**

Any member of the Council may submit to the Statutory Scrutiny Officer a relevant item for the agenda of the next available meeting of a Policy Development and Scrutiny Panel. Written notice of every item, signed by or on behalf of the Member(s) giving notice, with the name of the political group shown after the Member's name (unless the item is to stand in the name of the Member only), must be delivered to the Statutory Scrutiny Officer (on behalf of the Chief Executive) not later than 7 clear working days before the date of the meeting.

The Chair following consultation with the Vice Chair of the relevant Panel will determine whether or not to include the item on the agenda and their decision shall be final.

In considering this matter, the Chair will take into account the views of the Statutory Scrutiny Officer (on behalf of the Chief Executive) who shall also give advice about the implications of the request on the delivery of the Overview and Scrutiny work programme.

If the item is accepted, the member will have the right to attend and, at the discretion of the Chair, to speak on the matter.

The meeting has the right to determine with advice from Officers whether it wishes to defer the matter to a future meeting for further Officer report/advice.

### **3.3.13 MATTERS WITHIN THE REMIT OF MORE THAN ONE POLICY DEVELOPMENT AND SCRUTINY PANEL**

Where a matter for consideration by a Policy Development and Scrutiny Panel also falls within the remit of one or more other such Panels, the Monitoring Officer, on behalf of the Chief Executive, and in consultation with the Chairs and Vice Chairs of the relevant Policy Development and Scrutiny Panels will determine

- a) which such body will consider it, or
- b) which parts will be considered by which body or
- c) that the matter will be considered by a joint meeting of the relevant bodies.

### **3.3.14 POLICY REVIEW AND DEVELOPMENT**

The role of Policy Development and Scrutiny Panels in relation to the development of the Council's Policy and Budget Framework is set out in the Policy and Budget Framework Procedural Rules. In relation to the development of the Council's approach to other matters, Policy Development and Scrutiny Panels may make proposals or comment to the Cabinet (or other bodies/persons exercising executive functions). Policy Development and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process.

### **3.3.15 REPORTS FROM POLICY DEVELOPMENT AND SCRUTINY PANELS**

Once it has formed recommendations or proposals (either on its own volition or in response to a request), a Policy Development and Scrutiny Panel will prepare a report of its findings and may submit it for initial consideration by either the Cabinet or the full Council – the choice is that of the Policy Development and Scrutiny Panel, unless specifically directed by the Council.

When a Policy Development and Scrutiny Panel reports to the Council, the Chair shall give an opportunity to the relevant Cabinet Member(s) to comment on any recommendations contained in the report.

Where the report of the Policy Development and Scrutiny Panel contains recommendations or findings for consideration by a partner body/joint body which performs functions on behalf of the Council or on behalf of the Cabinet, the Policy Development and Scrutiny Panel shall submit its report to that partner body/joint body instead of or as well as reporting to the Council or the Cabinet.

Any report which recommends a change to the Policy and Budget Framework will be made available to all Council Members.

Where a Policy Development and Scrutiny Panel makes a recommendation that would involve the Council incurring additional expenditure (or reducing income) it has a responsibility to consider and / or advise on how the Council should fund that item from within its existing resources or the extent to which that should be seen as a priority for future years' budget considerations.

The Council or the Cabinet as appropriate shall always consider the report of the Policy Development and Scrutiny Panel at the next available meeting.

**Minority reports:** If a Policy Development and Scrutiny Panel cannot agree on one single final outcome report then a minority report may be prepared and submitted by the dissenting Member(s). Officers supporting the particular Policy Development and Scrutiny Panel during the relevant review will offer factual information to the dissenting Member(s) in the production

of their minority report.

### **3.3.16 RIGHTS OF ATTENDANCE AND COMMENT BY CHAIRS OF POLICY DEVELOPMENT AND SCRUTINY PANELS AND CABINET MEMBERS**

The Chair (or nominee) and Vice Chair of a Policy Development and Scrutiny Panel will have the right to attend any meeting of the Cabinet or other executive body at which a report from her/his Panel is being considered, whether it is in public or private session (for consideration of exempt items). The Chair (or nominee) shall also have the right to present the report to the meeting of the Cabinet.

Similarly, s/he shall have the right to present the findings of a report direct to a Cabinet Member prior to a decision being taken which falls within the portfolio of the Cabinet Member.

A Policy Development and Scrutiny Panel will itself have the power to comment on a planned decision as notified to it in the Cabinet Work Programme. A Chair or Vice Chair will have the right to comment directly to the proposed decision maker on any planned decision included in the emerging or published Cabinet Forward Plan.

A Cabinet Member shall have the right to attend any formal meeting of a Policy Development and Scrutiny Panel at which an issue is being discussed which directly relates to a previous or proposed executive decision or policy issue falling within the Cabinet Member's portfolio. The Cabinet Member may speak at the discretion of the Chair of the Policy Development and Scrutiny Panel.

### **3.3.17 RESPONSE OF COUNCIL AND THE CABINET TO REPORTS OF POLICY DEVELOPMENT AND SCRUTINY PANELS**

When it receives a report and recommendations direct from a Policy Development and Scrutiny Panel, the Council shall consider;

- what it has the power to do given the allocation of functions to the Council, the Cabinet and other Committees of the Council if relevant;
- what comments it wishes to offer to the Cabinet in referring any report to them for action – such comment may take the form of a clear view about the wishes of the Council on the matter which the Cabinet should take account of;
- requesting the Cabinet to report back to Council with an action plan for executive action on the findings of the report;



- making a decision on the findings of the report, where it has the power to do so;
- whether the report should be referred back to the Policy Development and Scrutiny Panel – with comments from the Council on matters to be further considered.

When it receives a report direct from a Policy Development and Scrutiny Panel, the Cabinet shall publish its response within 2 months, having considered

- any recommendations contained in the report;
- referring the report to a Cabinet Member for consideration and report back direct to the Policy Development and Scrutiny Panel – where the report covers issues falling within the portfolio of a single Cabinet Member;
- any further Officer advice needed in order to determine its response to the issues raised;
- any impact on the Policy and Budget Framework (in which case the procedure as set out in Policy and Budget Framework Procedure Rule 3.7.2 shall apply for any agreed actions)
- an action plan to deliver on those recommendations that are accepted;
- reporting back to the relevant Policy Development and Scrutiny Panel on its decisions and the reasons and rationale for accepting or rejecting the Panel's recommendations.

and may invite the Council to comment on the matter before taking any action.

When a Policy Development and Scrutiny Panel requests the Cabinet or a Cabinet Member to defer taking a decision pending further work by Overview and Scrutiny, the Cabinet or the Cabinet Member;

- shall seek advice from the relevant lead Officer and/or the Monitoring Officer/Chief Financial Officer as appropriate; and
- shall have regard to any statutory or other timetable relevant to the timing of the decision.

The final decision on the request is that of the Cabinet or Cabinet Member.

### **3.3.18 RIGHTS OF MEMBERS TO DOCUMENTS**

In addition to their rights as Councillors, Members of Policy Development and Scrutiny Panels have the right to documents and to notice of meetings as set out in the Access to Information Procedure Rules.

### **3.3.19 MEMBERS AND OFFICERS ATTENDING**

A Policy Development and Scrutiny Panel may require any Member of the Cabinet or a senior Officer (Chief Executive, Director or Divisional Director) to attend before it to explain any particular decision made or the extent to which the action taken implements Council policy.

### **3.3.20 ATTENDANCE BY OTHER INVITED PERSONS**

Policy Development and Scrutiny Panels may invite any other persons to give evidence. These rights are in addition to Public speaking rights. Each Panel will make appropriate arrangements for the presentation of evidence, questioning of participants, time limits etc, subject to the Council approving supplementary rules or guidance if this is deemed to be necessary.

### **3.3.21 “CALL IN” OF EXECUTIVE DECISIONS**

A Policy Development and Scrutiny Panel shall consider any validated “call-in” of an executive decision referred to it and shall report its findings thereon to the person or body who made the decision. The detailed [“call-in”](#) Rules are set out at the end of the Cabinet Procedure Rules within this Constitution.

### **3.3.22 PREPARATION FOR MEETINGS OF POLICY DEVELOPMENT AND SCRUTINY PANELS**

The Council Procedure Rules apply to meetings of the Policy Development & Scrutiny Panels in accordance with [Rule 3.1.43](#) together with the additional rules below.

### **3.3.23 OTHER OPPORTUNITIES FOR VISITING PUBLIC AND COUNCILLORS TO SPEAK AT MEETINGS**

During a meeting of a Policy Development and Scrutiny Panel, the Chair (person) may extend an invitation to the public and Councillors in attendance, to ask an oral question about, or to comment on, an agenda item. There is no requirement to have given advance notice. The Chair (person) has absolute discretion in such matters. In choosing whether or

not to exercise this discretion the Chair (person) shall have regard to the need for expediency and efficiency in the exercise of the meeting's business. Where the Chair (person) decides to exercise such discretion the contribution from the public or from visiting Councillors will be sought before the meeting moves to a formal debate of the agenda item.

### **3.3.24 CONTACT WITH THE MEDIA**

All media enquiries seeking an official response about the conduct of Panel business should be referred to the Communications and Marketing team, and the Democratic Services Manager and Panel Chair (and Vice Chair where practicable) kept informed.

### **3.3.25 DECLARATION OF A PARTY WHIP**

When considering any matter referred to a Policy Development and Scrutiny Panel by the Cabinet, or the review of any decision in respect of which a Member of a Policy Development and Scrutiny Panel is subject to a party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting. The "party whip" means any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner.

### **3.3.26 RIGHTS AND RESPONSIBILITIES OF VICE CHAIRS**

The Vice Chair of any Policy development panel will have the right:

1. to attend meetings organised by the Lead director for any Panel or relevant Cabinet Member to discuss or plan agenda items, workloads, priorities and current/future issues or developments and receive information/briefing material relating to it;
2. to participate in meetings with all Chairs to discuss Policy Development & Scrutiny business.

## **3.4 URGENT BUSINESS AND ABSENCE PROCEDURE RULES**

There are occasions when an urgent decision is needed, or the matter cannot wait for the next ordinary meeting of the Cabinet or appropriate Committee or Sub Committee (having delegated powers). When an urgent matter has arisen after the despatch of an appropriate agenda (ie of the Council, the Cabinet, a Committee or Sub Committee that has the power to consider the matter) the following procedure applies:

### **3.4.1 CHAIR'S RIGHT TO ADD ITEM TO AN AGENDA**

The Chair of the Council, the Cabinet, an Overview and Scrutiny Panel or a Committee or Sub-Committee (as appropriate) has the authority to agree to take urgent items, not on the agenda, at meetings of the relevant Council, Cabinet, Committee or Sub-Committee.

The general authority referred to above is qualified in that items of business should not be raised at meetings without prior notice being given on the appropriate agenda unless:-

- a) the item has arisen between the compilation of the agenda and the date of the meeting.
- b) the item requires an urgent decision in the public interest which cannot be dealt with by other means; and
- c) by convention, the appropriate Committee or Sub-Committee Chair or (in the case of Council meetings) all Group Leaders are to be consulted on the matter and their views conveyed to the Chair before s/he makes a decision on the matter. The Chair will be guided by their views.

In all cases the reason for the urgency shall be clearly stated and recorded.

When there is a good reason why the decision cannot wait until the next ordinary meeting of the Council, the Cabinet or appropriate Committee or Sub Committee having the power to determine the matter, the following alternative procedures apply.

### **3.4.2 SPECIAL MEETING**

A special meeting of the Council, the Cabinet, an Overview and Scrutiny Panel, a Committee or a Sub Committee can be called. The specific Rules governing this are as follows:

- [Council Procedure Rule 3.1.7](#)
- [Executive Procedure Rule 3.2.4](#)
- [Overview and Scrutiny & Non – Executive Procedure Rule 3.3.6](#)

The urgent matter to be considered may mean that the meeting has to be convened with less than five clear days' notice. Provision exists for this to happen under the Local Government Act 1972 (as amended).

### **3.4.3 CHIEF OFFICERS' ACTION – URGENT NON-EXECUTIVE COMMITTEE AND COUNCIL FUNCTIONS**

Under this Rule, the Chief Executive or appropriate Director is given delegated power to take a decision which would normally be taken by a non-executive Committee or Sub Committee, or the Council, provided that:

- i. the matter is urgent;
- ii. the decision is within Council policy;
- iii. the action is taken after consultation with the Chair (person) of the Committee and Spokespersons (for non-executive matters) and with all the Political Group Leaders (for Council matters);
- iv. the action is reported for the information of the next available meeting of the appropriate Committee or Sub Committee or the Council.

### **3.4.4 URGENT EXECUTIVE DECISIONS**

An executive decision may be taken by a Cabinet Member on an urgent matter within her/his portfolio, provided that the provisions of Access to Information Rules 3.5.15 or 3.5.16 are followed.

### **3.4.5 EMERGENCY ARRANGEMENTS**

The Chief Executive is authorised to undertake any action s/he considers appropriate to address situations where it is neither practicable nor possible to effect the Council's normal procedures or arrangements for either executive or non-executive business. The action taken will be recorded and reported to the first available ordinary meeting of the Council or relevant other body.

### **3.4.6 ABSENCE PROCEDURE**

In the absence of any of the Cabinet Members, Chairs or Officers referred to in any of the above Urgency Rules, the urgent or emergency action described may be taken by a nominated deputy of the Councillor or Officer. Any reference in this Constitution to the Leader of the Council, Chair of an Overview and Scrutiny Panel or Committee etc or any other office held by a Member of the Council, or to a named Officer, shall be taken also to refer to any nominated deputy (or deputy where specified in this Constitution) in that

role. Any such nominated deputy is hereby authorised to act fully in the role, subject to any specific statutory provision.

## **3.5 ACCESS TO INFORMATION PROCEDURE RULES**

### **3.5.1 SCOPE**

These Rules apply to all formally convened meetings of the Council, its Committees and their sub committees, Overview and Scrutiny Panels and sub bodies thereof, Area Committees and their sub committees (if any), the Standards Committee, the Cabinet and its committees (together called “meetings”). It does not apply to proposals and decisions of the Leader acting in their capacity as Shareholder of a Local Authority Company owned or operated by the Council.

### **3.5.2 ADDITIONAL RIGHTS TO INFORMATION**

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

### **3.5.3 RIGHTS TO ATTEND MEETINGS**

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

### **3.5.4 NOTICE OF MEETINGS**

The Council will give at least five (5) working days’ public notice of any formal meeting by posting details of the meeting at all main Council Offices, “Council Connect” sites, in public libraries and on the Council’s web site/Internet.

### **3.5.5 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at least five (5) clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons to a meeting has been sent out, the

Chief Executive will make each such report available to the public as soon as the report is completed and sent to Councillors. The agenda papers for a meeting of the Cabinet will be made available to Chairs of Overview and Scrutiny Panels and to all other Members of the Council.

The forward agenda plan for key and other executive decisions, covering a 4 month period, will be publicly accessible on the Council's website.

### **3.5.6 SUPPLY OF COPIES**

The Council will supply copies of or make available access to:

- a) any agenda and reports which are open to public inspection;
- b) any further statements or particulars necessary to indicate the nature of the items in the agenda;
- c) a list of questions asked by the public and Councillors in accordance with this Constitution and answers given either at the meeting or in writing subsequently; and
- d) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

All such documents will normally be published on the Council's web site as soon as possible after the meeting.

### **3.5.7 ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

- a) the minutes of the meeting (or in the case of individual Cabinet Member decisions, the record of the decision taken) excluding any part of the minutes of proceedings which disclose exempt or confidential information (as defined in Rule 3.5.10);
- b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record in so far as such a record can be written without disclosing the exempt or confidential information;
- c) the agenda for the meeting;
- d) reports relating to items when the meeting was open to the public.

After a meeting any person will be entitled to request access to any part of

the minutes or proceedings which were not open to the public by virtue of being confidential or exempt information as defined in Rule 3.5.10. (Elected Members have some additional rights as defined in Rule 3.5.23.) All requests are to be made in line with Freedom of Information Act requirements, and will be assessed according to the Act and the Council's Freedom of Information policy and procedure.

### **3.5.8 BACKGROUND PAPERS**

The author of every report will identify in the report, those documents (called background papers) relating to the subject matter of the report which in their opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 3.5.10).

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents identified as a background paper.

### **3.5.9 SUMMARY OF PUBLIC RIGHTS**

The Public's rights to attend meetings, make submissions to meetings or Cabinet Members and to inspect documents is set out in [Part 1 of the Constitution – Resident Rights & Responsibilities](#).

### **3.5.10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

**(a) Confidential information:** The meeting must resolve to exclude the public whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

**(b) Exempt information:** The meeting may resolve to exclude the public whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in that Article.



**Meaning of confidential information:**

- a) Information furnished to the Council by a Government department upon terms which forbid the disclosure of the information to the public;
- b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

**Meaning of exempt information:** Exempt information means information for the time being defined in the Local Authorities (Access to Information) (Variation) Order 2006 which amends previous provision made in Part 1 Schedule 12A of the Local Government Act 1972. The categories of exempt information and relevant qualifications are set out in the table below:

Category	Qualifications
1. Information relating to any individual	
2. Information which is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Information falling within this paragraph is not exempt information by virtue of this paragraph if it is required to be registered under –</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 2006</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial and Provident Societies Act 1965 to 1978</li> <li>(e) the Building Societies Act 1986, or</li> <li>(f) the Charities Act 2011</li> </ul>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	
5. Information in respect of which a claim for legal professional privilege could be maintained in legal proceedings	
<p>6. Information which reveals that the authority proposes –</p> <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</li> <li>(b) to make an order or direction under any enactment</li> </ul>	

<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Where a meeting of a standards committee, or a sub-committee of a standards committee, is convened to consider a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of the Local Government Act, the provisions of Parts 1 to 3 of Schedule 12A shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted:</p> <p>7A – Information which is subject to any obligation of confidentiality;</p> <p>7B – Information which relates in any way to matters concerning national security;</p> <p>7C – The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3) , 64(2), 70(4) or (5) or 71(2) of that Act</p>
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Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which falls within any sections 1 to 7 above; and is not prevented from being exempt by virtue of the qualification in section 8 or the qualification to section 3 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **3.5.11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive thinks fit, the Council may exclude access by the public to exempt reports or papers which in their opinion relate to items during which, in accordance with Rule 3.5.10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with a description of the category of information likely to be disclosed. This shall also apply to reports being considered by Executive Members under their

delegated executive responsibilities. *(Note: If a meeting agrees to take in open session an item that was included on the agenda as a possible exempt item, the document relating to that item in whole or in part may be made available to the public at the meeting and will be published.)*

### **3.5.12 APPLICATION OF RULES TO THE CABINET**

Rules 3.5.13 – 3.5.24 below apply to the Cabinet and to any of its sub-committees . If the Cabinet or its committees meet formally to take a key decision then it must also comply with Rules 3.5.1 – 3.5.11 above unless Rule 3.5.15 (general exception) or Rule 3.5.16 (special urgency) apply. A key decision is as defined in the [Glossary](#) of this Constitution.

### **3.5.13 PROCEDURE BEFORE TAKING “KEY” DECISION**

Subject to Rule 3.5.15 (general exception) and Rule 3.5.16 (special urgency), a key decision may not be taken unless:

- a) a notice (called here a “forward plan”) has been published in connection with the matter in question;
- b) at least 28 calendar days have elapsed since the publication of the item in the forward plan; and
- c) where the decision is to be taken at a meeting of the Cabinet or at a meeting of one of its committees, notice of the meeting has been given in accordance with Rule 3.5.4 (Notice of meetings).

### **3.5.14 THE FORWARD PLAN**

A forward plan will be prepared on behalf of the Leader of the Council by the Monitoring Officer.

**Contents of forward plan:** The forward plan will contain matters which the Chief Executive has reason to believe will be subject of a key executive decision to be taken by the Cabinet, a committee of the Cabinet, a Cabinet Member, an Officer, an Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan.

The forward plan will also include non-key executive decisions.

For all entries, the forward plan will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;
- c) the date on which, or the period within which, the decision will be taken;
- d) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- e) a list of the documents likely to be submitted to the decision taker for consideration in relation to the matter.

The forward plan must be made available for inspection by the public at the designated Council offices and on the website at least 28 clear days before the date that the first key decision shown on it is due to be made.

**Exempt and confidential information:** Exempt or confidential information will not be included in a forward plan, but the forward plan will contain a summary of the nature of any private business to be considered.

The Forward Plan will include information 28 days before an exempt item is taken at the Cabinet about why the item will be discussed in private. It will also give details about how to make representations about why that part of the meeting should be open to the public. At least 5 days before the meeting, the Council should issue a notice including details of any representations received and the Council's response to them.

### **3.5.15 GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan then, subject to the urgency provisions of Rule 3.5.16, the decision may still be taken if -

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been published in the forward plan for 28 days before the decision is required;
- b) the Chief Executive has informed all Members of the Council of the matter about which the decision is to be made;
- c) the Chair of the relevant Overview and Scrutiny body has been informed;

- d) the Chief Executive has made copies of that notice available to the public at the offices of the Council;
- e) at least 5 working days have elapsed since the Chief Executive complied with (b) and (c); and
- f) the advice of the Monitoring Officer and, if relevant, Chief Financial Officer has been sought on the issue and taken into account.

Where such a decision is taken collectively, it must be taken in public unless there are exempt or confidential matters to be considered at the meeting.

A decision taken under this Rule cannot be called in.

### **3.5.16 SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken, Rule 3.5.15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision

- a) obtains the comments of the Chief Executive, the Monitoring Officer or where appropriate the Chief Financial Officer;

and

- b) obtains the agreement of the Chair of the relevant Overview and Scrutiny body that the taking of the decision cannot reasonably be deferred.

The Chair of the Overview and Scrutiny body will consider the advice of the Chief Executive, the Monitoring Officer and/or, where relevant, the Chief Financial Officer before giving agreement.

The request for special urgency, and the agreement of the Chair of the relevant Overview and Scrutiny body, including the advice of the Chief Executive, the Monitoring Officer or the Chief Financial Officer, will be recorded and made public without disclosing exempt or confidential information.

A decision taken under this Rule cannot be called in.

**Reports on special urgency decisions:** In any event the Cabinet will submit to Political Group Leaders, within 7 working days, details of any executive decisions taken in the circumstances set out in Rule 3.5.16

(Special Urgency).

The Leader will submit to Council annually a report containing details of all decisions taken under Special Urgency provisions.

### **3.5.17 REPORT TO COUNCIL - KEY DECISIONS**

**When an Overview and Scrutiny Panel can require a report:** If an Overview and Scrutiny Panel thinks that a key decision has been taken which was not:

- a) treated as a key decision; or
- b) the subject of the general exception procedure (Rule 3.5.15); or
- c) the subject of an agreement with the Chair of the relevant Overview and Scrutiny Panel under the Special Urgency Rule 3.5.16; or
- d) the subject of any emergency procedure

that body may require the Cabinet to submit a report to the Council within such reasonable time as it may specify.

The power to require a report rests with the Overview and Scrutiny Panel but it is also delegated to the Chief Executive, who shall require such a report on behalf of the Overview and Scrutiny Panel when so requested by any 10 Members of the Council, other than Members of the Cabinet.

The Cabinet will prepare a report for submission to the next ordinary meeting of the Council.

However, if the next ordinary meeting of the Council is within 10 working days of

- receipt of the written notice by 10 Members, or
- the resolution of the relevant Overview and Scrutiny Panel,

then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the body making the decision, and if the body is of the opinion that it was not a key decision the reasons for that opinion. The report will contain the advice of the Monitoring Officer on whether the decision was or was not a key decision or whether the criteria set down in Rule 3.5.15 or 16 applied.

### **3.5.18 RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in

public or private, the Monitoring Officer will produce or require the production of a record of every decision taken at that meeting as soon as reasonably practicable (usually within 2 working days of the meeting). The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The decision notice will also include a record of conflicts of interests declared by Cabinet Members, and any dispensations granted by the Monitoring Officer.<sup>3</sup>

This record (ie the minutes of the meeting) will normally be published with the weekly schedule referred to in Access to Information Rule 3.5.21 below.

### **3.5.19 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

There will be no distinction made between the categories of business to be considered by the Cabinet, in terms of its relevance or not to “key” decisions. All formal meetings of the Cabinet will be held in public.

### **3.5.20 DECISIONS BY INDIVIDUAL CABINET MEMBERS**

Where an individual Cabinet Member receives a report which s/he intends to take into account in making any key or other decision, then s/he will not make the decision until at least 5 clear working days after the publication by the Chief Executive of that report and the proposed decision. Information about such reports and proposed decisions shall be published within such a time table as will allow a period of 5 clear working days to elapse before the individual Cabinet Member makes her or his decision (see Rule 3.5.21 below).

As soon as reasonably practicable after an executive decision has been taken by an individual Cabinet Member, s/he will provide, or arrange to provide, full details to the Chief Executive who will publish a record of the decision, a statement of the reasons and rationale for the decision and any alternative options considered and rejected. The decision notice will also include a record of conflicts of interests declared by Cabinet Members, and any dispensations granted by the Monitoring Officer.<sup>4</sup>This record will be published in accordance with the provisions of Rule 3.5.21.

The provisions of Rules 3.5.7 (Access to minutes) and 3.5.8 (Background Papers) will also apply to the making of decisions by individual Cabinet

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<sup>3</sup> The power to grant dispensations was delegated from the Head of Paid Service to the Monitoring Officer by resolution of Council on 8<sup>th</sup> November 2012

<sup>4</sup> As 1



Members. This does not require the disclosure of exempt or confidential information.

### **3.5.21 PUBLICATION RELATING TO EXECUTIVE DECISIONS**

All proposed decisions, and actual decisions taken by individual Cabinet Members, by Officers (in respect of key decisions only) or decisions taken by the Cabinet itself, will be published by the Chief Executive. Publication will include details of the reasons and rationale for any decision, options considered and rejected, consultation undertaken and background papers open to inspection. This process is known as the “Weekly List” process.

Proposed decisions of individual Cabinet Members cannot be taken until a period of at least 5 working days has elapsed after the date of publication. This is to ensure an opportunity is given for views to be expressed by interested persons. This publication period will also serve as a requisition period within which any individual Cabinet Member may give written notice requiring the Chief Executive to place a proposed decision by a Cabinet Member instead on the next available agenda for the full Cabinet. *(Such a notice will have the effect of cancelling the delegated power of the individual Cabinet Member to make the decision on that matter – See Executive Procedure Rules.)*

Decisions taken by the Cabinet or an individual Cabinet Member or an Officer (in the case of a “key” decision) cannot be implemented until a period of 5 clear working days has elapsed after the date of publication of the decision taken. This is to allow for the possibility of “call-in”. The call-in rules (and exemptions) are set out in Section 3.2.24 of the Constitution.

### **3.5.22 OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

Subject to the limits set out below, an Overview and Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees or officers and which contains material relating to

- any business transacted at a public meeting of the Cabinet or its committees; or
- any decision taken by an individual Cabinet Member

An Overview and Scrutiny Panel will not be entitled to

- any document that is in draft form; or
- any part of a document that contains exempt or confidential information within the meaning described at Rule 10 above, unless that

information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise.

### **3.5.23 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

#### **Common Law Rights of Elected Members:**

Members of the Council have a common law right of access to all written information in the possession of the Council if a need to know can be demonstrated in order to perform their duties as a Member.

Where there is doubt as to whether or not it is reasonably necessary for a Member to have access to particular information, a statutory right of access must be identified for disclosure to occur.

#### **Statutory Rights of Elected Members (Local Government Act 1972 and Related Regulations):**

Access to information prior to Council/Committee meetings – under the Local Government Act 1972 and related regulations, any document which is either:

- a) in the possession or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or a committee or sub committee of the Council, or
- b) in the possession or under the control of the Cabinet and contains material relating to any business to be transacted at any public meeting,

shall be open to inspection by any Member of the Council, unless it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information listed in Rule 3.5.10. Such information can also be withheld from inspection by a Member to the extent that any it contains information about the financial or business affairs of any person which relates to any terms proposed or not be proposed by the authority in the course of negotiations for a contract.

Access to information following private Cabinet meetings or individual key decisions – also under the regulations any document which is in the possession or under the control of the Executive of a local authority; and contains material relating to:

- (i) any business transacted at a private meeting
- (ii) any decision made by an individual Member in accordance with Executive arrangements or
- (iii) any key decision made by an officer in accordance with Executive arrangements

shall be available for inspection by any Member of the Council when the meeting concludes, or where an Executive decision is made by an individual Member or a key decision made by an officer, immediately after the decision has been made, unless the material contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information listed in Rule 3.5.10. Such information can also be withheld from inspection by a Member to the extent that any it contains information about to the financial or business affairs of any person which relates to any terms proposed or to be proposed by the authority in the course of negotiations by a contract.

The Local Government Act 1972 and related regulations do not offer any additional statutory right of access for Members to documents which are in the possession or under the control of the Council and contain material relating to any business which has already been transacted at a meeting of the Council or a committee or sub-committee of the Council. Members will need to rely on the general public's right of access to such information or any right to request such information as they may have in terms of the Freedom of Information Act set out below.

**Freedom of Information Act** – Where the Local Government Act 1972 and related regulations do not identify a statutory route of access, an Elected Member may request access to Council information under the provisions of the Freedom of Information Act 2000. These requests will be accessed according to the Act and the Council's Freedom of Information policy and procedure.

### **3.5.24 KEY DECISIONS BY INDIVIDUAL OFFICERS – RECORD OF DECISION**

As soon as reasonably practicable after a key decision has been taken by an officer, usually within 2 working days of the decision, he/she will prepare a record of the decision, a statement of the reasons / rationale for it and any alternative options considered and rejected. The "Weekly List" shall include information about key decisions made by Officers. The provisions of Rules 3.5.7 and 3.5.8 (inspection of documents after meetings) will also apply to the making of key decisions by Officers. This does not require the disclosure of exempt or confidential information.

### **3.5.25 DECISIONS BY INDIVIDUAL OFFICER DELEGATED FROM CABINET – RECORD OF DECISION**

When Cabinet delegates a specific responsibility to an officer to undertake a course of action, the officer **must** record the date and details of the decision on the Officer delegated decision register.

### **3.5.26 DECISIONS BY OFFICERS**

Certain decisions by officers on matters that are non-executive functions need to be recorded. These are decisions;

- a) that have been delegated to the officer under a specific express authorisation, and
- b) that have been delegated under a general authorisation and the effect of the decision is to grant a permission or licence, affect the rights of an individual or to award a contract or incur expenditure which materially affects the Council's financial position.

*[Administrative matters are not included.]*

**Record of decision** - The record must include the following information;

- a) The date of the decision;
- b) The decision itself;
- c) The reasons for taking that decision;
- d) Details of any alternative options considered and rejected;
- e) Details of any declarations of interest made by any Councillor consulted by the officer or declared when granting the specific authorisation to take the decision.

It is the duty of the officer taking the decision to make the record as soon as reasonably practicable after the decision has been taken. The record and any background papers must be made available to the public and must be put on the Council's website. The record must be kept for 6 years.

### **3.5.27 ACCESSIBLE FORMATS**

Any document required to be produced under the provisions of this Constitution, or any document produced in connection with this Constitution, will be produced in accessible formats where such a format is specifically requested or is considered reasonable by the Head of Legal and Democratic Services. In making such documents available, the Head of Legal and Democratic Services will have regard to corporate standards for the production of accessible material.

## **3.6 EMPLOYMENT PROCEDURE RULES**

### **3.6.1 RECRUITMENT AND APPOINTMENT**

#### (a) Declarations

The Council will require any candidate for employment to state in writing on their application form whether they have any relationship; e.g. via family, kinship etc to an existing Councillor or officer of the Council, or of the partner of such persons.

#### (b) Seeking support for appointment.

i) the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. This will be stated in recruitment information.

ii) no Councillor will seek support for any person for any appointment with the Council. This does not preclude a Member from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment. However, the Member will not give such a testimonial if s/he takes part in any stage of the appointment process.

### **3.6.2 RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Where the Council proposes to appoint a Head of Paid Service or a Chief Officer [i.e. Executive Director - Chief Operating Officer & Directors] and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will draw up a statement specifying

- a) the duties of the post concerned; and
- b) any qualifications or qualities to be sought in the person to be appointed;
- c) 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
- d) make arrangements for a copy of the statement mentioned in (a) to be sent to any person on request.

### **3.6.3 APPOINTMENT OF HEAD OF PAID SERVICE; MONITORING OFFICER AND CHIEF FINANCIAL OFFICER**

The full Council will approve the appointment of the Head of Paid Service,

the Monitoring Officer and the Chief Financial Officer following the recommendation of such an appointment by the Restructuring Implementation Committee of the Council. That Committee must include at least one Member of the Cabinet for this purpose.

The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Cabinet.

*(The provisions of this Procedural Rule reflect a mandatory Regulation. It is not permitted therefore to suspend this Rule)*

#### **3.6.4 APPOINTMENT OF EXECUTIVE DIRECTOR - CHIEF OPERATING OFFICER AND OTHER DIRECTORS**

The Restructuring Implementation Committee of the Council will appoint the Executive Director - Chief Operating Officer and other Directors reporting directly to the Chief Executive (and any deputy for such a post). That Committee must include at least one Member of the Cabinet when dealing with any such an appointment.

An offer of employment as Executive Director - Chief Operating Officer or Director post (or the deputy of such a post) shall only be made where no well-founded objection from any Member of the Cabinet has been received.

*(The provisions of this Procedural Rule reflect a mandatory Regulation. It is not permitted therefore to suspend this Rule)*

#### **3.6.5 APPOINTMENT OF HEADS OF SERVICE AND SENIOR MANAGERS**

The appointment of Heads of Service and Senior Managers reporting to a Director is the responsibility of the relevant Director or their nominee, and may not be made by Councillors.

An offer of employment as a Head of Service or a Senior Manager reporting to a Director (or the deputy of such a post) shall only be made where no well-founded objection from any Member of the Cabinet has been received.

#### **3.6.6 APPOINTMENT OF OFFICERS BELOW HEAD OF SERVICE LEVEL**

The appointment of Officers below the level of a Director, Head of Service or a Senior Manager reporting to a Director, is the responsibility of the relevant Director, Head of Service or Senior Manager or their nominee. Such an appointment shall not be made by Councillors.

#### **3.6.7 APPOINTMENT OF ASSISTANTS TO POLITICAL GROUPS**

Section 9 of the Local Government and Housing Act, 1989 requires

Council's Standing Orders [now these procedural Rules] to include certain provisions relating to the appointment of assistants to political groups.

Under these legal provisions, these Rules provide that each Political Group making up the membership of the Council shall be allocated one post of Political Assistant. The purpose of this post is to provide assistance to the Members of the Group in discharging any of their functions as Members of the Council. The following conditions apply:

- a) The Council must first agree to allocate such a post to each political group that qualifies for one (Note: It is open to a political group to decline to have such a post, even though it is entitled to have one)
- b) The Council is not legally allowed to allocate such a post to a political group which does not satisfy the legal criteria for a post; and
- c) No political group is allowed more than one such post.

Any allocation or appointment to these posts shall be subject to the provisions contained in Section 9 of the Local Government and Housing Act, 1989.

Such posts shall be filled from time to time by the Head of Legal and Democratic Services in accordance with the wishes of the relevant political group.

**(Non-statutory provisions from here on)**

Assistants to political groups have the same rights of access to information as the Councillors for whom they work, subject to legal provisions.

Assistants will be expected to maintain confidentiality when private business is discussed with them or in their presence. They will be permitted to attend private sessions of meetings on the same basis as Councillors, subject to legal provisions.

Assistants are employees of the Council, but are accountable to the relevant Political Group Leader or other nominated Group Members in terms of day to day operational management and workload.

The above non-statutory provisions shall apply also to the appointment by the Head of Legal and Democratic Services of Political Group Support Officers, where such posts are approved by the Council to support political groups that would otherwise not qualify for one of the statutory Political Assistant posts.

### **3.6.8 DISCIPLINARY ACTION AND DISMISSAL**

All Chief Officers including the Head of Paid Service, Monitoring Officer and Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay.

### **3.6.9 INDEPENDENT PERSONS.**

The Head of Paid Service, Monitoring Officer and Chief Financial Officer (“relevant officers”) may not be dismissed by the Council unless the following procedure is complied with:

- a) The Council must appoint an [Independent Persons Panel](#) , with a view to appointing at least two such persons.
- b) The Council must appoint a Panel at least 20 working days before a meeting (“the relevant meeting”) of the Council to consider whether or not to approve a proposal to dismiss a relevant officer of the Council
- c) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal the Council must take into account, in particular:
  - Any advice, views or recommendations of the Panel;
  - The conclusions of any investigation into the proposed dismissal; and
  - Any representations from the relevant officer

*(The provisions of this Procedural Rule reflect a mandatory Regulation. It is not permitted therefore to suspend this Rule).*

Dismissal of, and taking disciplinary action, against any employee of the Council other than the Head of Paid Service, Monitoring Officer or Chief Finance Officer will be the responsibility of a Chief Officer, Deputy Chief Officer or appropriate senior officer nominated by a Chief Officer.

### **3.6.10 CONSULTATION WITH CABINET**

For each appointment to or dismissal to a post referred to in Rules 3.6.3 to 3.6.5 above, neither an offer of employment of such an Officer, nor the giving of notice of dismissal may be made until every Member of the Cabinet has been notified by the Chief Executive or his nominee of the proposed appointment or dismissal and given a period within which to make objections to the proposal through the Leader of the Council.

If the Leader of the Council informs the Chief Executive or his nominee that



s/he or another Executive Councillor has an objection then its basis must be specified and the Committee or Officer making the appointment or proposing the dismissal must consider the objection and may only proceed if s/he considers it not to be material or not well founded.

If the Leader indicates to the Chief Executive or his nominee that neither s/he nor any other Executive Councillor has any objection to the making of the offer of appointment, or if the Leader fails to give an indication by the close of the period given for objections, the offer or notice may be implemented.

### **3.7 POLICY AND BUDGET FRAMEWORK PROCEDURE RULES**

#### **3.7.1 THE FRAMEWORK FOR EXECUTIVE DECISIONS**

The Council will be responsible for the adoption of its Policy and Budget Framework. Once the Policy and Budget Framework is in place, it will be the responsibility of the Cabinet and/or officers to implement it and, subject to the provisions below, to act in accordance with it.

#### **3.7.2 PROCESS FOR DEVELOPING THE POLICY AND BUDGET FRAMEWORK AND THE DEFINITION OF THE FRAMEWORK**

The Cabinet will publicise, by including in the forward plan and by other methods, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Policy and Budget Framework and its arrangements for consultation after publication of those initial proposals. The plans and strategies which form the Policy and Budget Framework are:

- Development Plan Documents (including the Local Plan/and any neighbourhood plans); and all plans and alterations which together comprise the Development plan
- Children and Young Peoples' Plan
- Youth Justice Plan
- Local Transport Plan
- Licensing Authority Policy Statement
- Crime & Disorder Reduction Strategy

For each of the plans and strategies that form the Policy and Budget framework, the Council shall be given an opportunity informally to discuss the emerging plan/strategy and related issues in advance of the Cabinet considering its formal recommendations to the Council.

The consultation process on any of the above plans and strategies will include an invitation to the relevant Overview and Scrutiny Panel to comment. It shall be open to the relevant Overview and Scrutiny Panel to

comment as part of the Council's informal consideration of the emerging plan or during the formal consultation period. At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses to that consultation. Failure of an Overview and Scrutiny Panel to respond or offer views shall not of itself cause any delay in the programming of a particular decision on such matters through the Cabinet and the Council.

The report of the Cabinet to the Council will identify any views given through consultation and the response of the Cabinet to the points raised in such views. Once the Cabinet has devised firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision. The Council must then consider whether it has any objection to the Cabinet's proposals. Objections will take the form of suggestions to amend the proposals by the substitution of different proposals, the deletion of proposals or the insertion of new proposals.

The majority of those present and voting may pass a resolution objecting to the Cabinet's proposals. Such resolution will indicate the nature of the objections and will constitute an instruction to the Leader of the Council requiring the Cabinet to re-consider their proposals in the light of those objections.

On receipt of details of the objections, the Council Leader may, on behalf of the Cabinet:

- i. revise the proposals and notify the Council of the reasons for the revision; or
- ii. inform the Council that the Cabinet disagrees with the Council's objections and explain the reasons for the disagreement.

Once a period of at least 5 clear working days has elapsed following the notification to the Leader of the Council of the objections (in effect starting with the working day after the first Council meeting) the Council will reconvene to consider the Cabinet's response to the objections. When making its final decision on the proposal (which will be by a simple majority) Council will take into account any amendments the Cabinet has made to the proposals and the reasons for such amendments, together with the reasons for any disagreement the Cabinet has with the other objections notified to it.

The Council will then proceed to decide on the proposal in the normal way. The Council will be free to amend the proposals put forward only insofar as the substance of its objections to them has been notified to the Cabinet in accordance with the preceding paragraphs.

It will be a matter for the Council to decide whether or not any changes that are to be proposed to the recommendations put forward by the Cabinet are of such significance as to amount to "objections" to the Cabinet's proposals.

The Chief Executive, following consultation with the Monitoring Officer, will offer advice to the meeting in this respect.

### **3.7.3 MOTION IN COUNCIL INVOLVING INCREASED EXPENDITURE**

When a motion or amendment is proposed at a Council meeting, other than as a result of a recommendation or report from the Cabinet, and the motion or amendment would either involve expenditure not provided for in the budget/MTFP, or a reduction in income anticipated by the budget/MTFP, and the motion does not identify from where the required additional funding or equivalent amount of income can be provided, then the motion, or amendment, if carried, must be referred to the Cabinet and Executive Director - Resources (S151) for consideration, prior to its reconsideration by Council.

### **3.7.4 DECISIONS OUTSIDE THE POLICY AND BUDGET FRAMEWORK**

The Cabinet, a Committee of the Cabinet, Cabinet Members and any Officers, Area Committees or joint arrangements discharging executive functions (defined under Part 2 of the Constitution) may only take decisions which are in line with the Policy and Budget Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy and Budget Framework, or contrary to or not wholly in accordance with the budget approved by the Council, then that decision may only be taken by the Council, subject to Rule 3.7.5 below.

The Monitoring Officer or the Chief Financial Officer shall give advice to the meeting or person making the decision about any proposal that is likely to be contrary to the Policy and Budget Framework. If the advice of either of those officers is that the decision would not be in line with the existing Policy and Budget Framework then the matter must be referred by that body or person to the Council for decision. This shall not apply if the decision is required as a matter of urgency, in which case the provisions within Rule 3.7.5 (Urgent decisions outside the Policy and Budget Framework) shall apply.

### **3.7.5 URGENT DECISIONS OUTSIDE THE POLICY AND BUDGET FRAMEWORK**

The Cabinet, a Committee of the Cabinet, Cabinet Members, Officers, Area Committees or joint arrangements discharging executive functions may take a decision which is contrary to the Policy and Budget Framework if the decision is a matter of urgency. However, the decision may only be taken:

- i. if it is not practical to convene a meeting of the full Council; and
- ii. if the Chair of the relevant Overview and Scrutiny Panel (or their

Vice-Chair) agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a meeting of full Council must be recorded, along with the decision of the Chair of the Overview and Scrutiny Panel. Before such a decision is taken the advice of the Chief Executive, the Monitoring Officer and, where relevant, the Chief Financial Officer shall be sought and taken into account. Following the decision, a full report will be made to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **3.7.6 REVIEW OF DECISIONS AND PLANNED DECISIONS OUTSIDE THE POLICY AND BUDGET FRAMEWORK**

Where an Overview and Scrutiny Panel believes that an executive decision is, (or if not yet made would be), contrary to the Policy and Budget Framework then it shall seek the advice of the Monitoring Officer and/or the Chief Financial Officer. In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer and/or Chief Financial Officer shall submit a report to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's/Chief Financial Officer's report.

The Cabinet must submit a report on its proposed action:

- to Council in the event that the Monitoring Officer or the Chief Financial Officer concludes that the decision was contrary to the Policy and Budget Framework, and
- to the appropriate Overview and Scrutiny Panel if the Monitoring Officer or the Chief Financial Officer concludes that the decision was not contrary to the Policy and Budget Framework.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the Policy and Budget Framework, the Overview and Scrutiny Panel will refer the matter to the next ordinary meeting of Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

The Council meeting will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The report shall also contain the Cabinet's proposals for resolving the relevant Policy and Budget Framework issues. Any such proposals of the Cabinet shall be dealt with in accordance with the procedures described in Policy and Budget Framework Rule 3.7.2 above.

### **3.7.7 IN –YEAR CHANGES TO THE POLICY AND BUDGET FRAMEWORK**

There are 3 ways in which a Policy and Budget Framework item can be changed in year, namely:

- on a recommendation of the Cabinet;
- arising from a report of an Overview and Scrutiny Panel
- by a Member tabling an agenda motion for a Council meeting which is then carried on a vote.

Decisions by the Cabinet, and individual Cabinet Member, an Officer, a Committee of the Cabinet, or a Joint Arrangement in discharging an executive function must be in line with the Policy and Budget Framework.

Those bodies and individuals may not make any changes to any plan or strategy that makes up the Policy and Budget Framework except those changes:

- a. which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b. necessary to ensure compliance with the law, ministerial direction or Government guidance;
- c. in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- d. which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change;
- e. which are allowed by Financial Regulations or by the Budget Management Scheme.

In respect of changes to the Policy and Budget Framework made under these provisions, such changes will be reported to the next meeting of the Council.

For those changes to the Policy and Budget Framework which are submitted for approval by the Council, the procedure at Policy and Budget Framework Procedure Rule 3.7.2 shall apply.

### **3.7.8 SPECIAL PROCEDURE RULES RELATING TO THE BUDGET AND MEDIUM TERM FINANCIAL PLAN (MTFP) ELEMENT OF THE POLICY AND BUDGET FRAMEWORK**

The Cabinet has the responsibility to prepare and propose a draft Budget

and MTFP to Council for its approval.

Cabinet will recommend to Council a budget that includes the allocation of resources to different services and projects, setting the council tax, and decisions relating to the control of its capital expenditure and borrowing requirement.

Section 31A of the Local Government Finance Act 1992 requires budget calculations to be made before 11th March, but they are not invalid merely because they are made on or after 11th March.

The Council has two options available to it at the budget setting meeting. It can object to specific parts of the proposals and if it does so, must require the Leader on behalf of Cabinet to reconsider its proposals. The Council is required to give the Cabinet reason(s) why it considers those proposal(s) should be changed and it is then for the Cabinet to consider those proposed changes and the reasons put forward. Alternatively, it is open to the Council to accept the budget in its proposed form at the meeting, in which case no further action is necessary.

Council may then determine the budget on the basis of the Cabinet's recommendations, plus any insignificant changes adopted as amendments at the Council meeting.

### **Alternative Budget Proposals**

If alternative proposals to those contained in the budget report are moved at the budget setting meeting, the Chief Finance Officer will need to consider if the estimates or proposed financial reserves contained in the report are affected and whether a further report on the robustness of the budget (which may be oral) is required under section 25 of the Local Government Act 2003.

If the Chief Finance Officer is unable to report on the estimates or the reserves because of the lateness of the alternative proposals, then they will **not** be able to comply with the statutory requirement.

The Council itself (on advice from the Chief Executive) will decide whether any amendment to the budget proposals is of such significance as to amount to an "objection" to the budget to require reconsideration by the Cabinet.

If a significant proposal is accepted on a vote at Council (from those

proposals notified at the Cabinet meeting), this stands as a formal objection and will be referred to the Leader to secure consideration by the Cabinet and report back to the reserve Council budget meeting.

Once Cabinet has considered the objections, it is required to put its proposals (which may or may not be revised) back to the reserve Council budget Meeting. If the Cabinet does not agree with Council's views on a proposed change, it is required to state why and the Council can then take those reasons into account, along with its original thoughts as to why the change was desirable. At the meeting, it is open to Council to take such decision as it sees fit on any variation from the budget as originally proposed that has been the subject of consideration under the process outlined above.

The Council's Budget and MTFP forms part of the Council's Policy and Budget Framework. However, good financial management requires that some flexibility for in-year changes is permitted. The Budget Management Scheme provides the parameters for such changes and should be read in conjunction with these Procedural Rules for adopting and amending the Policy and Budget Framework.

The purpose of the Budget Management Scheme is:

- a. To ensure that income and expenditure is in line with the agreed Council budgets and operational plans (consistency of purpose), and,
- b. To maintain overall Financial control of Council income and expenditure

In-year changes to the Budget and MTFP may be made by the Council in response to:

- a. a report and recommendation of the Cabinet
- b. Overview and Scrutiny business
- c. a successful agenda motion from a Councillor (where necessary, following consideration of Officer advice)

In addition, the Budget Management Scheme applies to the approved Budget and future years MTFP. This is to ensure that Council determines any changes in budgets that are contrary to the Policy and Budget Framework, and that specific items allocated by Council in the MTFP and Budget are not used for purposes other than those originally intended whilst allowing fortuitous or unplanned savings to be retained under certain conditions.

In these Budget Management Rules, all references to "Heads of Service" refer also to all senior managers reporting directly to Directors. In addition,

they also refer to Directors where they have specific responsibility for a budget, e.g. a corporate project.

### **3.7.9 MANAGEMENT OF APPROVED BUDGET / MTFP**

The Cabinet and, where authority is delegated to them to do so, Officers may authorise expenditure included within the approved budget/MTFP. Approval levels and officer delegation is set out in the Council's Financial Regulations.

Financial management of the Capital Programme will be undertaken in accordance with the approved Budget Management Scheme for Capital Budgets.

Council approval will be required for all new capital schemes or acquisitions or developments which require the use of prudential borrowing that is outside the budget.

### **3.7.10 MONITORING OF BUDGET AND MTFP**

Cabinet will monitor the budget/MTFP and ensure its delivery and shall make recommendations to Council where amendments are deemed appropriate or necessary.

### **3.7.11 FINANCIAL REGULATIONS**

The [Financial Regulations](#) define the boundaries within which we operate to effectively manage risk. They clarify roles and responsibilities and provide a framework for decision making to ensure a robust control framework and scheme of delegation for financial decision making.



## **3.8 CONTRACT STANDING ORDERS**

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**Bath & North East  
Somerset Council**

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**Improving People's Lives**

**Contract Standing Orders**

**Amended March 2023**

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## **A Statement of Principles**

### **1. Mandatory Compliance**

Council Officers **MUST** comply with these Contract Standing Orders in all instances when buying goods, services and works on behalf of the Council and failure to comply may result in disciplinary procedures.

#### **General Principles**

These Contract Standing Orders (“CSOs”) provide the framework that governs the Council’s commissioning and procurement of Contracts for works, services and goods / supplies. Following these CSOs helps the Council to demonstrate:

good internal governance;

stewardship and the proper spending of public monies;

Value for Money in the Council’s Contracts;

compliance with relevant law.

The purpose of all contracting activity is to:

seek continuous improvement of the Council’s functions having regard to the optimum combination of economy, efficiency and effectiveness in keeping with the Council’s duty to seek Best Value (and Value for Money);

achieve Value for Money for the Council and the Residents, with reference to the economic, social and environmental value of each Contract;

promote the well-being of the Council’s Residents and Area through the effective functioning of the Council, the efficient use of the Council’s resources, and a universal concentration on the Social Value that can be achieved.

Every Contract and official order made by the Council (or any part of it) shall be for the purpose of achieving fulfilment of the Council’s statutory functions or the furtherance of the Council’s strategic or policy goals.

The Appendices to these CSOs provide further detail and form part of these CSOs as if they were drafted as one document. The Director of Legal and Democratic Services has the delegated authority to alter these CSOs accordingly. Any questions about the application of these CSOs should be directed to the Director of Legal and Democratic Services and/or the Head of Strategic Procurement & Commissioning.

All figures in these CSOs are **exclusive** of VAT unless stated otherwise.

Directors will:

ensure that the appropriate member, Cabinet or full Council (as appropriate given the Scheme of Delegations) is consulted on any procurement activity prior to its publication in the Council’s Forward Plan;

ensure that audit trails are in place for all procurement activity in accordance with these CSOs.

## What these CSOs Cover

These CSOs apply:

whenever the Council intends to spend money (or provide other payments in kind) under Contracts for goods (supplies), works or services;

to expenditure from either capital or revenue sources;

to concessions (for further info, speak to Procurement);

to grants;

to goods for re-sale;

to both Officers and Members;

to all bodies where the Council acts as the Lead Authority including the Avon Pension Fund.

These CSOs ***do not*** apply:

to contracts of employment;

to acquisitions and disposals of land or buildings (these are covered by the **Financial Regulations**) – unless related to a Contract for works, services or goods;

to the seeking of offers in relation to financial services in connection with the issue, purchase, sale or transfer of securities or other financial instruments, in particular transactions by the Council to raise money or capital;

to internal Service Level Agreements between departments within the Council.

In the case of civil contingencies

In the case of individual investments which are not deemed as the purchase of goods or services for the purposes of the Council's CSOs

The following entities have their own rules and are not bound by these CSOs, except where they participate in joint purchasing with the Council:

maintained schools within the Area;

companies in which the Council has an interest ***except for*** Local Housing Development Vehicles and situations where there is a Local Authority Controlled Company;

In exceptional circumstances only, certain exemptions can be approved by following the process set out at **Appendix 2 (CSO Exemptions)**. The persons who are authorised to approve the exemptions are set out in **Appendix 12 (Scheme of Delegations)**. Seeking an exemption of these CSOs ***does not*** exempt the Council from complying with the General Principles or with general law.

These CSOs can only be amended by the Director of Legal and Democratic Services in consultation with the Head of Strategic Procurement.

## Other Key Documents

These CSOs should be read alongside the following:

the Council's Procurement Strategy (<https://intranet.bathnes.gov.uk/procurement-commissioning-strategy-2021-2024-think-climate-think-local-think-innovation>);

the Council's Financial Regulations;

the Council's Social Value Policy;

the Transparency Code;

Any other guidance provided by the Strategic Procurement & Commissioning Team, including Business Ethics (Appendix 3), Confidentiality, Intellectual Property, Data Protection, Transparency & Redaction (Appendix 4).

Anyone undertaking purchasing activity on behalf of the Council (but especially in the context of purchasing value above the Thresholds) **MUST** refer to the following documents, where appropriate:

the Public Procurement (EU Exit) Regulations 2020;

the Public Contract Regulations 2015 (as amended by the above Regulations);

Concession Contracts Regulations 2016;

the Public Services (Social Value) Act 2012;

the Bribery Act 2010;

the Small Business, Employment and Enterprise Act 2015;

the Equalities Act 2012;

the Modern Slavery Act 2015;

the Finance Act 2020 (in respect of employment status IR35)

National Procurement Policy Statement 2021 (PPN 05/21)

any other relevant legislation.

## Contracts Pipeline

5.1 All revenue procurements over £50k in value **MUST** be entered on the Contracts Pipeline which can be found on the public website. This enables the Council to keep track of budgets and plan for future expenditure and it allows suppliers and the local community awareness of upcoming projects.

5.2 Applications to make an entry on the Contracts Pipeline **MUST** be made via the Strategic Procurement Team.

## **B Developing the Commissioning Plan**

### **General**

#### 6.1 What is the Commissioning Plan?

Prior to entering into any procurement, you **MUST** develop your business case by researching the procurement and speaking to all relevant parties, obtaining all relevant information. The Commissioning Plan falls out of this research and forms the business case that is approved prior to commencing the procurement.

6.2 The requirement for goods and/or services **MUST** start with an identifiable need which reflects the Council's overall objectives identified within Directorate, Service and Team Plans. You **MUST** understand the business requirements and how it impacts all levels of the organisation and local community. Consider the relevance of Council policies and procedures and how they have a bearing on the requirement.

### **Budget**

7.1 Before starting the procurement, you **MUST** have budgetary approval. You **MUST** establish the aggregated monetary value of your requirement early, as this identifies the process that you follow, influences the amount of work you do and indicates the level of interest that will be generated.

### **Key stakeholders**

8.1 You **MUST** identify the key stakeholders for the project including anyone impacted by the requirement. You should consider doing a Communications Plan for larger projects. You **MUST** be mindful of any Conflict of Interest and take necessary precautions to ensure that if there is a conflict, it is mitigated and/or managed.

### **Proportionality**

9.1 You **MUST** conduct a process that is proportionate to the value and risks of the requirement.

### **Market Analysis**

10.1 Consider talking to suppliers before starting the procurement, trialling products, visiting supplier premises or the premises of a supplier's customer. The Regulations explicitly permit preliminary market consultation. This type of pre-procurement engagement or consultation could focus on:

- What is being purchased?
- Is the specification realistic? Is it too ambitious? Not ambitious enough?
- What will the process look like?
- Do potential bidders have any concerns about timescales, for example?
- Is there a supply market for the requirement?

You **MUST** keep adequate records of market research carried out.

## **11. Bidders' conflicts of interest**

11.1 If a potential candidate has advised the Council or been involved in the preparation of the procurement procedure, the Council is expected to take "appropriate measures" to ensure the resulting competition is not distorted by that candidate's pre-procurement involvement. This might include, for example, communicating relevant information to other candidates / tenderers. The Council cannot exclude a candidate from a procurement unless there is genuinely no other way to ensure that there is equal treatment of tenderers in the procurement process.

**C Developing the Procurement Plan**

**12. Procurement Plan**

ALLOW PLENTY OF TIME TO DRAFT THE SPECIFICATION AND THE DETAIL IT WILL NEED
How can Think Local apply to what you are buying? (Appendix 21)
Does the scope include Social Value for Residents or the Area? <b>see Appendix 6 (Social Value)</b>
Does the Council already have in place any Contract or Framework in scope which you should be using? Check the Contract Register <b>see Appendix 7 (Contract Register)</b>
Is there an external Framework or Contract that you should be using? <b>see Appendix 8 (Framework Agreements)</b>
How will you decide on the procurement route? <b>see Appendix 9 (Procurement Options)</b>
Should we be leasing rather than buying? See <b>Appendix 10 (Asset Leasing)</b>
If buying, what form of Contract are you going to use? <b>see Appendix 11 (Contract Forms and Terms &amp; Conditions)</b>
Who has the delegated authority to agree the purchase/approve the procurement method and process/approve the Contract award? <b>see Appendix 12 (Scheme of Delegations)</b>
How will you decide who will win the Contract? <b>see Appendix 13 (Evaluation Criteria &amp; Debriefing)</b>

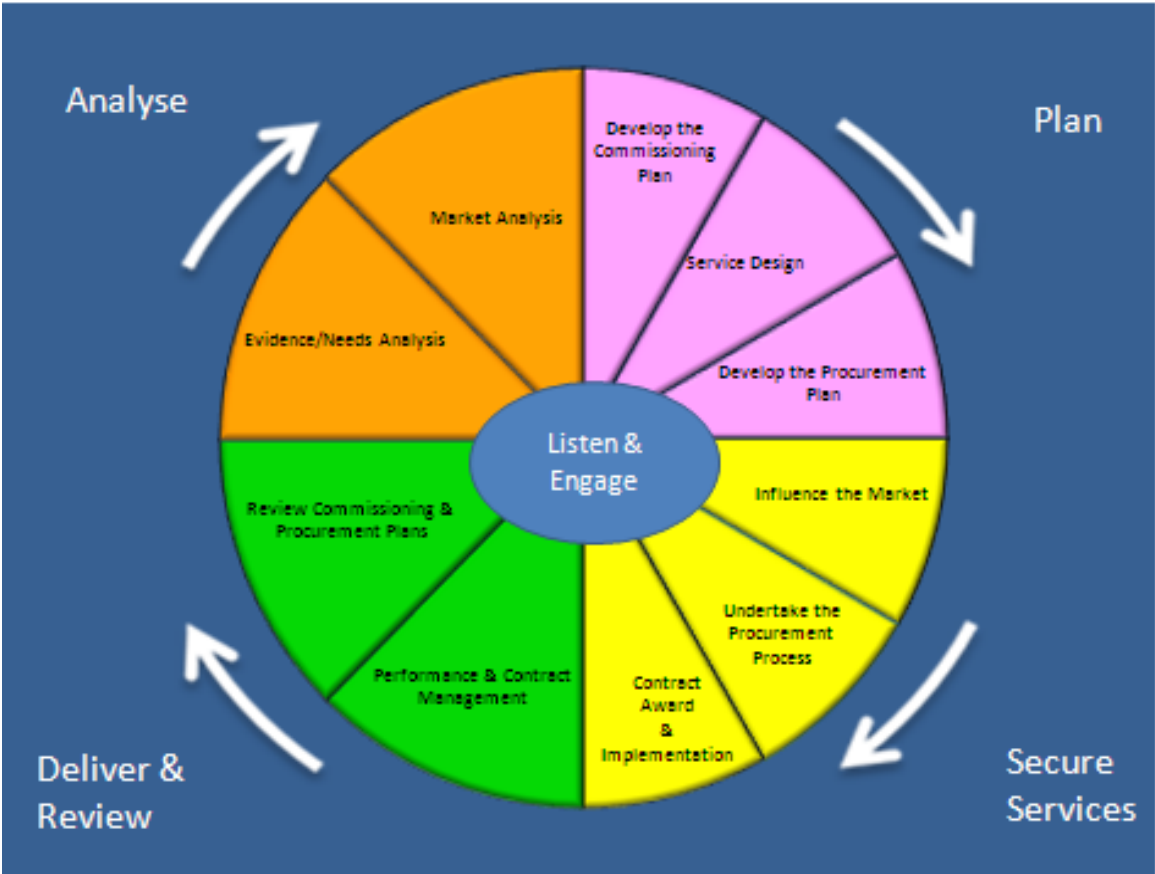
12.1 You **MUST** refer to the latest published guidance on the intranet for Consultancy and ensure the required approvals are in place.

**D Undertake the Procurement Process**

**13. Procurement Process**

13.1 The Procurement Cycle below illustrates the procurement and commissioning process from planning, through contracting with the supplier, performance monitoring and reviews and finally analysis of the outcomes and the market for future needs.





## 13.2 Summary Financial Thresholds

See the table below to understand the procurement process dependent on the Contract value (See **Appendix 15 (Minimum Requirements)** for further details).

You should carefully estimate the value of the contract. If you issue tenders for a below threshold contract and the tender responses indicate that the value of the successful tender will go above the threshold, you **MUST** stop the process and re-tender. To avoid this, it is better to consider tendering for an above threshold contract in the first instance.

<b>1. UP TO £5,000</b>
<b><i>Have you followed “Developing the Procurement Plan”?</i></b>
Consider use of a <b>purchasing card below £500.</b>
Apply <b>Think Local</b>
Demonstrate <b>Value for Money</b> by testing the market by getting at least three written quotes
<b>£5,001 – £50,000</b>
<b><i>Have you followed “Developing the Procurement Plan”?</i></b>
Apply <b>Think Local</b>
Consider the <b>Social Value Policy</b>
Obtain at least 3 written Quotes via the Council’s e-tendering system if below £50k. You <b>MUST</b> Publish an Award Notice in Contracts Finder if the contract is above £30K (inc VAT)
Complete a Contract Spend Request
DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see <b>Appendix 14 (Capability and Financial Checks)</b> )
Award the Contract based on your chosen criteria (price or price and quality).
You <b>MUST</b> record the new Contract on Contract Register
Publish the Contract award on Contracts Finder if the contract is above £30K (inc VAT)
<b>£50,001 – £100,000</b>
<b><i>Have you followed “Developing the Procurement Plan”?</i></b>
You <b>MUST</b> add to Contracts Pipeline
Apply <b>Think Local</b>

<b>MUST</b> apply the <b>Social Value Policy</b>
Complete the Contract Spend Request
Consider whether to call off from an existing Framework Agreement
Advertise in <b>Contracts Finder</b> (see Appendix 20 Below Threshold Contracts)
DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see <b>Appendix 14 (Capability and Financial Checks)</b> )
You <b>MUST</b> conduct relevant Due Diligence for the preferred bidder before award.
Award the Contract based on your chosen criteria (price and quality) and complete the Procurement Evaluation Report.
You <b>MUST</b> record the new Contract on Contract Register
Publish the Contract award on Contracts Finder
<b>£100,001 – Threshold (see Appendix 16 for thresholds)</b>
<b><i>Have you followed “Developing the Procurement Plan”?</i></b>
You <b>MUST</b> add to Contracts Pipeline
You <b>MUST</b> apply the <b>Social Value Policy</b>
Advertise in Contracts Finder (see Appendix 20 Below Threshold Contracts)
Complete the Contract Spend Request
Consider whether to call off from an existing Framework Agreement
DO NOT use a Selection Questionnaire. Consider what suitability questions to ask instead (see <b>Appendix 14 (Capability and Financial Checks )</b> )
You <b>MUST</b> conduct relevant Due Diligence for the preferred bidder before award.
Award the Contract based on your chosen criteria (price and quality) and complete the Procurement Evaluation Report.
You <b>MUST</b> record the new Contract on Contract Register
You may get the Contract sealed if appropriate.
Publish the Contract award on Contracts Finder
<b>Works contracts between goods and services threshold value and works Threshold (see Appendix 16 for thresholds)</b>
<b><i>Have you followed “Developing the Procurement Plan”?</i></b>
You <b>MUST</b> add to the Contracts Pipeline
You <b>MUST</b> apply the <b>Social Value Policy</b>

Complete the Contract Spend Request
Consider whether to call off from an existing Framework Agreement
If not using an existing framework, advertise the Contract and invite tenders through the Council's e-tendering system.
You <b><u>MUST</u></b> evaluate the financial standing of the tenderers ( <b>See Appendix 14 (Capability and Financial Checks)</b> ). You <b><u>CAN</u></b> use a Works Selection Questionnaire
You <b><u>MUST</u></b> take up references for the preferred bidder before award (a Reference Questionnaire is available from Procurement)
You <b><u>MUST</u></b> complete the Procurement Evaluation Report
Award the Contract based on your chosen criteria (price and quality)
If above £500k you <b><u>MUST</u></b> get the Contract sealed, if below then only if appropriate.
You <b><u>MUST</u></b> record the new Contract on Contract Register
<b>Above Threshold (see Appendix 16 for thresholds)</b>
<b><i>Have you followed "Developing the Procurement Plan"?</i></b>
You <b><u>MUST</u></b> add to Commissioning Intentions List
You <b><u>MUST</u></b> apply the <b>Social Value Policy</b>
Complete the Contract Spend Request
Consider whether to call off from an existing Framework Agreement
If not using an existing framework, follow a compliant procedure – see Appendix 19 ( <i>Procurement Options</i> ) – through the Council's e-tendering systemContract.
You <b><u>MUST</u></b> evaluate the financial standing of the tenderers ( <b>Appendix 14 (Capability and Financial Checks)</b> ). If using a Selection Questionnaire, you <b><u>MUST</u></b> use the Cabinet Office Standard SQ
You <b><u>MUST</u></b> take up references for the preferred bidder before award (a Reference Questionnaire is available from Procurement)
You <b><u>MUST</u></b> complete the Procurement Evaluation Report
Award the Contract based on your chosen criteria (price and quality)
If above £500k you <b><u>MUST</u></b> get the Contract sealed, if below then only if appropriate.
You <b><u>MUST</u></b> record the new Contract on Contract Register

## **E Contract Award & Implementation**

### **14. General**

14.1 Prior to contract award you **MUST** ensure all that all of the objectives stated in the specification are met by the outcome of the Procurement.

### **15. Approval to Award**

15.1 The Procurement Evaluation and Approval Report **MUST** be completed in line with the Public Procurement Regulations. The report **MUST** explain how you have come to the decision to award.

15.2 The report **MUST** be signed-off by the appropriate delegated officer prior to notifying the supplier(s). See **Appendix 12 Scheme of Delegations** for details.

### **16. Notifying Suppliers**

16.1 There are strict rules for above threshold procurements on how to debrief suppliers including a **Mandatory** 10-day Standstill Period prior to confirming Contract award. **Appendix 14 Contract Award & Debriefing** gives more information.

16.2 If the supplier requests a verbal debrief, discuss this with Procurement.

### **17. Publications**

17.1 For Contracts above the Thresholds, you **MUST** submit a Contract Award Notice in 'Find A Tender' unless the contract has been awarded under a framework.

17.2 All Contracts awards above £30K (inc VAT) in value **MUST** be published on Contracts Finder. See **Appendix 20 (Below Threshold Contracts caught by Part 4 of the Regulations)**.

17.3 You **MUST** update the Contract Register (see **Appendix 7 (The Council's Contract Register)**)

17.4 You **MUST** file documents in the Contract Register in line with document retention policies (see **Appendix 17 Document Retention**).

## **F Post Contract Award**

### **18. General**

18.1 Following Contract award you **MUST** put into place the agreed contract management controls and measures. You **MUST** review it regularly to ensure the Contract achieves its objectives and future benefits.

### **19. Contract Management**

19.1 You **MUST** establish processes for recording the receipt of goods and progress of work, reviewing performance reports etc.

19.2 You **MUST** put in place both formal and informal communications to manage the relationship, as appropriate.

19.3 You should capture the views of the service users/interested stakeholders including feedback to them on the service performance.

## **20. Reviews**

20.1 You **MUST** review the commissioning plan (against any changes in priorities/objectives)

20.2 You **MUST** review the risk assessments and make any amendments to resource assumptions

20.3 You **MUST** review procurement plans to identify any changes or improvements to methodology for next time

20.4 All answers to above **MUST** be used to inform future commissions

## **21. Continuous Improvement**

21.1 You should review your success against your original plans, i.e. did you achieve the outcomes you set out to achieve and do you understand what contributed to or prevented success?

21.2 You should share your learning with colleagues, service users and stakeholders to ensure you are continuously improving your processes and skills.

21.3 Reflect on the views of service users/stakeholders when reviewing whether the Commissioning and Procurement Plans were successful.

## **22. Contract Extensions**

22.1 Extending a Contract can only happen in particular circumstances (**see Appendix 18 Contract Variations & Extensions for details**).

## APPENDIX 1 - Glossary

Appendices	The appendices to these CSOs
Area	The administrative area of B&NES
Best Value	The Council's duty to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness in accordance with section 3(1) of the Local Government Act 1999 and associated statutory guidance
Business Case	A document that must form part of a Contract Spend Request for approval, prior to procuring revenue spend above £25,000.
Contracts Pipeline	The Council's published list of future procurement and commissioning activities above £25,000 found on the B&NES website. The intention is to highlight to potential suppliers the forthcoming opportunities for tendering. This is a statutory requirement under Localism Act.
Compliant Process	A procurement exercise that has been carried out in accordance with the Public Procurement (EU Exit) Regulations 20. See <b>Appendix 20 Procurement Processes</b> for a list of the main types of procurement procedures
Conflict of Interests	A set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is or could be, impaired or influenced by a secondary interest.
Contract	An agreement to supply Goods/Services/Works formed when there is an offer by one party and an acceptance of that offer by a second party. A Contract can be written or verbal.
Contract Award Notice	An advertisement entered by a buyer in 'Find a Tender' to advise interested parties that a Contract has been awarded by the buyer to a named supplier.
Contract Notice	An advertisement entered by a buyer in 'Find A Tender' to advise interested parties of the intention of the buyer to go to market to buy goods/services/works. It gives details of the requirements of the buyer.
Contract Register	The Council's repository for all its current Contracts and Framework Agreements, located on the Council's e-tendering system.

Contracts Finder	The UK Government's website on which all opportunities that are advertised for Contracts and Framework Agreements (and call-offs from Framework Agreements) for goods services and works above £30,000 (inc VAT) <b>MUST</b> be published. You advertise on Contracts Finder via the Council's e-tendering system.
Council Executive	The body of local Councillors elected by the community to decide on how the Council will carry out its various activities.
Council Members	The elected councillors who sit on the Council Executive
CSOs	These Contract Standing Orders (including the Appendices)
EIR 2004	Environmental Information Regulations 2004
Financial Regulations	The Council's Financial Regulations, found on the intranet.
Find A Tender	From 2021, the site where Contracts are advertised in the UK. Replaces the need to publish in Europe.
FOIA	The Freedom of Information Act 2000
Forward Plan	A list of council decisions for forthcoming months which can be found on the public website.
Framework Agreement	An 'umbrella' agreement that sets out the prices, service levels, and terms and conditions for subsequent call-off orders.
General Principles	The General Principles set out at A – Statement of Principles
Grant	An arrangement will be a grant when the Council gives a donation to an organisation without receiving a benefit in return. The organisation is not obliged to provide the service. It can decide not to provide the service but would then have to repay the donation.
Invitation to Tender or ITT	The invitation to tender is sent at the stage of the procurement process when you invite selected bidders to present their tenders in response to the stated requirements and evaluation criteria.
Light Touch Regime	The Light-Touch Regime is a specific set of rules for Contracts for certain services that tend to be of lower



	interest to cross-border providers. It includes certain social, health and education services. The list of services to which LTR applies is covered in <b>Appendix 10</b> .
Local	Within the Area
Local Authority Controlled Company	<p>Where a contracting authority sets up a separate legal entity and then awards contracts to that legal entity. A two-part test must be satisfied, relating to control and activity:</p> <ul style="list-style-type: none"> <li>• Control: the controlling authority exercises sufficient control over the controlled body; and</li> <li>• Activity: the controlled body carries out the essential part of its activities for its owner authority.</li> </ul> <p>In addition, there must be no private sector participation in the body which satisfies the two-part test.</p>
Most Economically Advantageous Tender or MEAT	Awarding a Contract for works, goods or services based on a combination of overall cost AND service elements, not just cost alone.
Officer	Employee of the Council
Prudential Code	The Prudential Code for Capital Finance in Local Authorities
Quote/Quotation	A request for pricing and/or quality bid from a potential supplier for goods/services/works below £50,000. Similar to a Tender but with less detail required from bidders.
Regulations	The Public Procurement (EU Exit) Regulations 2020 and Public Contracts Regulations 2015
Residents	Residents of the Area
Scheme of Delegations	The Scheme of Delegations set out at <b>Appendix 12 (Scheme of Delegations)</b>
Selection Questionnaire	A questionnaire used in certain procurement procedures which allow procurers to shortlist the number of companies to be invited to Tender. Above Threshold this <b>MUST reflect the Cabinet Office standard SQ and associated guidance</b> : A SQ is NOT permitted for procurements valued between £30k (inc VAT) and the Goods and Services threshold ( <b>Appendix 20 Procurement Processes</b> refers).
Social Value	Described in the Public Services (Social Value) Act 2012 as improvements to the economic, social and/or environmental well-being of the Area. The benefits sought could be in the

	form of social benefits (for example reducing anti-social behaviour), economic benefits (for example increasing local employment), or environmental benefits (for example reducing local congestion).
Social Value Act	The Public Services (Social Value) Act 2012, which requires the Council to consider, pre-procurement, how what it procures might improve the economic, social and environmental well-being of the Area, and how best to use the procurement process to secure that improvement. There is also a duty to consider whether to undertake any consultation in making its decisions.
Standstill Period	A <b>Mandatory</b> 10-day period (which <b>MUST</b> be applied above Threshold between the notification to suppliers of the decision to award the Contract and the date of signing/entering into the Contract. The period is intended to give unsuccessful tenderers the opportunity to challenge the award if they wish. The period is longer if notifications are not sent electronically.
Tender	Request for pricing and/or quality bid from a potential supplier for goods/services/works above £50,000. Similar to a Quote but Tenders require more detailed proposals.
Think Local	The Council's policy on local purchasing
Thresholds	The financial thresholds above which a Contract published via Find A Tender will normally be required, as set out at <b>Appendix 15 (Minimum Requirements and Thresholds)</b>
Threshold Level	<u>The financial contract value at which you MUST advertise your contract in Find A Tender. See Appendix 16 for details.</u>
TUPE	<u>The Transfer of Undertakings (Protection of Employment) Regulations 2006. Legislation which protects employment rights of those whose job will be transferred to a new employer upon change of contractor by award of a Contract.</u>
Value for Money (VfM)	The optimum combination of whole-of-life costs and quality (or fitness for purpose) of the goods, works or Services to meet the Council's requirement
VAT	Value Added Tax

## Appendix 2 CSO Exemptions

### 1. Contracts below the Thresholds

Specific Officers may approve exemptions to these CSOs (to the extent that it is lawfully able to do so) in genuinely urgent situations and/or where there is a sound legal, financial or Value for Money reason (See **Appendix 12 Scheme of Delegations**). They **MUST**:

- give reasons for doing so on the Exemption Form (and record these in the minutes of the relevant meeting);
- The completed and signed exemption form (available via the Procurement Intranet pages) **MUST** be entered in the Contract Register (see **Appendix 7 Contract Register**)

The following are considered acceptable reasons for seeking an exemption:

- quantifiable and significant cost and efficiency savings can be achieved through seeking an alternative route;
- reasons of extreme urgency mean that normal time limits cannot be met, including as a result of unforeseen emergency or disruption to Council services;
- the Council would otherwise be exposed to immediate and significant financial, legal or reputational risk that has been identified in the relevant risk register;
- only one Contractor is objectively able to provide the works, services or supplies in question, for example where the supplier has exclusive Intellectual Property, artistic or other rights, is a monopoly or where the goods bought are for re-sale (in which case the exemption **MUST** be to the number of Quotes / Tenders that are sought);
- additional or new services, supplies or works are required which, through unforeseen circumstances, were not included in an existing Council Contract and are necessary for the completion of the Contract and/or cannot be carried out separately.
- new works or services/supplies are required which are a repetition of works, services/supplies carried out under the original Contract, provided they are required within 1 year of the original Contract.
- goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another source would result in incompatibility or disproportional technical difficulties in operation or maintenance.
- the Council has the benefit of a Local Authority Controlled Company under Regulation 12, and exercises over the company concerned a

control which is similar to that which it exercises over its own departments and, at the same time, that company carries out the essential part of its activities with the Council's control.

You are reminded that an exemption will **not** be granted where this means the Council would not be complying with the General Principles or general law.

## **2. Contracts above the Thresholds**

It is illegal to sign-off an exemption when the value of the Contract is above the threshold. You may need to consider other procurement routes, for example, using a Framework Agreement. See **Appendix 19 (Procurement above the Thresholds)** for details. If you are having difficulty you **MUST** consult with Strategic Procurement for more information.

## Appendix 3 Business Ethics

### 1. General

Business ethics focuses on what constitutes right or wrong behaviour in the world of business. The following will help you to address ethical dilemmas during your procurement process.

### 2. Code of Conduct

All procurement exercises **MUST** be carried out with openness and transparency and with integrity and fairness to all suppliers.

Officers of the Council **MUST** conduct themselves in line with the Council's HR Code of Conduct including with regards to the receiving of hospitality and gifts and the giving and receiving of sponsorship.

### 3. Separation of Roles during Tendering

Council Members and employees involved in the tendering process and dealing with contractors **MUST** be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility **MUST** be aware of the need for accountability and openness.

Council Member and employees who are privy to confidential information on Tenders or costs for either internal or external contractors **MUST** not disclose that information to any unauthorised party or organisation. For further information, see the Members' Code of Practice guidance document ([LINK](#)).

### 4. Conflicts of Interest

There **MUST** be no conflict of interest with any suppliers or contractors. Where a conflict is identified, the member of staff concerned **MUST** not take any further part in the tendering process, to preserve the integrity of the process. For further advice, contact the Legal Department or the Procurement team.

### 5. Corruption

Council Members and employees **MUST** be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made, it is for the individual to demonstrate that any such

rewards have not been corruptly obtained. For further guidance, see the B&NES Gifts and Hospitality policy on the intranet.

## **6. Use of Financial Resources**

Council Members and Officers **MUST** ensure that they use public funds entrusted to them in a responsible and lawful manner and in accordance with the Council's Financial Regulations. They should strive to ensure Value for Money to the Area and to avoid legal challenge to the Council.

## **7. Lobbying**

It is recognised that lobbying is a normal and perfectly legitimate element of the process of local governance however it is important that Members protect their impartiality and integrity when dealing with external contractors and suppliers.

Members **MUST NOT** breach the Bath & North East Somerset Code of Conduct by listening to or receiving viewpoints from contractors and suppliers or other interested parties during a procurement exercise. Indicating a bias toward a particular product, supplier or contractor would prejudice impartiality and could lead to a legal challenge against the Council.

## **8. Former Council Employees**

Council Members and employees should endeavour to ensure that where they contract with a supplier to provide services or works to the Council, that the supplier does not employ a former Council employee when producing and submitting the response to the tender. This will ensure that all suppliers in the tendering process are treated fairly and that no one supplier is given a tendering advantage and respects Council confidentiality.

## **Appendix 4 Confidentiality, Intellectual Property, Data Protection, Transparency and Redaction**

### **1. Confidentiality**

1.1 The Council has a responsibility to ensure that information provided to suppliers and provided by suppliers is treated confidentially. This is not only good practice but also gives the suppliers confidence that they are being treated fairly and without discrimination. Information provided by the Council is given to suppliers in confidence and only to those whom they need to consult for the purpose of preparing the Tender, such as professional advisors or joint bidders.

1.2 If a Conflict of Interest arises or if at any time during the procurement it is discovered that the tenderer has not acted confidentially, the Council has the right to eliminate them from the procurement exercise.

1.3 Tenderers have the right to state what elements of their Tender response they want to remain confidential however under the Freedom of Information Act the Council **MUST** provide information requested with some exceptions such as commercially confidential items (pricing, intellectual property etc.) which can be redacted from the version published in the public domain. Contractors' cooperation may be needed to ensure the Council complies with requests for information.

## 2. Intellectual Property

2.1 "Intellectual Property Rights" includes patents, inventions, trademarks, service marks, logos, design rights, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations.

2.2 Generally speaking, all intellectual property rights in all works or supplies provided under a Contract which are written or produced on a bespoke or customized basis would be owned by the Council and the contractor should be required to ensure that it allows such ownership.

2.3 However, where the supplier provides existing intellectual property right protected material to the Council under a Contract, it has to warrant it has the right to do so and it fully indemnifies the Council against all loss or liability arising from any third party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work.

## 3. Data Protection Act & GDPR

3.1 The Data Protection Act 2018 defines UK law on the processing of data on identifiable living people and are the legislation that govern the protection of personal data in the UK. All Council Officers are legally obliged to comply.

3.2 The Council's Terms and Conditions of Contract contain clauses which state how contractors process and store personal data provided to them under a Contract.

3.3 In certain Contracts, where a supplier is required to process personal data or hold personal information for the purpose of executing the Contract, then Officers **MUST** include an Information Governance questionnaire in the corresponding Invitation to Tender. Further guidance can be obtained from the Information Governance Manager.

## 4. Transparency

4.1 Under the Local Government Transparency Code the following items **MUST** be published.

- all individual items of expenditure above £500;
- every transaction made using a Government Procurement Card;

- a list of all Invitations to Tender for goods and services exceeding £5000;
- a list of all contracts, Framework Agreements, purchase orders and commissioned activity in excess of £5000.

## **5. Redaction of Data**

5.1 It is the responsibility of the service department to ensure that the information provided for publication under the transparency code has been cleansed and any personal or sensitive information has been redacted prior to publication.



## Appendix 5 Specifications

For a compliant procurement process, the Council **MUST** draft the technical specifications for a Contract upfront, before starting the procurement process. This is good practice even if the contract is below the threshold.

What the technical specifications look like will vary widely depending on the nature of the Contract. If you are having difficulty drafting a specification for the Contract, guidance is available on the Procurement intranet page.

In addition, information can be found on the following:-

- Health & Safety
- Transfer of Undertakings in Employment (TUPE)
- Insurance

However, you may need to obtain specific advice from the Health, Safety & Wellbeing Manager, Human Resources or the Team Leader, Insurance, Banking & Control.

## Appendix 6 Social Value

The Social Value Act requires the procurer to consider securing economic, social, or environmental benefits when buying services above the Thresholds through what is being bought, and how it is procured.

This duty relates to:

- **all** service Contracts to which the Regulations apply (including those under the Light Touch Regime);
- services Contracts with a works / supplies element that is so incidental that the Contract would ordinarily be considered a services Contract under the Regulations; and
- Frameworks Agreements for such Contracts.

The Council **MUST** also think about whether **consultation** on Social Value matters is needed.

The Council's Social Value Policy applies to:

- **all** works Contracts (including Contracts for a mixture of works and services or supplies) where the value of the Contract is expected to exceed **£500,000**;
- **all** services Contracts and supplies Contracts (including Contracts for a mixture of works and supplies or services, and regardless of whether a full procurement regime applies) where the value of the Contract is expected to exceed **£100,000**;
- **all** Framework Agreements where the anticipated spend in any financial year is expected to exceed £500,000 for works and £100,000 for goods and services;
- **all** joint Contracts with other purchasers where the value of the Council expenditure is expected to exceed £500,000 for works and £100,000 for goods and services.

The Social Value Policy focuses on achieving targeted recruitment and training through Contracts as the Council's priority, but where other aspects of Social Value are relevant to a Contract they should of course be considered.

## Appendix 7 The Council's Contract Register

The Council's Contract Register is available through the Council's e-tendering system and records and stores information on the Council's Contracts. It provides:

- key information to Council Members and Officers on existing current and expired Contracts;
- limited information to the general public (including start and end dates, Contract value, and key contact details);
- information on Contracts to allow Officers to retender in good time.

### When should I put something on the Contract Register?

Recording of Contracts on Contract Register is **Mandatory** for all Contracts valued above **£5,000**. However, it is recommended for Contracts of any value.

Any agreed exemptions **MUST** be placed on Contract Register.

You **MUST** also keep the information on Contract Register up to date, for example if:

- a Contract is extended;
- the key contact for a Contract changes (e.g. if an Officer leaves).

### Before you Purchase Anything

You **MUST** check the Contract Register before you start any procurement activity, in case there is an existing Council Contract which covers your need. Saving time and expense by using an existing Contract will almost always represent Value for Money.

## Appendix 8 Framework Agreements and Dynamic Purchasing Systems

### Framework Agreements

A Framework Agreement is an ‘umbrella’ agreement negotiated with suppliers whereby at the start of the agreement the exact quantity of goods or services required over the period of the agreement cannot be determined.

1. For example, when you put together an agreement with a supplier to buy stationery, you won’t know exactly how many pens, pencils, rulers etc. you will need over the period of the agreement, or when you will place the orders.
2. The intention behind a framework is to streamline the competitive process by enabling one tender process to set up the protocol by which multiple Contracts can be called off. They can be created so that one, or many, purchasers are able to benefit from the arrangements. Equally they can be created with one provider, or a number (in which case often a “mini-competition” is used to decide which provider is used each time there is a call-off.
3. Frameworks are therefore useful when you anticipate that you are likely to need the same – or similar- provision on several occasions over time. They are normally limited to four years in length.
4. There is no obligation to buy anything from a Framework Agreement and you are not committing the Council to any spend. However, every time you place an order from a Framework Agreement, you are entering into a legally binding Contract.

For more information on Framework Agreements, the Procurement team has a guidance document available on the intranet.

### Dynamic Purchasing Systems

A DPS is similar to a framework agreement however whereas a framework is set once the award has been made and no new suppliers can be added to it, a DPS will allow new suppliers to be added, PROVIDED that they meet the objective selection criteria laid out in the original contract notice or advertisement.

## Appendix 9 Procurement Options

### 1. Below the Thresholds

Below the Thresholds, the procurement process is more flexible. See the main body of the CSOs, and **Appendix 15 (Minimum Requirements)** for details of the requirements for different values of spend.

You **MUST** consider if there is an existing Contract or Framework you could use, either one established by the Council, or one procured by a central purchasing body.

Use of the the Council's e-tendering system is **Mandatory** for Contracts above £5000, allowing you to:

- Advertise the Contract
- Complete A Tender
- Award the Contract.

Where a Contract above £30,000 (inc VAT) is advertised publicly the opportunity must be advertised on Contracts Finder through publication of a Contract Notice. Note: a Contract Notice is not required where the process is an invited process in accordance with the CSOs or where it is a call-off from an existing Framework Agreement, however the requirement in relation to an Award Notice is applicable. Where the Contract is above £30,000 (inc VAT) an Award Notice must be published on Contracts Finder within 30 days of the Contract award date. See Appendix 20 for further details.

## **2. Above the Thresholds**

Please see **Appendix 19 (Procurement above the Thresholds)**.

### **The Light Touch Regime**

This section applies to Contracts for the following Services:

- Health, social and related Services
- Administrative, social, education, healthcare and cultural Services
- Compulsory Social Security Services
- Benefit Services
- School Meals and Catering Services
- Other community, social and personal Services including Services furnished by trade unions, political organisations, youth associations and other membership organisation Services
- Religious Services
- Hotel and Restaurant Services
- Legal Services
- Other administrative and government Services
- Provision of Services to the community

- Prison related Services, public security and rescue Services to the extent not excluded pursuant to point (h) of Article 10
- Investigation and security Services
- International Services
- Postal Services
- Miscellaneous Services

When you are buying these services, the “Light Touch Regime” will apply if the Contract is valued above the Threshold. The Threshold is higher than for other Goods and Services. See Appendix 16 Thresholds.

Under the Light Touch Regime, you **MUST**:

- issue a Contract Notice or Prior Information Notice in Find A Tender
- follow a transparent and fair procedure which treats potential service providers equally; and
- issue a Contract Award Notice.

The Regulations require the Council to:

- give information in the Contract Notice about:
  - any conditions for participating in the competition (e.g. “selection” criteria);
  - any time limits for contacting the Council;
  - the award procedure that the Council will apply.
- ensure that any time limits imposed on interested providers are reasonable and proportionate.

The Council can choose to apply a procedure that looks similar to one of the procurement procedures (see **Appendix 19 (Procurement above the EU Thresholds)**) but does not have to.

The Council **MUST** apply the Guidance of the new Light Touch Regime for Health, Social Education and certain other Service Contracts published by Crown Commercial Service.

## **Appendix 10 Asset Leasing**

### **1. General**

- 1.1** The implementation of the Prudential Code introduced new freedoms for local authorities to pursue various capital and revenue options for the

funding of asset acquisitions. It is therefore important to ensure the most cost-effective form of funding is sourced for each acquisition.

## **1.2 Objectives of controlling**

Asset leases are to ensure-:

- (a) compliance with the Prudential Code
- (b) terms and conditions of leases are appropriate.
- (c) the lease is correctly recorded in the Council's accounts.
- (d) compliance with the Regulations.

## **1.3 Implications if the above objectives are not achieved:**

- (a) non-compliance with the Prudential Code Value for Money requirements.
- (b) the cost of leasing the asset is greater than alternative finance options.
- (c) the Council's accounts are incorrectly stated.
- (d) legal challenge as a result of a breach of the Regulations.

## **1.4 Key Responsibilities for Members and Officers:**

- (a) every Director **MUST** refer all proposed leasing arrangements, within their Services, to the Director of Finance and S151 Officer and;
- (b) approval **MUST** be obtained from the Director of Finance and S151 Officer for all asset leases.

**1.5** More information on the Prudential Code can be obtained from [www.cipfa.org](http://www.cipfa.org)

**1.6** Asset leases are treated as supplies Contracts for the purpose of the Regulations and so the Regulations will apply in the normal way.

## **Appendix 11 Contract Forms and Terms & Conditions**

### **1. General**

The Regulations require the Council to make its procurement documents available electronically from the published date of the Contract Notice (Regulation 53). Procurement documents include the proposed Terms and Conditions of Contract (T&Cs) as well as SQs and ITTs. This means that the SQ, ITT and T&Cs, for any procurement process ***MUST*** be drafted **before the Contract Notice is issued**.

The Council considers it good practice to apply this rule to all Contracts, whether or not the Regulations are applicable. It is therefore the expectation that the Contract form will have been decided on before the procurement / tendering process starts.

### **2. Contracts below the Thresholds**

For the majority of Contracts under the Thresholds it will normally be appropriate to use the Council's standard small value Terms and Conditions which are available on the Procurement intranet page.

### **3. Contracts above the Thresholds**

For Contracts above the Thresholds you should use the Council's standard Terms and Conditions which are available on the Procurement intranet page.

It may be more appropriate to use an industry standard form of Contract, or a bespoke Contract drafted for the particular Contract in question.

When considering which type of Contract to use, you should consider the points in the guidance document attached, and if appropriate discuss with the Procurement team.



## Appendix 12 Scheme of Delegations

The following people / positions / committees have delegated authority to agree or approve expenditure:

<b>CONTRACT VALUE</b>	<b>AUTHORITY TO AGREE PROCUREMENT PROCESS</b>	<b>PLACE ON COMMISSIONING INTENTIONS (Y/N)</b>	<b>APPROVAL DOCS REQUIRED</b>	<b>AUTHORITY TO AWARD CONTRACT</b>	<b>AUTHORITY TO SIGN AN EXEMPTION</b>	<b>AUTHORITY FOR SIGNING &amp; SEALING<sup>5</sup></b>
<b>Up to £5000</b>	Cost Centre Manager	N	Bid Evaluation	Cost Centre Manager	Cost Centre Manager	Cost Centre Manager (signing)
<b>£5,001 to £50,000</b>	Cost Centre Manager	N	Bid Evaluation	Cost Centre Manager	Director	Cost Centre Manager (Signing)
<b>£50,001 to £100,000</b>	Service Area Manager	Y	Tender Evaluation Document	Service Area Manager	Director	Director (Signing) unless sealing is agreed to be appropriate.
<b>£100,001 to Threshold</b>	Director	Y	Tender Evaluation Document	Director (Recorded	Executive Director - Chief	Director (Signing) unless sealing is

<sup>5</sup> Not required for Capital Expenditure if on Council's Capital Programme

				Officer Decision)	Operating Officer	agreed to be appropriate Above £500,000 Head of Legal (Sealing)
<b>Above Threshold &amp; Emergency Purchases</b>	Director	Y (but not emergency purchases)	Tender Evaluation Document & Regulation 84 report	Executive Director - Chief Operating Officer (Recorded Officer Decision) with Cabinet Member approval (within budget)	<b>NOT ALLOWED</b> above threshold	Director (Signing) unless sealing is agreed to be appropriate Above £500,000 Head of Legal (Sealing)

## **Appendix 13 Evaluation Criteria & Debriefing**

### **1. General**

The Council **MUST** make its “procurement documents” available electronically from the date of the Contract Notice. The evaluation criteria and the weightings **MUST** be included in either the Contract Notice itself, or in the procurement documents. This means that you **MUST** have agreed the evaluation criteria for the Tender before the Contract Notice is issued.

### **2. Most Economically Advantageous Tender**

Evaluation criteria **MUST** be based on the “Most Economically Advantageous Tender”. This can be identified by:

- price or cost (using life-cycle costing)
- the best price-quality ratio (considering qualitative, environmental and/or social aspects linked to the subject matter of the Contract), including:
  - quality: technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
  - organisation, qualification and experience of staff assigned to performing the Contract (where this can have a significant impact on the level of the performance of the Contract);
  - after-sales service and technical assistance, delivery conditions such as delivery date, process and period, or period of completion.

If a Contract is for a fixed price, you can use just quality criteria.

The Procurement Team can advise on what to use for scoring matrices and evaluation criteria.

### **3. Debriefing**

For further information on how to debrief suppliers, please contact the Procurement Team. There is a strict legal process for above threshold debriefs which must be done correctly.

## **Appendix 14 Capability & Financial Checks**

### **1. General**

You **MUST** ensure that any supplier interested in doing business with the Council has both the technical capability and the financial capacity to be able to perform the Contract.

## **2. Below Thresholds**

Below the threshold you **MUST NOT** use a Selection Questionnaire to shortlist tenderers. You can ask “suitability assessment questions” that are relevant to the subject matter of the contract and are proportionate. These can relate to minimum standards of suitability and capability.

## **3. Above Thresholds**

Procurements above the Thresholds using one of the procedures described in **Appendix 19 Procurements above the Threshold – Options and Procedures**. This includes procedures which use a Selection Questionnaire to shortlist candidates before inviting Tenders.

When using a SQ, you **MUST** use the Cabinet Office standard SQ. This includes the government standard questions on financial standing.

## **4. Framework Agreements and Lots**

There are specific rules that **MUST** be applied for Framework Agreements and lots. Please see the Guide to Framework Agreements on the Procurement intranet page.

## Appendix 15 Minimum Requirements

### 1. Contracts Minimum Requirements

VALUE OF CONTRACT	MINIMUM PURCHASING REQUIREMENTS	MINIMUM CONTRACT REQUIREMENTS	ENTER ON COMMISSIONING INTENTIONS	USE OF PROACTIS	ENTER ON CONTRACT REGISTER
Up to £5000	<ul style="list-style-type: none"> <li>- Use purchasing card if accepted by supplier</li> <li>- Demonstrate VfM by testing the market</li> <li>- Think Local</li> </ul>	Ensure written record of purchase and Purchase Card Spend Management System updated if relevant.	No	Recommended	n/a
£5,001 - £50,000	<ul style="list-style-type: none"> <li>- Think Local</li> <li>- 3 written Quotes via the Council's e-tendering system if &lt;£30k (inc VAT)</li> <li>- Advertise on Contracts Finder &gt;£30K (inc VAT)</li> <li>- Do NOT use a SQ but can ask suitability questions</li> <li>- State award criteria</li> <li>- Publish the Contract Award on Contracts Finder if &gt;£30K (inc VAT)</li> </ul>	Council's Standard Contract Terms (unless agreed with the Legal or Procurement departments)	No	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes

<p>£50,001 - £100,000</p>	<ul style="list-style-type: none"> <li>- Think Local</li> <li>- Advertise on Contracts Finder</li> <li>- Consider Social Value Policy</li> <li>- Do NOT use SQ but can ask suitability questions</li> <li>- State award criteria</li> <li>- Publish the Contract Award on Contracts Finder</li> </ul>	<p>Council's Standard Contract Terms (unless agreed with the Legal or Procurement departments)</p>	<p>Yes</p>	<p>Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)</p>	<p>Yes</p>
<p>£100,001 – PPR Threshold see table below for thresholds</p>	<ul style="list-style-type: none"> <li>- Advertise on Contracts Finder</li> <li>- Apply Social Value Policy</li> <li>- Can use SQ for Works but NOT for Goods and Services below threshold</li> <li>- State award criteria</li> <li>- Publish the Contract Award on Contracts Finder</li> <li>- Contracts over £550k must be sealed</li> </ul>	<p>Follow guidance at <b>Appendix 11 (Contract Forms and Terms &amp; Conditions)</b></p>	<p>Yes</p>	<p>Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)</p>	<p>Yes</p>
<p>Above PPR Threshold see</p>	<ul style="list-style-type: none"> <li>- Follow a compliant procedure (see <b>Appendix</b></li> </ul>	<p>Follow guidance at <b>Appendix 11</b></p>	<p>Yes</p>	<p>Mandatory – (to comply with Local</p>	<p>Yes</p>

table below for thresholds	<p><b>9 (Procurement Options), Appendix 5 (Drafting Specifications) and Appendix 13 (Evaluation Criteria) and Appendix 20 (Procurement above the PPR Thresholds - Options)</b></p> <ul style="list-style-type: none"> <li>- Apply Social Value Policy</li> <li>- Advertise on Contracts Finder and in Find A Tender</li> <li>- Contract <b>MUST</b> be sealed</li> <li>- Publish the Contract Award in Find A Tender</li> </ul>	<b>(Contract Forms and Terms &amp; Conditions)</b>		Government transparency requirements – See Appendix 4)	
<b>Light Touch Regime – Below threshold</b>	<ul style="list-style-type: none"> <li>- Think Local</li> <li>- Advertise on Contracts Finder if &gt;£30k (inc VAT)</li> <li>- Apply the Social Value Policy</li> <li>- State award criteria</li> </ul>	Council’s Standard Contract Terms (unless agreed by the Legal or Procurement Departments)	Yes (above £50K)	Mandatory – (to comply with Local Government transparency requirements – See Appendix 4)	Yes
<b>Light Touch Regime –</b>	<ul style="list-style-type: none"> <li>- Follow LTR compliant procedure (<b>see Appendix 7 Procurement Options</b>)</li> </ul>	Follow guidance at <b>Appendix 11</b>	Yes	Mandatory – (to comply with Local Government transparency	Yes

above threshold	<ul style="list-style-type: none"> <li>- Apply Social Value Policy</li> <li>- Advertise on Contracts Finder</li> <li>- Award Contract in Find A Tender</li> <li>- Contract <b><i>MUST</i></b> be sealed</li> </ul>	<b>(Contract Forms and Terms &amp; Conditions)</b>		requirements – See Appendix 4)	
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## Appendix 16 Procurement Thresholds & Timescales

TYPE OF CONTRACT	THRESHOLD (£) (TO 31/12/21) NET OF VAT	NEW THRESHOLD (£) (FROM 1/1/2022 – 31/12/2023) INCLUSIVE OF VAT	NEW THRESHOLD (£) (FROM 1/1/2022 – 31/12/2023) BEFORE VAT
Works Contracts and Concession Contracts	£4,733,252	5,336,937	4,269,550
Supplies and/or (most) Services (for Local Government)	£189,330	213,477	170,782
Social and other specific Services (Light Touch Regime applies)	£663,540	663,540 (if inclusive of VAT)	530,832 (if without VAT)

Please note that the new thresholds are inclusive of VAT (due to the UK's obligations under the WTO).

	<b>SELECTION STAGE</b>	<b>TENDER STAGE</b>	<b>IF ELECTRONIC TENDER ACCEPTED</b>	<b>TENDER FOLLOWING PIN</b>	<b>TENDER BY AGREEMENT</b>	<b>URGENCY</b>
<b>Open Procedure</b>	n/a	35 days	30 days	15 days	n/a	15 days
<b>Restricted Procedure</b>	30 days	30 days	25 days	10 days	At least 10 days	15/10 days
<b>Competitive Procedure with Negotiation</b>	30 days	30 days	25 days	10 days	At least 10 days	15/10 days
<b>Competitive Dialogue</b>	30 days	n/a	n/a	n/a	n/a	n/a

## Appendix 17 Document Retention

Retention Classification	Retention Period
Contracts under seal (above Threshold)	12 years from Contract end This includes all Contract documents (specifications, drawings, certificates, Contract instructions and all relevant correspondence)
Contracts not under seal	6 years from Contract end This includes all Contract documents (specifications, drawings, certificates, Contract instructions and all relevant correspondence)
Unsuccessful Tenders and Quotes	4 years from the award of Contract
Abandoned Tenders and Quotes	4 years from the date of abandonment
Purchase files	<b>MUST</b> be kept up to date at all times within the Council's e-tendering system and Contract Register
Hard copies of Contracts	Store locally for 6 years after date of purchase then archive 12 years after purchase, review for possible destruction/recycling

The sealing of tenders is carried out by the Legal Department. For more information about the sealing process see the Guide on the Procurement Intranet page.

## Appendix 18 Tender & Contract Variations, Extensions & Termination

### 1. Tender Variations/Variant Bids

Tenderers can submit variant bids linked to the subject matter of the bid, however the Contract Notice or ITT must state the minimum requirements to be met by the variants and specific requirements for their presentation, in particular whether variants may be submitted only where a Tender which is not a variant has also been submitted.

You **MUST** ensure that the award criteria can be applied to variants meeting those minimum requirements as well as to conforming “core” Tenders which are not variants. Only variants meeting the minimum requirements laid down by the Council shall be taken into consideration.

### 2. Contract Extensions

When you award a Contract/Framework, you **MUST** state the start and end dates and whether there is an option to extend beyond the ‘initial term’. If an extension clause has been included in the Contract, then it is permissible to extend but this should only be done if it represents value for money to extend and if the performance of the supplier warrants it.

**Procurement have an extension letter template which can be used. Approval *MUST* be obtained prior to extending any contract. For contracts above £20k, this must be obtained from the Contracts Panel.**

### 3. Contract Variation

Contract variations are risky and can trigger the need for a new procurement exercise. The Regulations set out the changes that can be made to a Contract or Framework Agreement. You **MUST** read the guidance and seek advice from the Procurement Department before making any Contract variation that could fall foul of the Regulations.

### 4. Contract Termination

Early termination **MUST** be approved by the Head of Strategic Procurement. Contracts may be terminated early by agreement prior to the expiry date of the Contract and in accordance with the termination provisions set out in the Contract.

## **Appendix 19 Procurement above the Thresholds**

### **Options & Procedures**

This Appendix lists the main choices of procurement procedure and the other routes available. You **MUST** seek the support of Procurement and Legal when you undertake any procurement that is above threshold.

#### **Main Choices of Procedure**

- Open Procedure
- Restricted Procedure

#### **Other Routes**

- Competitive Procedure with Negotiation
- Competitive Dialogue
- Concession Contracts
- Dynamic purchasing systems
- Electronic auction

Lots - if you do not divide the Contract up into lots, you **MUST** explain why in the Contract Notice or procurement documents.

## Appendix 20 Below Threshold Contracts.<sup>6</sup>

### (caught by Part 4 of the Regulations)

#### 1. Using Contracts Finder to Advertise Contracts

**If** you advertise an opportunity, then you **MUST** place an advert on Contracts Finder via the Council's e-tendering system.

This does **not** include where you call off from a Framework Agreement or another select/approved list or where the opportunity is an invited quote in accordance with the CSOs.

This **does** include when you issue a Prior Information Notice (PIN) or similar – you **MUST** advertise “*regardless of how specific the opportunity is*”.

Adverts on Contract Finder **MUST** include the following information:

the date and time by which an interested supplier **MUST** respond if it wishes to be considered (the time period allowed for responses but be sufficient but proportionate);

how a supplier **MUST** respond to the advert, and to whom; and

any other requirements for participating in the procurement.

In reality, Contracts Finder requires more information than this, including an (estimated) Contract value.

When you advertise on Contracts Finder, you **MUST** offer unrestricted and full direct internet access free of charge to any relevant Contract and procurement documents and specify in the notice the internet address where those documents can be accessed.

#### Selection Questionnaire

You **MUST not** shortlist using an SQ for Contracts below the threshold unless it is for a Works contract.

Instead, you **can** ask “suitability assessment” questions that are relevant to the subject matter of the procurement and are proportionate. These questions should relate to information / evidence you need that the candidate meet requirements / minimum standards for:

suitability;

legal status;

financial standing.

#### Contract Award Notices on Contracts Finder

The following requirements apply when you award a public Contract – **whether or not** it was advertised on Contracts Finder. This includes when you call off from a Framework Agreement and when you run an invited quote in accordance with the CSOs.

You **MUST**, within 90 days of contract award, publish the following information on Contracts Finder:

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<sup>6</sup> In this case, this threshold applies to works contracts as well as services and supplies.

the name of the contractor awarded the Contract;

the date on which the Contract was entered into;

the value of the Contract;

whether the contractor is an “SME” or “VCSE”.

“VCSE” means a non-governmental organisation that is value-driven, and which principally reinvests its surpluses to further social, environmental or cultural objectives”.

You can withhold any of this information where its release:

would impede law enforcement or would otherwise be contrary to the public interest;

would prejudice the legitimate commercial interests of a particular economic operator (whether public or private); or

might prejudice fair competition between suppliers.

This is most likely to apply to the value of the Contract awarded.

## **APPENDIX 21 – THINK LOCAL GUIDANCE**

### **What is Think Local?**

Think Local is the opening up of opportunities for local organisations, primarily SMEs and VCSEs, to supply the council with goods, works and services.

### **When to use Think Local**

Think Local should be the default approach for contracts up to £100K and should be considered for contracts over that threshold. Think Local does not exempt you from following the procurement processes as outlined in the Contract Standing Orders and is not a reason to direct award to a certain supplier.

When 'Thinking Local' at any threshold:

- ✓ Research the local market
- ✓ Notify suitable local organisations of the potential opportunity
- ✓ Make sure your tender/quote does not exclude local SMEs

Where the CSOs permit a three quote process you are permitted to specifically invite the identified local organisations to quote. However, if it is a publicly advertised process (above £50k) you would alert the local organisations to the opportunity, but will not be able to restrict the opportunity to local organisations

### **How to 'Think Local'**

1 Are there suitable organisations in the B&NES area that could deliver the contract?

If yes, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).

2 If there are no suitable organisations in the B&NES area, open up your search to the West of England. If suitable organisations exist in this area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).

3 If no suitable organisations exist in B&NES/West of England, consider opening out your search to the South West. If suitable organisations exist in this area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).

4 If no suitable organisations exist in the B&NES/West of England/South West, consider looking for organisations in the Western Gateway region. If suitable organisations exist in this



area, invite them to quote or alert them to the tender opportunity (depending on spend and CSO requirements).

<b>Region</b>	<b>B&amp;NES</b>	<b>West of England</b>	<b>South West</b>	<b>Western Gateway</b>
<b>Extent of coverage (some coverage overlaps)</b>	Bath & North East Somerset	B&NES Bristol North Somerset South Gloucestershire	Gloucestershire to Cornwall and across to Wiltshire and Dorset	From Wiltshire to Glamorgan (South Wales)

# **PART 4 CODES & PROTOCOLS**

## **4.1 PROTOCOL ON COUNCILLOR / OFFICER RELATIONS**

**Approved by the Council on 12 September 2002 and updated following consultation with Group Leaders in November 2012. Job titles amended in June 2018, in line with the Council's revised staffing structure.**

### **4.1.1 INTRODUCTION**

The relationship between Councillors and officers is an essential component of the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of the Paid Service with issues of interpretation determined by the Monitoring Officer.

The Protocol must be read and operated subject to any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

Nothing in this Protocol shall be construed as being applicable to the relationship between a political research assistant appointed by the Council and Councillors. Separate considerations apply to the relationship between political research assistants, as officers of the Council and Councillors which are beyond the scope of this document.

### **4.1.2 ROLES OF COUNCILLORS AND OFFICERS**

The respective roles of Councillors and officers can be summarised as follows: Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and to the authority, and to carry out the authority's work under the direction and control of the Council, the Cabinet, and relevant committees, etc.

Mutual respect between Councillors and officers is essential to good local government

### **4.1.3 Councillors**

Councillors have five main areas of responsibility:

- (a) determining the policy of the authority and giving it political leadership,

(b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services'

(c) representing the authority externally,

(d) acting as advocates on behalf of their constituents and

(e) making decisions.

It is not the role of Councillors to involve themselves in the day to day management of the authority's services.

#### **4.1.4 Members of the Executive/Cabinet, Chairs and Vice Chairs**

Members of the Executive/Cabinet and Chairs and Vice Chairs of Committees, Boards, Panels etc. have additional responsibilities. Because of those responsibilities, which are set out in the Council's Constitution, their relationships with employees may be different from, and more complex than those of Councillors without those responsibilities and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the authority.

#### **4.1.5 Other Councillors**

As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of scrutiny and overview. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the administration's legitimate expectations of officers, particularly those at a senior level in the organisation, will differ from that of other political groups.

#### **4.1.6 Officers**

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express their own professional views and recommendations. Whilst an officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

Certain officers e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Executive Director - Resources (S151)) and the Statutory Chief Officers (the Education Director and Director for People) have responsibilities in law over and above their obligations to the authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct officers in the proper discharge of these responsibilities, and must not victimise officers for properly discharging these responsibilities.

## **EXPECTATIONS**

### **4.1.7 Councillors can expect from officers:**

- (a) A commitment to the authority as a whole, and not to any political group
- (b) A working partnership
- (c) An understanding of and support for respective roles, workloads and pressures
- (d) Timely response to enquiries and complaints – as a minimum standard the Council's targets for public enquiries of acknowledgement within 5 working days and substantive reply within 20 days will apply.
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) Awareness of and sensitivity to the political environment
- (h) Respect, dignity and courtesy
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality. This will include the right for Councillors to make, and officers to respect, requests for confidential information and correspondence will not be copied by officers to any other Member unless it is considered, in the circumstances, that the officer is under a legal duty to do so. Where it is necessary to copy the correspondence to another Member, this will be made clear in the correspondence with the Councillor who initiated the correspondence.
- (k) Not to have personal issues or concerns raised with them or about them by officers other than via agreed procedures
- (l) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- (m) That officers will at all times comply with the relevant Code of Conduct

(n) Support for the role of Councillors as the local representatives of the authority, within any scheme of support for Councillors which may be approved by the authority, subject to the limitations outlined at 3.4 below.

(o) Assistance by way of information and advice but only insofar as (i) the volume and frequency of request is within manageable bounds and (ii) the effect of providing such information and advice could not be detrimental to agreed Council policy or properly authorised decisions.

#### **4.1.8 Officers can expect from Councillors:**

(a) A working partnership

(b) An understanding of and support for respective roles, workloads and pressures

(c) Political leadership and direction

(d) Respect, dignity and courtesy

(e) Integrity, mutual support and appropriate confidentiality

(f) Not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of officers in determining what are reasonable requests, having regard to the fact that Councillors represent the employer and the potential vulnerability of officers, particularly at junior levels

(g) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly

(h) That Councillors will at all times comply with the relevant Code of Conduct

(i) Not to be the subject of public personal comment by or criticism from Councillors and that concerns or comment will only be made or expressed in accordance with Section 5.

(j) Recognition that officers work for the Council, not for individual Members, and it is for the Council and not the individual Member to set priorities when it comes to the allocation of Council resources subject to the statutory and common law rights of Councillors and the law.

(k) To be allowed to progress approved Council policy subject to appropriate scrutiny.

#### **4.1.9 Limitations upon Behaviour**

The distinct roles of Councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

(a) Close personal relationships between Councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or officer may secure advantageous treatment.

(b) The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of officers, both in relation to personal matters and party political issues.

(c) Relationships with a particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

(d) To ensure that the distinct roles of Councillors and Officers are maintained and that the public perception is that of an appropriate professional relationship, it is advisable at meetings at which the public are present for Councillors and Officers to address each other by appropriate titles and surnames.

As employer, the Council has a duty to provide and maintain a working environment which is reasonably tolerable to all its employees and to protect them insofar as it is able to from unacceptable treatment and behaviour and unauthorised interference in work duties. All Councillors, as representatives of the employer, must ensure that they discharge their duties as employer fairly and impartially and not do anything to undermine the relationship of mutual trust and confidence which must exist between the Council and its employees. It should be noted that the more influential position with the Council a Councillor holds, the more it is likely that his or her views or actions could be deemed to be those of the Council acting in his capacity as employer.

In seeking advice and support, Councillors should have due regard to the seniority of the officer with whom they are dealing and recognise that whilst these officers owe an overriding duty to the Council as a whole, such duties are first owed in practice to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff unless they are duly authorised to do so by the Council's Constitution or the office which they hold. If so authorised, instructions should be given to the relevant Director and not to a more junior officer other than with the agreement of the Director concerned.

A number of broad propositions may be drawn from the above which are stated in Section 6 as broad statements of principle which will be used to aid interpretation of this document and other documents that concern the rights and obligations of Members and Officers towards each other.

#### **4.1.10 POLITICAL GROUPS**

The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the authority. It is in the interests of the authority to support effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of officers.

#### **4.1.11 Reports:**

(a) Political groups may request the Chief Executive to prepare or arrange for the preparation of a written report on matters relating to the authority for consideration by the group. The Chief Executive will consider whether it is proper so to do.

(b) Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

(c) Where a report is prepared for a political group, the Chief Executive will advise all other groups that the report has been prepared and will provide a copy of that report to any group upon request.

#### **4.1.12 Officer Attendance**

(a) Any political group may request the Chief Executive to attend or arrange for another officer to attend a meeting of the group to advise on any particular matter relating to the authority.

(b) The Chief Executive may arrange for the attendance of a representative in their stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be improper to attend

(c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

(d) Where an officer attends a political group, the Chief Executive will advise all other groups that the officer has attended and the subject upon which he/she has given information

(e) Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

#### **4.1.13 WHEN THINGS GO WRONG**

#### **4.1.14 Procedure for officers**

An Officer should not raise matters relating to the conduct or capability of a Member other than in a confidential way. Where an Officer feels that she/he has not been properly treated with respect and courtesy by a Councillor, they should raise the matter with their



Director or the Chief Executive as appropriate. As a normal rule, the Officer concerned should approach the Member in confidence first if they consider they are able to do so to explain their concerns. In the event either that this is unsuccessful, or the Officer concerned considers he/she cannot take this course of action, their line manager will consider what action should be taken and will involve the individual Member and/or their Group Leader in those discussions.

The aim of these discussions is to resolve the matter by conciliation and accommodation, rather than by more formal means. Nevertheless, it must be recognised that an Officer, like anybody else, is entitled to make an allegation of a breach of the Code of Local Conduct for Councillors to the Monitoring Officer. It should be noted that the Council's Grievance Procedure is inappropriate in these circumstances and the Council's Bullying and Harassment Policy provides that concerns about the conduct of elected Members should be referred to the Monitoring Officer.

#### **4.1.15 Procedure for Councillors**

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate officer's Director. Where the officer concerned is a Director the matter should be raised with the Executive Director - Chief Operating Officer and, when the officer is the Executive Director - Chief Operating Officer, with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer who will discuss the issues raised with the Group Leaders. In all cases, the officer with whom the issue is raised will report back to the Councillor concerned, giving as much information as he/she can as to the conclusions he/she has reached.

The procedure for Councillors is only appropriate where the Councillor's concerns arise in his or her capacity as a Councillor, rather than as a service user or individual affected by the Council's decisions. If this is the case, then the Councillor's concerns as an individual should be dealt with in the same way as any other individual's concerns by reference to the appropriate complaints procedure.

#### **4.1.16 GENERAL PROPOSITIONS**

Set out below are some general propositions commended to the Council by the District Auditor. It must be clearly understood that these are no more than general propositions and that nothing that is stated in them in any way affects the overriding principle that a Councillor has rights of access to information, meetings and so on under both statute and common law. This Protocol cannot, nor does it purport to, override those rights. What the general principles seek to do is set out an expectation of the "norm" as a benchmark against which requirements for assistance and information can be assessed. The law is clear that ultimately it will be a matter for the appropriate committee of the Council or the Council Executive (Cabinet) itself to determine whether or not a "need to know" arises albeit that such a decision will clearly be subject to the supervisory jurisdiction of the courts.

Members are generally entitled to receive the information they reasonably require for the purpose of their roles as Councillors, but there must be limits in terms of volume, time

and so on. In the end, it is for the Council to decide what the priorities are for the use of its officers' time.

Officers work for the Council, not for individual Members, and their first and primary efforts must be devoted to carrying out the decisions of the Council.

It is necessary to recognise the difference between Members pursuing legitimate issues or concerns, eg relating to propriety, compliance with Council decision, the quality of Cabinet performance and so on, and unduly interfering with Management and Cabinet tasks.

Councils inevitably are engaged from time to time in transactions where confidentiality has to be maintained if the Council's interests are to be protected, and there needs to be confidence this is being honoured by Members and Officers, as required by the Council's Local Code of Conduct for Councillors and the Employee Code of Conduct.

There are inevitable ambiguities in a relationship between an individual Councillor and outside advisers for whom the Council is formally the client who usually work through named officers. For this reason, Councillors should not approach outside advisers directly and should channel enquiries or issues through the officer contact for that adviser.

There are particular characteristics of e-mail, notably its immediacy, which can create a greater sense of bombardment or harassment than traditional forms of correspondence which needs to be recognised and managed.

The Council has responsibility for staff requiring it to consider whether the behaviour of Councillors might be injurious to individual members of staff and, if so, to consider how such injury could be avoided or minimised.

#### **4.1.17 MANAGEMENT OF THE MEMBER/OFFICER PROTOCOL**

The Chief Executive, as Head of Paid Service, is ultimately responsible for ensuring the legitimate approved policies of the Council are implemented, the proper management of the Member/officer interface and that the Council discharges its duties as an employer towards its employees. It is therefore his or her responsibility to ensure that both the spirit and the letter of this Member Officer Protocol are observed and will fall to him/her, in consultation with the Monitoring Officer, to make judgements as to whether or not it is considered that the Member Officer Protocol has been breached; - for example, if demands of an individual Councillor are excessive or deflecting resources from agreed Council priorities and/or members of staff feel unduly harassed or bullied.

In the event that the Chief Executive considers this to be the case, he or she will review the matter with the Councillor concerned, together with their Group Leader. If this meeting does not reach an acceptable understanding, following further consultation with the Monitoring officer and the Group Leader, either or both the following actions may be initiated:-

(i) The Councillor's access to officers may be restricted to a single individual who will have authority to arrange for their concerns and enquiries to be dealt with as appropriate. This may include leaving the matters to lie in the file until either resource of dealing with the matter can be released or deciding that no further action shall be taken. The Councillor concerned will, of course, have the right to request a review by the appropriate Council decision making body.

(ii) In the event that the matter cannot be informally resolved to the satisfaction of all concerned, the Chief Executive may consider that a complaint should be made to the Council's Standards Committee. This will be processed in accordance with the Standards Committee's agreed procedure.

Concerns raised by a Councillor about officer conduct will be dealt with in accordance with paragraph 5.2 above.

## **4.2 COUNCILLOR CODE OF CONDUCT**

### **Local Government Association** **Model Councillor Code of Conduct 2020**

#### **4.2.1 Joint statement**

The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.

As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

#### **4.2.2 Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit- for- purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

#### **4.2.3 Definitions**

For the purposes of this Code of Conduct, a “Councillor” means a Member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

#### **4.2.4 Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

#### **4.2.5 General principles of Councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Members must have regard to the [Role Descriptions](#) that have been adopted, and that any Councillor complaints considered by the Standards Committee would use these as a guide.

#### **4.2.6 Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor;

#### **The Code applies to all forms of communication and interaction, including:**

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## 4.2.7 Standards of Councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## 4.2.8 General Conduct

### 1. Respect

As a Councillor:

- I treat other Councillors and members of the public with respect.
- I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor- officer protocol.

## 4.2.9 Bullying, harassment and discrimination as a Councillor:

- I do not bully any person.
- I do not harass any person.
- I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

#### **4.2.10 Impartiality of officers of the council**

As a Councillor:

- I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4.2.11 Confidentiality and access to information**

As a Councillor:

I do not disclose information:

- given to me in confidence by anyone
- acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
- I have received the consent of a person authorised to give it;



- I am required by law to do so;
- the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

the disclosure is:

- reasonable and in the public interest; and
- made in good faith and in compliance with the reasonable requirements of the local authority; and
- I have consulted the Monitoring Officer prior to its release.
- I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.
- I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### **4.2.12 Disrepute**

As a Councillor:

- I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

#### **4.2.13 Use of position**

As a Councillor:

- I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a Member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly

#### **4.2.14 Use of local authority resources and facilities**

As a Councillor:

**1.1** I do not misuse council resources.

**1.2** I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

#### **4.2.15 Complying with the Code of Conduct**

As a Councillor:

**1.3** I undertake Code of Conduct training provided by my local authority.

**1.4** I take into account advice from the Monitoring Officer and the Section 151 Finance Officer.

**1.5** I cooperate with any Code of Conduct investigation and/or determination.

**1.6** I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

**1.7** I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

#### **4.2.16 Protecting your reputation and the reputation of the local authority Interests**

As Councillor:

**1.8** I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

#### **4.2.17 Gifts and hospitality**

As a Councillor:

**1.9** I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

**1.10** I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt. The £25 threshold applies to a series of gifts or hospitality from the same source that add up to £25 or more as an accumulation in any municipal year.

**1.11** I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **4.3 Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

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

#### **Openness**

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

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

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

### **4.4 Appendix B – Registering interests**

Within 28 days of becoming a Member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in Table 2 (Other Registerable Interests).

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

### **Disclosure of Other Registerable Interests**

6. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which affects –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative or close associate;  
or
- c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest
- You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a

Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out their duties as a Councillor, or towards their election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>

<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the Councillor, or their spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued shared capital of that class.
<ul style="list-style-type: none"> <li>• *'director' includes a member of the committee of management of an industrial and provident society.</li> <li>• **'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.</li> </ul>	

## Table 2:

### Other Registerable Interests

You must register as an Other Registerable Interest:

a) any unpaid directorships

b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body

(i) exercising functions of a public nature

(ii) directed to charitable purposes or

(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

**of which you are a member or in a position of general control or management.**

## 4.5 Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

### **The recommendations cover:**

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

### **The Local Government Ethical Standards report also includes Best Practice recommendations. These are:**

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish Councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## 4.6 EMPLOYEE CODE OF CONDUCT

### Introduction

Bath & North East Somerset Council's Code of Conduct sets out the obligations and professional standards expected from employees.

The aim of this Code is to assist employees to perform effectively by ensuring the rules and standards of the organisation are clearly communicated.

The Code of Conduct applies to all employees of Bath & North East Somerset Council and anyone acting as an employee of Bath & North East Somerset Council. Although the Code does not directly apply to contractors, consultants or volunteers, the council's association with individuals carrying out these roles requires them to observe and comply with the Code.

Schools may have a separate Code of Conduct that those employees should adhere to in addition to this Code.

Councillors have a separate Code of Conduct, the 'Local Government Association Model Councillor Code of Conduct'.

### What Guides Us

The public is entitled to expect the highest standards of conduct from all our employees, and the council endorses The Seven Principles of Public Life defined by the Committee on Standards in Public Life. These principles apply to all employees.

### The principles are:

**Selflessness:** Holders of public office should act solely in terms of the public interest. A public officer holder is defined as an office holder who discharges any duty in which the public are interested and is paid out of a fund provided by the public.

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

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

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


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

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

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

**Employees are also expected to conduct themselves in accordance with the Council's Values and Behaviour Framework.**

**Our Values are: Bold, Empowered Supportive and Transparent and the following behaviours are associated with each:**

	<p>We are <b>bold</b> in our approach, set aspirational goals for ourselves and create innovative solutions to tackle problems and adapt to changing circumstances. This value demonstrates that we are proactive, take action and deliver outcomes which improve people's lives.</p>	<p>We are.....</p> <ul style="list-style-type: none"> <li>• Aspirational</li> <li>• Innovative</li> <li>• Proactive</li> </ul>
	<p>We <b>empower</b> our staff and the people of Bath and North East Somerset so that they have the confidence and ability to find solutions for themselves and others. This value demonstrates how we develop our staff so that they are knowledgeable, are trusted to make decisions, able to challenge us and have the authority to be enablers.</p>	<p>We are....</p> <ul style="list-style-type: none"> <li>• Learning</li> <li>• Positive</li> <li>• Inclusive</li> </ul>
	<p>We are <b>supportive</b> and work together to build trusting relationships. Our staff give help and encouragement to the people of Bath and North East Somerset and each other. This value describes how we are curious, collaborative and care for each other, our residents and the environment.</p>	<p>We are.....</p> <ul style="list-style-type: none"> <li>• Curious</li> <li>• Caring</li> <li>• Collaborative</li> </ul>
	<p>We are <b>transparent</b>, honest and accountable. This value demonstrates that we act with integrity, are open to criticism, are honest about our mistakes and want to improve and do better so that we deliver on our promises.</p>	<p>We are....</p> <ul style="list-style-type: none"> <li>• Honest</li> <li>• Accountable</li> <li>• Reliable</li> </ul>

Breaches of the Code may result in action being taken under the council's disciplinary procedure. Serious breaches of the Code may be considered gross misconduct.

#### 4.6.1 Employee's responsibilities

You must consider this Code carefully and comply with it fully as it forms part of the terms and conditions of your employment.

Please ensure you:

- read this policy
- understand it
- ask if there are any points that are unclear
- use this Code of Conduct alongside other council policies to guide you in your role

#### 4.6.2 Managers responsibilities

Managers are responsible for the application of this policy in their work area and should role model the expected standard and behaviours. Managers must ensure this Code is adhered to and will:

- set a positive personal model of behaviour
- ensure standards in the Code are established and communicated
- provide clarification, where required to improve employee understanding
- take appropriate action at the earliest opportunity to manage non-compliance with the standards set out in this Code

#### 4.6.3 Standards of behaviour

The council exists to provide services to the public. Council services are provided in part or in full by employees of the council. Employees must perform their duties to the best of their abilities.

**You are required to:**

- 1.1 Act honestly, with impartiality and objectivity
- 1.2 Act with dignity and treat all others (including colleagues and service users) with courtesy and respect
- 1.3 Work in accordance with the terms and conditions of your contract of employment and job description
- 1.4 Challenge and report dangerous, abusive, discriminatory or exploitative behaviour or practice
- 1.5 Report without delay any misconduct or poor standards, including safeguarding issues using appropriate council procedures as necessary e.g. Whistleblowing
- 1.6 Be committed to delivering quality services to service users in line with the council's purpose of "Improving People's Lives" and its priorities, aims and objectives



- 1.7 Attend work in a condition where you can carry out your duties safely
- 1.8 Understand and act in accordance with the council's values, policies and procedures
- 1.9 Comply with all applicable UK laws, including health and safety legislation, employment law legislation and other relevant codes of conduct

If council employees fail to comply with standards adopted by the council, through their maladministration, impropriety, breach of procedure, direct fraud or misrepresentation, this must be immediately reported to the Chief Executive, Chief Finance Officer, Chief Internal Auditor or their Director in the first instance.

Any suspected financial irregularities or misuse of resources must be reported to the Chief Internal Auditor in compliance with the council's financial regulations. The council's Whistleblowing policy provides guidance on how to report concerns.

#### **4.6.4 Standards of Dress**

You must ensure that your standard of dress and personal ornamentation is appropriate to workplace health, safety and security applicable to your job and work environment.

In all cases you are expected to wear any uniform or PPE correctly, that is required as part of your role.

#### **4.6.5 Security**

You must always visibly display your council issued identification badge whilst you are working in any of the council premises and when acting on behalf of the council at external locations.

#### **4.6.6 Health, Safety and Wellbeing**

As an employee you have a duty to comply with Health and Safety legislation and to protect yourself, residents and the public from physical and psychological harm. This requires the careful examination and management of all risks to ensure your actions (or omissions) do not harm an individual's, health, safety or wellbeing.

#### **4.6.7 Safeguarding**

There is a requirement for the council and its employees to protect children and vulnerable adults. If you have any safeguarding related concerns, you

must promptly speak to your line manager, another manager or the safeguarding lead about your concerns.

#### **4.6.8 Professional Qualifications and Registrations**

Where employment with the council is in a post which requires you to either be registered with a statutory and/or professional organisation, to hold membership of a professional body or hold any other qualification, it is your duty to ensure you comply with the relevant obligation. You should also comply with any duty you may have to inform your professional body of a matter which may impact on your registration or membership. You should inform your manager of the matter too.

You must also ensure that the relevant code of practice is followed during your duties, including formal reporting to the professional body on any matter where there is a duty to do so.

#### **4.6.9 Criminal Charges and Convictions**

The council requires all applicants for jobs to disclose all contraventions of, or failures to comply with, any provisions of law, whether committed in the UK or elsewhere, unless the Rehabilitation of Offenders Act applies, and the rehabilitation period has expired.

Employees must notify the council in writing if:

- arrested in connection with a criminal act
- notified that criminal charges are being considered against you
- charged with any offence
- convicted of any offence

This notice must be given immediately (i.e. the next working day).

In all cases, a failure to disclose relevant information or a deliberate withholding of such information can amount to a breach of trust and confidence and may lead to disciplinary action up to and including dismissal.

Criminal offences committed outside working hours, which bring you or the council into disrepute, will be subject to disciplinary action under the council's disciplinary policy.

#### **4.6.10 Equality, Diversity and Inclusion**

As a council employee you must promote and uphold equality, diversity and inclusion in all aspects of work as this is fundamental to effective service and working relationships. You must not discriminate or condone any discrimination against others.

You must ensure that policies relating to equality, as agreed by the council are complied with in addition to the requirements of the law. All members of the

local community, customers, residents and other employees have a right to be treated fairly and with respect.

The council will not tolerate discriminatory behaviour. Discriminatory conduct will be subject to disciplinary action under the council's disciplinary policy.

#### **4.6.11 Disclosure of Information and Confidentiality**

You should not use any information obtained during your employment for personal gain or benefit, nor should you pass it on to others who might use it in such a way.

You must only discuss or disclose information about people who use services in accordance with legislation and agreed ways of working (i.e. policies, procedures and standards).

You must not disclose information given in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it or unless you are required by law.

You must always comply with the council's Information Governance Policies and Guidelines.

#### **4.6.12 Relationships**

**Councillors** - You must declare any personal relationships with a Councillor. Where the relationship could present a conflict of interest, your manager will need to consider how this will be effectively managed. Some employees are required to give advice to Councillors during their duties. Mutual respect between employees and Councillors is essential to good local government. Please refer to the [Protocol on Councillor/ Officer relations for further guidance.](#)

**Other Employees**- You must declare any personal relationships with other employees where the relationship could present a conflict of interest.

**The Local Community and Service Users**- The council is a public body and we have responsibilities to the community we serve. You should ensure courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the council.

**Contractors**- All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the employee's Director. Orders and contracts must be awarded in accordance with the council's Contract Standing Orders and the Public Contracts Regulations. They must be awarded on merit, by fair competition against other bids, quotations or tenders and no favouritism must be shown to any business. No section of the community should be discriminated against, and employees must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

If you are privy to confidential information on tenders or costs for external or internal contracts you should not disclose that information to any unauthorised party or organisation.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Director.

#### **4.6.13 Political Neutrality, Professional and Trade Union Activity**

Employees serve the council as a whole. This means they must serve all Councillors and not just those of any one group and must ensure that the individual rights of all Councillors are respected.

The Chief Executive, Directors and other senior staff may also be required to advise political groups. They must do so in a way that does not compromise their political neutrality.

Employees, whether politically restricted or not, must follow every lawful expressed policy of the council and must not allow their own personal or political opinions to interfere with their work. Both the employee's job description and contract of employment will state whether the post is politically restricted and such a restriction becomes a condition of employment.

If you are a workplace representative of a trade union or professional association, you should ensure that when you make public comment, it is clear that comment is made on behalf of the union or association you represent and not the council.

#### **4.6.14 Appointments and other Employment Decisions**

Employees involved in appointments should ensure that these are made based on merit. In order to avoid any possible accusation of bias, employees should not be involved in the recruitment process, decisions related to disciplinary procedures, promotion or pay adjustments where they are related to an applicant/employee or have a close personal relationship with them.

#### **4.6.15 Declaration of Financial and Other Interests**

As an employee you are required under section 117 of the Local Government Act 1972 to declare any financial interest, whether direct or indirect in any existing or proposed contract.

You must declare in writing to the Chief Executive or your Director, any financial or non-financial interests that could conflict with the council's interests (e.g. Chair of a voluntary group receiving financial assistance from the council).

You must declare to the Chief Executive or their Director, membership of any organisation not open to the public without formal membership, and

commitment of allegiance and which has secrecy about rules, membership or conduct.

You should first discuss interests with your manager and declare the interest using the council's Declaration of Interests form.

Failure to disclose a relevant personal or financial interest or failure to comply with the Chief Executive or Director's decision or course of action following disclosure could result in disciplinary action.

#### **4.6.16 Other Employment/Outside Commitments**

Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take any additional employment or take up any position in an organisation, which conflicts with the council's interests or their role in the council. If you are unsure you should seek guidance from your manager.

It is important that you ensure that any additional employment does not conflict with the interests of the council or affect your ability and credibility to do your job. You should not use any council material or information not otherwise in the public domain in the execution of that work.

Generally, what you do outside work is your own personal concern, but you should avoid doing anything that might adversely affect the reputation of the council or bring the council into disrepute. This also means respecting confidentiality and upholding equality, diversity and inclusion. Special care should be taken in respect of social media, and council staff must follow the Social Media Policy Framework which applies in both work and non-work settings.

Inventions, patents and intellectual rights - The rights applying under this heading which were created after 1978 will generally become the property of the council. Provided that they had been made in the course of the employee's normal duty or they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected or it was made in the course of the employee's duties at the time the employee had (because of the nature of their duties and particular responsibilities arising from them) a special obligation to further the interests of the employer. Normal duties shall be those described in the job description or by implicit instructions where there is a temporary change to duties.

#### **4.6.17 Dealing with the Council's Money**

All employees must ensure that they use public funds entrusted to them in a responsible and lawful manner and in accordance with the council's financial regulations (and related Codes of Practice and Contract Standing Orders). They should strive to ensure value for money to the local community and to avoid legal challenge to the council.

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness. Where a conflict is identified, the member of staff concerned must not take any further part in the tender, to preserve the integrity of the process.

Employees must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.

Employees should ensure that special favour is not shown to current, recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

Employees should endeavour to ensure that the supplier does not employ a former council employee when producing and submitting the response to the tender. This will ensure that all suppliers in the tendering process are treated fairly and that no one supplier is given a tendering advantage and respects council confidentiality.

Any financial irregularities or misuse of resources must be reported to the Chief Internal Auditor in compliance with the council's financial regulations or via the Whistleblowing policy.

#### **4.6.18 Gifts and Hospitality**

Employees should only consider acceptance or giving offers of hospitality if there is a genuine need or in situations where the council should be represented. They should be properly authorised and recorded here on the Register.

When receiving authorised hospitality employees should be sensitive to its timing in relation to any decisions the council may be taking which could affect those providing the hospitality.

When hospitality must be declined those making the offer should courteously but firmly inform of the procedures and standards operating within the council.

Employees must not accept gifts from contractors, suppliers, customers, etc. other than modest gifts of a promotional nature, and of nominal value, such as calendars, diaries, and pens. Any unsolicited gifts to staff must be reported and discussed with their manager prior to the formal declaration being completed. During times such as Christmas and other religious holidays, when it is likely that a number of separate unsolicited gifts are received. This can be recorded as a single declaration by the line manager.

Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal, where the council gives consent in advance

through the declaration process and where the council is satisfied that any purchasing decisions are not compromised.

Employees must be aware that it is a serious criminal offence for them to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

Further guidance can be found here.

#### **4.6.19 Sponsorship - Giving and Receiving**

Where an outside organisation wishes to sponsor or is seeking to sponsor a council activity, whether by invitation, tender, negotiation or voluntarily, the conventions concerning acceptance of gifts or hospitality apply. Care must be taken when dealing with contractors or potential contractors.

Where the council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure/ formal declaration to the Chief Executive or their Director of any such interest. Similarly, where the council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest.

#### **4.6.20 Use of Council Property, Facilities or Equipment**

The council's property and facilities are provided for official business. You are responsible for taking reasonable steps to ensure the safety and security of any equipment provided to you. All council owned equipment and devices must be returned on leaving council employment, and any council owned or supplied data must be deleted. Access to systems used for council purposes must be terminated permanently.

#### **4.6.21 Email and Internet**

Email and internet are available for work use. External email is not secure, and you must take this into account when choosing how personal and confidential information is communicated.

You should not make inappropriate comments by email or whilst using a chat function, and employees should be aware that contracts formed by email or over the internet will be legally binding. Any contractual agreement offers, or acceptance must only be made electronically if you have the authority to do so or where specific management authorisation is given in accordance with the council's Contract Standing Orders Scheme of Delegations. For further guidance please speak to the Procurement Team.

It is recognised that from time to time, email and internet facilities may be used for personal reasons. Use should be brief. Inappropriate and/or excessive

personal use of email or the internet is unacceptable and appropriate disciplinary action will be taken.

For further guidance please refer to the council's Email and Internet Access Guidelines.

#### **4.6.22 Social Media**

Social media has become a useful tool for communications and interaction, both personally and professionally. The council does not allow access to social networking websites for personal use during work time.

Proportionate use of council networking forums such as Yammer during working time is supported, but you must ensure that all communications abide by the same standards as email use and follow guidelines. Access to social networking sites is also permitted if it is relevant work.

You must always act in the best interest of the council and comply with the Social Media Framework, including confidentiality.

The council respects employees' right to a private life, and you are encouraged to exercise discretion and use social media responsibly.

Employees have a responsibility to ensure their social media activity does not bring the council into disrepute, and that you follow appropriate guidelines and frameworks that apply to the role you are carrying out. Note that this applies regardless of whether council or personal IT systems and hardware are being used.

For further guidance please refer to the Council's Social Media Policy Framework.

#### **4.6.23 General Employment Standards and Rules**

All employees must also be aware of the council's General Employment Standards and Rules.

#### **4.6.24 Communications and Marketing**

The Communications and Marketing Team is responsible for council press statements, direct liaison with news media and corporate social media accounts. On no account should staff give political advice, departmental information or disclose confidential information to any outside agency without prior permission from the Chief Executive.

In general, all communications with the media relating to activities of the council are handled through the Corporate Communications Team. You are not permitted to communicate with the media on matters relating to the activities of the council without authorisation from the Corporate Communications Team.



If you are contacted by journalists, you should refer them to the Corporate Communications Team. This is not intended to prevent or deter lawful whistleblowing.

#### **4.6.25 General**

Any breach of this Code of Conduct may be treated as misconduct which could lead to disciplinary action, including dismissal in appropriate cases. For the avoidance of doubt, employees should seek advice from their manager or Director should they have any queries.

The interpretation of this code will be in accordance with the procedural guidance to employers issued with the national code by the Local Government Management Board on behalf of the local authority associations.

# **PART 5 MEMBERS' ALLOWANCES SCHEME**

## 5.1 COUNCILLORS' ALLOWANCES

1. The Bath & North East Somerset Members' Allowances Scheme was approved by Bath & North East Somerset Council on the date stated in [Schedule 1](#) in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations").
2. This Scheme replaces all previous Members' Allowances Schemes.
3. The Allowances in [Schedule 1](#) are implemented for each financial year with effect from 1st April, and any uplifts or changes to Members' Allowances are implemented on the same date and by the same amount as officers' salaries are adjusted, in line with the National Joint Conditions.
4. Any other amendments to the scheme will be solely determined by the Council following receipt of recommendations from the Independent Remuneration Panel.
5. In this scheme "Councillor" means a Member of the Bath & North East Somerset Council who is a Councillor; "year" means the 12 months ending with 31 March.

### 5.1.1 Allowances for Councillors

1. The Director of People & Change of Bath & North East Somerset Council is authorised, on receipt of verification from the Head of Legal & Democratic Services of a claim from a Member, to pay the following allowances in accordance with the payment arrangements described in this scheme.
2. **Basic Allowance:** A basic allowance for each year shall be paid to each Councillor, subject to any exceptions or qualifications described elsewhere in the scheme. Schedule 1, Part 1 to this scheme sets out the current rate.
3. **Special Responsibility Allowances:** A Special Responsibility Allowance for each year, or part year, shall be paid to those Councillors who have been appointed or recognised by the Council, or have been notified to the Chief Executive or Head of Legal & Democratic Services by their Group as holding the special responsibilities in relation to the Authority that are specified in [Schedule 1, Part 1](#) to this scheme, subject to any exceptions or qualifications described elsewhere in the scheme.
4. A Special Responsibility Allowance for each year shall be paid to the independent co-opted members of the Avon Pension Fund Committee and its Investment Panel for the amounts(s) specified in [Schedule 1, Part 2](#) of this Scheme, subject to any exceptions or qualifications described elsewhere in the scheme.

### 5.1.2 General

1. **Attendance Allowance:** No attendance allowance shall be payable under this scheme, either for Council duties per se, or in respect of appointments to outside bodies.
2. **Renunciation:** A Councillor may by notice in writing given to the Head of Legal & Democratic Services elect to forego any part of her/his entitlement to an allowance under this scheme.

3. **Part-year Entitlements:** In accordance with the requirements of the Regulations, pro-rata payments of Basic Allowance or Special Responsibility Allowances shall be payable to eligible Councillors in any of the following circumstances:-

- a. if an amendment to this scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance
- b. where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year
- c. if a Councillor accepts or relinquishes a special responsibility.

4. **Payment:** Payment of Basic and Special Responsibility Allowances shall be made in equal instalments. The frequency of those instalments shall be monthly. The Authority reserves the right to cease payment or recover any payments which may become recoverable under the provisions of the relevant paragraphs of this scheme.

5. **Travel, Subsistence and Carers Allowances:** Travel, subsistence and Carers' allowances may be claimed by Councillors as set out in [Schedule 1, Part 1](#) to this scheme.

6. These claims shall be made at the end of the month following the month in respect of which the claim relates via the online claim system.

### 5.1.3 Travelling, Subsistence and Dependant Carers' Allowances

1. This part is in accordance with Sections 174-175 and Regulations made under the Local Government Act 1972. It applies to Councillors, Co-opted Members and Members of Education Appeals Panels.

2. **Travelling Allowances:** Travelling allowances may be claimed in respect of each occasion on which one of the persons described above carries out an Approved duty ([Schedule 1, part 3](#)).

3. If a claimant uses their own motor car or one belonging to a member of her/his family, or otherwise provided for their use and subject to the claimant having the appropriate insurance, the rate for travel, which is the same as for officers using their own vehicles on a casual basis, shall be as stated in [Schedule 1, Part 1](#) to this scheme.

4. The distance claimed for mileage should be the shortest most reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.

5. **Subsistence Allowances:** Where absence from normal place of residence is greater than 5 hours, but only in respect of activities outside of the Council's boundaries, subsistence claims will be met on the basis of actual expenditure subject to the following:

- The expenditure is considered reasonable.
- Receipts are submitted with the claim.
- Claimant must be prepared to justify expenditure if asked to do so.

6. In order to claim subsistence allowance, a claimant must have personally incurred expenditure on subsistence. The amounts that can be claimed are the same as those which apply to officers and shall be updated accordingly.

7. Councillors and co-optees may aggregate daily subsistence allowances and be reimbursed for such expenditure when supported by receipts.

8. Where a meal is provided or paid for by the Council during the course of an approved duty the claimant will not be entitled to claim subsistence allowance.

**9. Dependants' Carers' Allowances:** Councillors may claim up to the maximum hourly rate specified in [Schedule 1, Part 1](#) to this scheme in respect of the expenses for the care of their children or other dependants when attending meetings of the Council, its subordinate bodies or other approved duty as described elsewhere in this scheme or carrying out work in their wards within the following categories:-

- community meetings (e.g. PACT, residents' associations etc); community consultation; site visits with officers/residents/businesses/voluntary organisations; advertised Ward surgeries held by the Councillor.

10. Every claim must be supported by a receipt signed by the carer. Every claim must be based on documentary evidence of the duties carried out being in existence and made available by the Councillor if requested.

## 5.2 Schedule 1 Part 1 – Allowance Amounts

Current year - 2023/24

### Basic and Special Responsibility Allowance - Amounts

<b>Basic Allowance</b>	£10,662
<b>Special Responsibility Allowances:</b>	
Leader of the Council	£35,677
Deputy Leader of the Council	£21,424
Cabinet Members	£21,424
Cabinet Project Lead	* £10,622 (* tied to basic allowance amount)
Policy Development & Scrutiny Panel Chairs	£8,982
Chair Planning Committee	£16,172
Vice Chair Planning Committee	£3,934
Chairs of Licensing Sub-Committees	£5,554
Chair Avon Pension Fund Committee	£5,554
Avon Pension Fund Committee Members	£4,237
Fostering Panel Member	£4,237
Political Group Leaders	£428 per Member
Minority Group Leaders	£2,655
Chair of the Council	£10,597
Vice Chair of the Council	£2,684

## **Mileage Allowance**

The Council adheres to the HMRC mileage rates as website:

<https://www.gov.uk/government/publications/rates-and-allowances-travel-mileage-and-fuel-allowances/travel-mileage-and-fuel-rates-and-allowances>

## **Dependent carers' allowance**

The maximum hourly amount allowed to be claimed for any care support should be the Real Living Wage, this figure should be updated annually based on changes to the Real Living Wage.

<https://www.gov.uk/national-minimum-wage-rates>

### **5.3 Schedule 1 Part 2 – Avon Pension Fund**

#### **Avon Pension Fund Committee Independent Co-opted Members**

Special Responsibility Allowance for Independent Co-opted Member(s) of Avon Pension Fund Committee

£343 per day for 20 days

Special Responsibility Allowance for Independent Co-opted Member(s) of Avon Pension Fund Investments Panel

£300 per day for 20 days



## 5.4 Schedule 1 Part 3 – Approved Duties

### Approved Duties

An approved duty is an attendance by a Member of the Council at:

- a formal meeting of the Council, the Cabinet, a Cabinet Advisory body, a Non-Executive, Regulatory or Area Committee or Sub-Committee, an Overview and Scrutiny Panel or in pursuance of their duties as a Member Advocate.
- as a member of the body, as a substitute, as a ward Councillor, as a formally invited witness/speaker or in any other capacity relevant to their community governance role.
- any informal meeting, seminar or briefing called by the Cabinet, a Cabinet Member, the Chief Executive, a Director, Assistant Director or Head of Service, where the Member has received an invitation to attend from the person calling the meeting.
- a meeting at which the Member is specifically authorised to attend by the Council, the Cabinet or Cabinet Member, an Overview and Scrutiny Panel or a Committee.
- a meeting of an external or partnership body on which the Council or Cabinet Member has appointed the Member to serve, except those bodies which pay an allowance direct to their members.
- a conference, seminar or training event to which the Member has been appointed to attend, following budgetary authority from the Head of Legal & Democratic Services.
- any function attended by the Chair or Vice Chair of the Council relevant to their roles in those offices.
- attendance at Political Group meetings held on Council premises, supported by the Political Group Assistant or Group Support Officer to a maximum of 15 meetings in any one financial year.
- Attendance at a parish council when there is an issue of relevance to the work of the Council which is of interest to a Councillor within their ward or of interest and relevance to a Portfolio holder within Bath and North East Somerset Council area.

# GLOSSARY

<b>Agenda</b>	This sets out the business to be conducted at Council meetings and must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.
<b>Annual Governance Statement</b>	<p>The Annual Governance Statement is a statutory document which explains the processes and procedures in place to enable the Council to carry out its functions effectively.</p> <p>The statement is produced following an annual review of the Council's governance arrangements and the effectiveness of its system of internal control. The statement includes an action plan to address any significant governance issues identified.</p> <p>The Annual Governance Statement is prepared in accordance with the <b>CIPFA</b> Framework. The Annual Governance Statement must be published by the Council by 31 July each year. It is usually published alongside the Council's <b>Statement of Accounts</b>.</p>
<b>Annual Meeting of the Council</b>	The Annual Meeting of the Council (sometimes referred to as Annual Council or the Annual Meeting) is a special meeting which takes place each year, at which the Council elects a new Chair and Vice Chair of Council and agrees the appointment of Councillors to committees and outside bodies. In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Council will take place in March, April or May.
<b>Authority</b>	The Council as a corporate body is sometimes referred to as the Authority.
<b>Avon Fire Authority</b>	Avon Fire Authority provides the Avon Fire & Rescue Service. The Fire Authority consists of Councillors appointed by the four Councils in the former Avon area.
<b>Avon &amp; Somerset Police &amp; Crime Panel</b>	The Police and Crime Panel is composed of Councillors from each Authority in the Avon and Somerset Police area, along with co-opted members, to act as part of the national arrangements for police governance.

<b>Background Papers</b>	Documents on which reports are primarily based which relate to agenda items and meetings and which must be referred to in the reports with the agenda for inspection by the public, in accordance with the Access to information Rules.
<b>Best Value</b>	<p>The 'Best Value Duty' is a legal duty on the Council, in accordance with section 3 of the Local Government Act 1999. This general duty of Best Value requires the Council to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.</p> <p>When reviewing service provision, the Council should consider overall value, including economic, environmental and social value.</p>
<b>Budget</b>	<p>All the financial resources allocated to different services and projects.</p> <p>With regards to the Council's budget, that means the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting virement limits, as a whole.</p>
<b>Budget Council Meeting</b>	The meeting of the Full Council that takes place each year in February, in order to calculate the budget requirement and set the council tax.
<b>Cabinet</b>	The Executive committee comprising the Leader of the Council and up to 9 individual Cabinet Members appointed by the Leader.
<b>Cabinet Member</b>	A Member of the Cabinet, with specific responsibilities (a 'portfolio') delegated by the Leader of the Council. Also known as 'portfolio holders' and Executive Members.
<b>Call-In</b>	A mechanism, which allows a Scrutiny Committee to examine, and challenge, an Executive decision delaying the implementation.

<b>Chair</b>	The Member who presides over a meeting of the Council, Cabinet, Committees, Sub-Committees or Panels.
<b>Chief Executive</b>	The most senior officer, with overall responsibility for the management of the Council, also known as the Head of Paid Service.
<b>Chief Finance Officer</b>	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Executive Director - Resources (S151).
<b>Chief Officer</b>	The most senior Council staff who are responsible for managing each of the Council's departments, as defined in section 2 of the Local Government and Housing Act 1989. It means the Council's Chief Finance Officer, as well as any officers that report directly to the Head of Paid Service (but does not include secretarial, clerical or support staff). The Council's Directors are chief officers
<b>CIPFA</b>	The Chartered Institute of Public Finance and Accountancy.
<b>Close of business</b>	For registering statements and questions, close of business is taken to by 5pm Monday – Thursday and 4.30pm on a Friday.
<b>Code of Conduct for Councillors</b>	The Code which sets out the standards of behaviour expected of Councillors and co-opted members.
<b>Code of Conduct for Officers</b>	The Code which sets out the standards of behaviour expected of officers/employees.
<b>Code of Corporate Governance</b>	The Code setting out the Council's governance framework. The Code of Corporate Governance is prepared in accordance with the CIPFA Framework.
<b>Committee</b>	A Committee authorised to make executive or non-executive decisions.
<b>Confidential Information</b>	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
<b>Constitution</b>	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.

<b>Contract Standing Orders</b>	The rules which set out how the Council buys goods and services and enters into contracts.
<b>Co-optee/Co-opted member</b>	A person that is not elected who is appointed to serve on a Committee/Sub-Committee in an advisory capacity with or without voting rights.
<b>Corporate Audit Committee</b>	The Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.
<b>Council companies</b>	A company in which the Council is a shareholder.
<b>Council Functions</b>	Activities which can only be the responsibility of Council
<b>Councillor</b>	A person elected by voters to be a Member of the Council. Also known as a 'Member' of the Council.
<b>Planning Code of Conduct</b>	The Code which sets out the standards of behaviour expected of Councillors on Planning Committee
<b>Council and Cabinet Forward Plan</b>	A list of all major decisions to be made by Council and key decisions to made by Cabinet.
<b>Deputy Leader</b>	One or more Councillors nominated to the position of Deputy Leader by the Leader of the Council. Only one Councillor can be the statutory Deputy Leader.
<b>Data Protection Legislation</b>	Means all privacy laws applicable to personal data including the Data Protection Act 2018 and regulations made under it and the UK General Data Protection Regulation; together with all codes of practice and other statutory guidance issued by the Information Commissioner's Office.
<b>Designated Officer</b>	For the purposes of officer delegated powers within this Constitution, the term "Designated Officer" shall include the following officers: <ul style="list-style-type: none"> <li>• The Chief Executive</li> <li>• The Executive Director - Chief Operating Officer</li> <li>• Directors</li> <li>• Heads of Service</li> </ul>

<b>Development Plan</b>	Development plan and development plan documents include the local plan, neighbourhood plans, and other information contained in section 38 Planning and Compulsory Purchase Act 2004.
<b>Executive</b>	The collective term for the Leader of the Council and individual Cabinet Members, the Cabinet or a committee of the Cabinet.
<b>Executive Functions</b>	The majority of the Council's functions, which are the responsibility of the Leader of the Council or if he or she decides by the Cabinet, individual Cabinet Members, a committee of the Cabinet, a joint committee, another local authority, or officers. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be non-executive functions are, by default, executive functions.
<b>Executive Member</b>	Leader of the Council, Deputy Leader of the Council and other Cabinet Members.
<b>Exempt Information</b>	Information falling into one of the categories set out in the law which usually cannot be publicly disclosed – see the Access to Information Procedure Rules.
<b>Financial Procedure Rules</b>	The Rules which sets out how the Council's financial procedures operate to safeguard public money.
<b>Five Clear Days</b>	<p>The period during which copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Procedure Rules. The period of five working days not counting;</p> <ul style="list-style-type: none"> <li>• the day of the meeting</li> <li>• the day on which the meeting is called</li> <li>• days which fall at the weekends, public holidays or bank holidays.</li> </ul>
<b>Full Council</b>	The meeting of all Councillors of the Council.
<b>Forward Plan</b>	A document which indicates what key decisions are likely to be made by or on behalf of the Cabinet, or another committee or body.

<b>Group Leaders</b>	People appointed by a political group to act as the leader of that group of Councillors.
<b>Head of Paid Service</b>	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.
<b>Head of Service</b>	The second most senior Council staff, that report directly to the Council's Chief Officers.
<b>Independent Persons Panel</b>	The Panel established by the Council to review the recommendations of the Investigation and Disciplinary Committee into Statutory Officer discipline and compile a recommendation of its own for consideration by the Full Council.
<b>Investigation and Disciplinary Committee</b>	The Committee as referred to in the JNC Conditions of Service for Chief Executives and Chief Officers. It is the Committee appointed to consider disciplinary issues in relation to the Council's Statutory Officers: the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer.
<b>Joint Arrangements</b>	Services provided in partnership with other Councils or by or on behalf of those Councils, sometimes also with health bodies, police and fire.
<b>Joint Committee</b>	A committee appointed jointly by the Council and one or more other Council's to jointly oversee the carrying out of functions.
<b>Key Decision</b>	<p>An executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council. For these purposes, savings and expenditure are "significant" if they are equal to or greater than £500,000.</p> <p>For clarification, no treasury management decision shall constitute a Key Decision.</p>

<b>Leader</b>	The person elected as the Leader by Full Council. They are responsible for carrying out the executive functions of the Council.
<b>Library</b>	Those documents (Codes/Schemes/Protocols) that don't form part of the Constitution but are closely linked to the Constitution.
<b>Licensing Committee</b>	The committee responsible for the Council's Statement of Licensing Policy including under the Licensing Act 2003 Act and the Gambling Act 2005.
<b>Licensing Sub-Committee</b>	The committee discharging the Council's licensing functions including under the Licensing Act 2003 Act and the Gambling Act 2005.
<b>Local Choice Functions</b>	These are functions specified in Regulations issued under the Local Government Act 2000 Act and which the Council can choose to be either Cabinet or Council functions.
<b>Medium Term Financial Plan (MTFP)</b>	A plan containing future years' resource allocations (revenue and capital).
<b>Member</b>	A person elected by voters to be a Member of the Council. Also known as a Councillor.
<b>Members' Allowances Independent Remuneration Panel</b>	An independent Panel which reviews and makes recommendations to the Council on its remuneration scheme (allowances to Councillors) and the amounts to be paid.
<b>Members' Code of Conduct</b>	A Code prepared and approved by the Council in accordance with the requirements of the Localism Act 2011 that governs the behaviour of Councillors.
<b>Monitoring Officer</b>	The officer charged with ensuring that everything that the Council does is fair and lawful.
<b>Municipal Year</b>	The period of approximately 12 months between two Annual Meetings of the Council, typically held during May.
<b>Non-Executive Functions</b>	These are functions specified in Regulations issued under the Local Government Act 2000 Act and include functions such as those relating to Officers, Planning and Licensing. Non-executive functions may be delegated to Committees, Sub-Committees or Officers under Section



101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.

<b>Officer/Employee</b>	A person employed by the Council to carry out the work of the authority. Officers cannot be Councillors.
<b>Officer Scheme of Delegation</b>	The way in which the officers of the Council can make decisions and which decisions they have the power to make.
<b>Opposition</b>	The next largest political group that isn't the Administration.
<b>Order</b>	Means a Standing Order in the Rules of Procedure.
<b>Planning Committee</b>	The committee of Councillors which makes planning decisions (not delegated to officers) on behalf of the Council.
<b>Policy &amp; Budget Framework</b>	The Full Council is responsible for setting the <b>Policy &amp; Budget Framework</b> . The <b>Policy &amp; Budget Framework</b> sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Full Council can change the <b>Policy &amp; Budget Framework</b> .
<b>Planning Protocol</b>	The code of practice which sets out the standards of behaviour expected of Members of the Planning Committee when sitting on this committee
<b>Policy Development &amp; Scrutiny Panel</b>	This Council's name for Scrutiny Panels. Sometimes also known as Overview & Scrutiny Panels.
<b>Political Balance</b>	Political balance means: <ul style="list-style-type: none"><li>(i) That not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group;</li><li>(ii) That the majority of seats on the body are allocated to a political group holding the majority of seats on the Council;</li><li>(iii) That, subject to (i) and (ii) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority; and</li><li>(iv) That, subject to (i) and (iii) above, the number of seats held by each political group on individual</li></ul>

bodies is proportionate to that group's membership of the Council.

<b>Political Group</b>	Two or more Councillors who have joined together and asked the Proper Officer to be recognised as a political group.
<b>Politically Restricted Post</b>	Employees in politically restricted posts are prevented from having any active political role either in or outside work.
<b>Portfolios/Portfolio Holder/Responsibility</b>	A portfolio describes the specific responsibilities delegated by the Leader of the Council to a Cabinet Member, for which they are the portfolio holder.
<b>Procedure Rules</b>	The rules governing the processes of the Council's decision-making.
<b>Proper Officer</b>	An officer designated as being responsible for a specific function.
<b>Protocols</b>	Codes of Practice, which set out how, for example, various elements of the Council are expected to interact with each other.
<b>Public</b>	Any resident of Bath & North East Somerset of any age and includes a homeless person, a traveller currently within the Council area or a member of the Council's staff provided the subject matter relates to their role as a private citizen. This right also exists for a representative of any Bath & North East Somerset organisation (including businesses, charities etc) or any South West regional or sub-regional organisation that has legitimate legal activity in the Bath & North East Somerset area or whose work affects Bath & North East Somerset citizens.
<b>Public Sector Internal Audit Standards</b>	The UK Public Sector Internal Audit Standards (PSIAS) have been developed to apply across the whole of the public sector in all sectors of government. The PSIAS are based on standards issued by the Institute of Internal Auditors (IIA), with additional requirements and interpretations that make them directly applicable to the UK public sector. The PSIAS are developed jointly by the relevant internal audit standard setters (RIASS) for central government, local government, devolved government administration bodies and the National Health Service (NHS). The PSIAS set out requirements which apply generally to all UK public sector engagements, but do not

include any sector requirements or guidance for specific parts of government.

<b>Quorum</b>	The minimum number of voting Members who have to be present before a meeting can take place.
<b>Regulatory Committees</b>	Committees appointed by the Council to be responsible for functions such as planning and licensing.
<b>Returning Officer</b>	An Officer designated by the Council to fulfil the duties of Returning/Acting Returning Officer in Parish, District, European and General Elections.
<b>Scrutiny</b>	Providing support and advice to the Executive by contributing to the review and development of policy; holding the Executive/Cabinet to account by questioning, challenging and monitoring their performance (see Call-in). Also known as Overview & Scrutiny or Policy Development & Scrutiny.
<b>Section 151 Officer</b>	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Chief Finance Officer.
<b>Standards Committee</b>	A Committee responsible for promoting and maintaining high standards of conduct by Councillors and considering written allegations that a Councillor has failed to comply with their Code of Conduct.
<b>Statement of Accounts</b>	The Statement of Accounts inform interested parties of the Council's finances and includes such information as the Council's assets and liabilities at the end of the financial year, the cost of the services provided by the Council and the way in which these services were financed. These must be published by the Council by 31 July each year.
<b>Statutory Officers</b>	These are officers that the authority must have in place, some of which may be combined and some of which cannot, but they all have additional personal responsibilities. In this council they are the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.
<b>Statutory Scrutiny Officer</b>	This is the designated officer for overseeing the overview & scrutiny function.

<b>Sub-Committee</b>	A sub-committee authorised to make executive decisions and non-executive decisions.
<b>Treasury Management</b>	Treasury management functions are those functions carried out in accordance with the approved Treasury Management Strategy. The Chief Finance Officer is responsible for the Treasury Management Strategy.
<b>Virement</b>	Moving funds from one area of expenditure to another.
<b>Weekly list</b>	The publication that the Council issues each week which contains notice of proposed executive decisions, and a record of executive decisions made.
<b>West of England Combined Authority (WECA)</b>	The West of England Combined Authority is a combined authority within the West of England area, consisting of the local authorities of Bristol, South Gloucestershire, and Bath and North East Somerset. The combined authority is led by the Mayor of the West of England.
<b>West of England Joint Committee</b>	The Joint Committee is the decision-making body for issues relating to the West of England Combined Authority, Bath & North East Somerset, Bristol, North Somerset and South Gloucestershire councils, and the West of England Local Enterprise Partnership (LEP)
<b>Western Gateway</b>	The Western Gateway Sub-national Transport Body is formed by an alliance of eight Local Authorities and one Combined Authority that have committed to work together to drive innovation, facilitate the transition to a decarbonised transport system, maximise economic growth and improve industrial productivity by strengthening travel connections to local, national and international markets.
<b>Whip</b>	A Member of a political group may be appointed to ensure discipline amongst other Members of the same political group. A whip's role included ensuring Members of the party vote according to the party platform. In certain regulatory functions such as Planning and Licensing, Councillors are required to act independently and are not subject to the group/party whip. Special training is arranged for Councillors for this.