



# CONSTITUTION

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# CONSTITUTION

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# *EXECUTIVE SUMMARY*

## *THE COUNCIL'S CONSTITUTION*

The Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### ***What's in the Constitution?***

Article 1 of the Constitution commits the Council to improving Island life.

Articles 2-14 explain the rights of citizens and how the key parts of the Council operate.

### ***How the Council operates***

The Council is composed of 48 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee advises them on the code of conduct.

All Councillors meet together as the Full Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the revenue budget and capital programme each year. The Full Council appoints the Leader of the Council. Full Council is the main policy arena for the Authority. Whilst the budget and many plans and strategies will be proposed by the Cabinet, Full Council has complete freedom in deciding whether to accept or amend these proposals, or indeed replace them completely. The full Council meeting is also the main setting for holding the Cabinet to account, providing an opportunity for Cabinet members to be questioned by Councillors or, indeed, members of the public.

### ***How Decisions Are Made***

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and 9 other Councillors. When major decisions are to be discussed or made, these are published in the forward plan in so far as they can be anticipated. Meetings of the Cabinet will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the approved budget or existing policy, this must be referred to the full Council to decide.

## **Overview and Scrutiny**

### **Staff**

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

### **Citizens' Rights**

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- inspect agenda and reports and attend meetings of the full Council, the Cabinet, Scrutiny Committee and Regulatory Committees except where, for example, personal or confidential matters are being discussed;
- [~~petition to request a referendum on a mayoral form of Executive~~ There having been a referendum in May 2005, registered voters on the electoral roll for the Isle of Wight will have the right to, sign a petition to request a referendum for an elected mayor form of Constitution at any time from May 2010.;](#)
- participate in the Council's question time and contribute to investigations by the Scrutiny Committee if invited to do so;
- find out, from the forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council about any aspect of the Council's business;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Board for England if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and

- inspect the Council's accounts as part of the annual audit and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Committee Services Section of the Council on 823288.

# *ARTICLE 1 - THE CONSTITUTION*

## **Powers of the Council**

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

## **The Constitution**

This document, including the appendices, is the Constitution of the Isle of Wight Council.

## **Purpose of the Constitution**

The purpose of the Constitution is to:

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

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

## ARTICLE 2 - MEMBERS OF THE COUNCIL

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

- (a) **Composition.** The Council is made up of 48 members, otherwise called Councillors. One Councillor will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters on the Isle of Wight or those living or working here will be eligible to hold the office of Councillor.

### **Election and terms of Councillors**

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2001. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

**Transitional arrangements** where an elected member holds one of the posts described in this Constitution and they are re-elected at an ordinary election they will continue in that post until the annual meeting of the Council immediately following that ordinary election.

### **Roles and functions of all Councillors**

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iii) effectively represent the interests of their electoral division and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council; and
  - (vi) maintain the highest standards of conduct and ethics, in accordance with their Code of Conduct
- (b) **Rights and duties**
  - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in this Constitution.

### **Members Job Profiles**

A detailed list of various Member Job Profiles are set out later in the Constitution.

### **Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out later in this Constitution.

### **Allowances**

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in this Constitution.



## **MEMBERS JOB PROFILES**

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

Elected Members have a number of distinct roles and the responsibilities, duties and entitlements vary for each of these roles. However there are a number of generic duties and entitlements that apply to ALL Elected Members regardless of what other role they may have. These are detailed below.

#### Duties

1. To promote good community relations, ensure greater public/stakeholder participation and take and encourage steps to eliminate unlawful discriminatory practices and attitudes within and outside the Council.
2. To assist in driving efforts of the Council in reducing crime and eliminate inequality of opportunity and unlawful discrimination.
3. To declare any personal or prejudicial interests in issues being considered by the Council in any way and to take any action, including withdrawal from meetings as required to maintain impartiality.
4. To be available to be appointed to outside bodies and
  - Where appointed as the Council's representative, to act as directed by, or in the interests of the Council,
  - Where appointed as a Director, Trustee or other capacity bearing personal liability, to act in accordance with the law and in accordance with the interests of the outside body,
  - Where appointed as an observer or in another non decision making capacity, to represent the Council without becoming involved in decision making by the outside body.
5. To act in accordance with the Members Code of Conduct and the Protocol for Member/Officer relations.
6. To focus on service improvement and efficiency at a strategic and political level and refrain from becoming involved in the detail of operational or managerial issues.
7. To engage with the media in accordance with agreed protocols.
8. To take into account when taking decisions and in leading the community relevant information and advice including where appropriate, the member's own political perspective.

#### **Entitlements**

1. Mandatory and further specialised training is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake their responsibilities and perform their duties.

2. Members have a right to access all information which they need to know in order to take decisions and carry out their other functions. The extensive legal and constitutional provisions on Members rights to attend meetings and access information are set out in the Access to Information Procedure Rules in the Constitution.
3. Members receive general clerical/typing support via the Members Support Officer, the Word Processing Unit and have an annual entitlement to printing for constituency purposes. [Members have the facility to develop and maintain their own web pages.](#)
4. Members are entitled to information technology, software and training. Telephone line rental and call costs are provided for in the basic allowance.

All co-opted and independent Members of the Council are expected to meet the duties as set out above and are entitled to the first two entitlements as set out above.

B. All Members – Constituency Responsibility

All 48 Members of the Council, are elected for an Electoral Division – their constituency.

Role

To be an advocate of, and for, the interests of the constituency, individual electors, community groups and other stakeholders. To represent the interests of those individuals and groups to the Council, and deal with enquiries and representations from constituents.

Duties

1. To effectively represent, individually, and with other representatives of other Electoral Divisions, the interests of the Electoral Division, individual and groups of constituents in the policy formulation and decision making processes of the Council and to other local and national bodies.
2. To work individually and collectively in the interests of the Electoral Division and the Council.
3. To lead and actively encourage community involvement and engagement in consultation in policy formulation and decision making by the Council.
4. To respond to constituents enquiries and representations fairly and impartially.
5. To assist in the above, Members are likely to have an active involvement (including attending meetings where invited) in the local Parish/Town Council, Community Forum and other community groups. Additionally Members may hold surgeries to enable their constituents to have greater access to them and issue newsletters to keep their constituents informed.

Entitlement

1. All Members receive a basic allowance as set out under the scheme of Members allowances which is, in part, remuneration for time and expense spent on these duties. These duties will not normally give rise to recoverable subsistence or travel expenses.

### C. Member of Full Council

All 48 Members of the Council including the Leader and Members of the Cabinet are Members of the Full Council. There are restrictions on the Leader and Cabinet Members participating in the [Policy Commissions, Corporate Scrutiny](#) and Standards Committee functions of the Full Council.

#### Role

Collectively, to determine the Budget and Policy Framework of the Council and to effectively discharge the functions which are the responsibility of the Full Council under this Constitution.

#### Duties

1. To participate in the setting of, following proposals from the Cabinet, the Budget and Policy Framework of the Council, and particularly, the Corporate Plan.
2. Collectively, as a Full Council, to directly discharge or arrange for the discharge of the functions set out in this Constitution which are the responsibility of the Full Council. This may include the delegation of functions to Committees, Sub-Committees or Officers and/or to joint arrangements with other Councils.
3. To appoint the Chairman, ~~and~~ Vice Chairman [of the Council, the Leader](#) of the Council, and Chairs and members of Commissions, Committees, Sub-Committees or joint arrangements.
4. To promote the economic, social and environmental well-being of the Island and to have regard to the Community Strategy when doing so.
5. When participating in decision making, to ensure that decisions are lawful, reasonable, proportionate and contribute to the vision, mission, core values, and strategic objectives and are within the Policy and Budget Framework of the Council. To also consider how each decision can assist in the reduction of crime [and disorder; and](#) the elimination of inequality and discrimination; [and the continual improvement of services and the delivery of efficiency.](#)
6. When participating in decisions which have a direct impact on the rights and freedoms of individuals, ensure that proper processes are followed and that obligations under the principles of natural justice and human rights legislation are met.
7. To undertake individual and collective responsibility for looked after children, as corporate parents.

#### Entitlement

1. The basic allowance includes recognition of the work undertaken by Members in relation to Full Council meetings.
2. The detail of how Members can participate in debates, submit motions and vote are set out in the Council Procedure Rules.

#### D. Chairman of the Council

It is the duty of the annual meeting of the Full Council to elect one of its Members to be Chairman of the Council. No Member can [hold](#) the post of Chairman or Vice Chairman of the Council for more than one year.

##### Role

The Chairman of the Council has a formal responsibility to chair meetings of the Full Council. Throughout his/her term of office the role is non party-political. The Chairman is the Council's Civic Head and represents the council in this capacity on civic/ceremonial occasions and at Island, national and international events.

##### Duties

The Chairman and in his/her absence the Vice Chairman ~~(and in both their absence the Deputy Chairman)~~, will have the following responsibilities:

1. To uphold and promote the purposes of the Constitution, and after receiving advice, to interpret the Constitution when necessary;
2. To preside over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. To ensure that the full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the ~~E~~-Cabinet to account;
4. To promote public involvement in the Council's activities;
5. To be responsible for the Council's civic affairs and attend such civic and ceremonial functions as the Council and he/she determines appropriate.
6. In the absence of both the Chairman and Vice Chairman members will elect a Chairman for the meeting concerned by a simple majority vote.

##### Entitlement

1. The Chairman of the Council will be known as the Chairman of the Council.
2. The Chairman of the Council receives (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances. The Vice Chairman (in addition to their basic allowance) also receives s an SRA as set out under the scheme of Members allowances.
3. The Chairman ~~o~~<sup>o</sup>f the Council receives support in managing civic and ceremonial duties from the Civic Office.

## E. The Leader and Cabinet Members

The Council shall annually appoint a Leader. The Leader is entitled to decide the size of the Cabinet (between 2 and 9) appoint Cabinet Members and allocate portfolios of responsibility.

### Role

The Leader is the chairman of the Cabinet.

The Cabinet have to discharge or arrange for the discharge of those functions which are the responsibility of the Cabinet under this Constitution.

Cabinet Members have a personal responsibility for taking decisions in relation to, and discharging those executive functions delegated to them by the Council. The delegations to Cabinet Members are known as their portfolio and are detailed in "Delegation of Cabinet Functions" of the Constitution.

### Duties

1. To propose collectively and individually the Budget and Policy Framework, following consultation with the Scrutiny Committee and Policy Commissions and others as appropriate.
2. To take decisions and discharge directly as individuals, or arrange for the discharge, of those parts of the Cabinet functions which are delegated to them.
3. To take collective decisions which due to their strategic nature, sensitivity or complexity or under the constitution are appropriately taken by the Cabinet as a whole.
4. To represent the Council locally, nationally and internationally.
5. To attend meetings of the Scrutiny Committee and Commissions when invited to do so.
6. Some members will have specific statutory duties, — such as the duty to safeguard and promote the well-being of children, which falls on the lead member for children. Any similar duty to vulnerable adults created in the future will fall on the Cabinet Members with responsibility for adult social care.

### Entitlements

1. The Leader of the Council and all other Cabinets Members receive (in addition to their basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances.
2. The Leader of the Council and Cabinet Members receive secretarial and administrative support from the Members Support Office. Support is also provided by Strategic Directors and Heads of Service as appropriate.

F. Cabinet Secretaries

One or two to be appointed by the Leader of the Council

Role/Duties

1. To lead on development and/or delivery of specific time limited policy briefs (where the Commissioners or Cabinet /Cabinet Members do not take the lead).
2. To ensure effective communications between members taking decisions, developing policy and undertaking scrutiny.
3. To support and enable Policy Commissions in setting and delivering their work programmes.
4. To assist the Cabinet and Cabinet Members in delivering their service improvement priorities.
5. To ensure effective and timely communications at a member level, within and without the Council, with communities, staff, stakeholders, partners (including Town and Parish Councils) and the media.
6. To lead on one or more cross cutting corporate priority (for example diversity).
7. To assist the Leader, Cabinet and Commissioners in identifying and addressing barriers to the development and delivery of policy.

Entitlement

1. A special responsibility allowance will be paid [\[once the Council has considered the recommendations of the Independent Remuneration Panel\]](#).
2. Dedicated and/or ad hoc officer support.
3. Attendance at all meetings of the informal cabinet, cabinet meetings (whether or not excluding press and public).
4. Attendance at all meetings of Policy Commissions (formal and informal).

## G. Policy Commissions and Policy Commission Members

There will be a number of Policy Commissions from time to time, established to drive the development of key areas of policy identified by the Cabinet, and by each Commission.

In the case of the Commissioners responsible, respectively, education and health policy issues the whole of the statutory responsibility for overview and scrutiny in those areas falls within their terms of reference. There may be co-opted Commission Members, including church and parent governor representatives where education functions are concerned. This Job Profile applies to them whilst they are serving on the Commission.

### Policy Commissioners

#### Role

1. To ensure the Commission adopts a work programme which reflects the priorities of the administration, corporate objectives and the priorities of Commission members of Island and the communities they serve.
2. To ensure that each enquiry within the work programme has:
  - Clear, time limited terms of reference
  - Sufficient resources to deliver
  - Necessary technical and specialist input, at all stages
  - Appropriate engagement with stakeholders and communities
  - Identified outcomes (always to include evidence-based recommendations).
3. To co-ordinate with the Cabinet, other Commissioners and the Scrutiny Committee to ensure each Commission and the Scrutiny Committee have yes complementary work programmes, reflecting the different roles, but avoiding duplication.

### Commission Members

#### Role

1. To support, challenge and assist in the development and delivery of the work programme and individual enquiries.

#### Entitlement

1. Commissioners will receive (in addition to their basic allowance) a special responsibility allowance as set out under the scheme of Members Allowances.
2. Dedicated and ad hoc officer leads in developing and delivering work programmes and individual enquiries.



## H. Scrutiny Committee Members

Scrutiny Committee Members are the Chairman, Vice Chairman and members appointed annually by Full Council.

Members of the Cabinet cannot be Scrutiny Committee Members.

There may be co-opted Scrutiny Committee Members, ~~including church and parent governor representatives where education functions are concerned~~. This Job Profile applies to them whilst they are serving on the Committee.

### Role

To determine a programme of work reflecting exclusively at a political and strategic level the policy priorities of the administration, corporate strategic priorities and the priorities of Scrutiny Committee members and the communities they serve.

To scrutinize, by being a critical friend, the services of the Council and to make recommendations to improve quality and efficiency in service delivery.

To maintain a call-in procedure as a safety net in the event of unexpectedly controversial decisions.

### Duties

1. To play ~~the~~ leading role in developing and challenging the Council's Budget processes.
2. To play a leading role in developing and challenging the Council's Policy Framework.
3. To drive and participate in programmes of policy review and development, both as decided by the Scrutiny Committee and at the request of the Full Council and of the Cabinet. The programme of review may include consideration of anything which is of interest to the area or its inhabitants, even where the issue is not the responsibility of the Council.
4. To scrutinize both decisions of the Cabinet (including the individual Cabinet Members and Officers taking key decisions) and existing policies, procedures and processes of the Council, in accordance with the Committees' work programme.
5. To participate, when required, in the Call In procedure.
6. To apply, when undertaking these duties, the Constitution of the Council, and particularly the Scrutiny Committee Procedure Rules, the Access to Information Rules and the Budget and Policy Framework Procedure Rules.
7. To commission and receive expert witness.
8. To undertake additional functions as required by the Council or by statute.
9. To undertake Scrutiny functions in a constructive, positive and non-partisan way and exclusively at a political and strategic level.
10. To sit as members of the separately constituted Audit Committee.

11. To co-ordinate with Policy Commissioners and Policy Commission Members to ensure each Commission and the Scrutiny Committee agree complementary work programmes.

### Entitlements

1. The [Chairman and Vice Chairman](#) of the Scrutiny Committee receives (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances.
2. Scrutiny Committee Members have additional rights to access information of relevance to their areas of responsibility. These rights are set out in the Scrutiny Committee Procedure Rules.
3. Mandatory and further specialised training in overview and scrutiny is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.

I. Regulatory Committee Members

Regulatory Committee Members are the Members of the Regulatory Committees, including its substitutes.

Role

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

Duties

1. To determine all matters that come before the meetings in accordance with the relevant policies (local and national) in a consistent and impartial manner.
2. To attend training as provided by the Council on these matters prior to participating in any of the work of these Committees.
3. To appoint a deputy from the list of specified deputies who must have attended the training as above, if a Member is unable to attend.
4. To follow, in undertaking these matters, the procedures and Codes of Practice as set out in the Council's Constitution.

Entitlements

1. The Chair and two vice chairs of the Committee receive (in addition to their basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances.
2. Mandatory and further specialised training is provided for Members who are encouraged to ensure that they are well informed and are encouraged to develop the skills to enable them to undertake these responsibilities.

## J. Standards Committee Members

Members of the Committee are appointed by the Full Council in accordance with the Relevant Authorities (Standards Committee) Regulations 2001.

2 Members (plus 3 Deputies) are Members of the Council (none of whom are members of the Cabinet and all of whom must have served at least one full term as a Councillor immediately preceding their appointment to the Standards Committee), 7 are independent of the Council (one of whom will be the Chairman the Committee), and one (plus a Deputy) is a Parish [or Town](#) Councillor.

### Role

The Standards Committee Members collectively have the duties of promoting high standards of conduct by elected and co-opted Members of the Council, and Parish and Town Councils, and of assisting those Members to achieve those high standards.

### Duties

1. To advise the Council and Cabinet on the adoption or revision of a Code of Conduct.
2. To monitor the operation of the Council's Code of Conduct and report any necessary alterations required to the Full Council and Cabinet.
3. To facilitate and monitor advice to and training of Members and co-opted Members of the Council on the Council's Code of Conduct.
4. To undertake the same functions in respect of Parish and Town Councils and Members of those Parish Councils except where the committee has arranged for those functions to be discharged by a subcommittee.
5. To undertake such other functions as may, from time to time, be conferred on the Standards Committee by the Council or Regulations.
6. To impartially consider any report of the Monitoring Officer, Ethical Standards Officer or the Adjudication Sub-Committee for England and to take any necessary action in accordance with the law.
7. To consider fairly and impartially applications for a dispensation from the rules as to speaking and voting where a Member has an otherwise declarable interest in accordance with the Code of Conduct.
8. To act in accordance with such advice and guidance as may be issued by the Standards Board for England.
9. To consider whether to add items to the work programme of the Committee at it's own volition.

### Entitlements

1. Mandatory and further specialised training is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.

2. The Chair and Members of the Standards Committee can claim an allowance as set out under the scheme of Members allowances.

K. Leaders of Political Groups

It is open to Members who form political groups under the Local Government (Committees and Political Groups) Regulations 1990 to appoint a Leader.

Role

The Leader of a Political Group has one formal role under the Local Government (Committees and Political Groups) Regulations 1990 and that is to be the person nominated by those Members on the Council wishing to form a Group as their Leader and the wishes of the Group are taken to be those expressed by the Leader.

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

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

Other duties are a matter for each group to determine.

Entitlement

1. The Leaders of the political groups receives special responsibility allowance as set out under the scheme of Members allowances.

## ARTICLE 3 - CITIZENS AND THE COUNCIL

### 1. Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in this Constitution :

- (a) **Voting and petitions.** Registered voters have the right to vote in elections, according to their entitlement under the law. There having been a referendum in May 2005, registered voters on the electoral roll for the Isle of Wight will have the right to, sign a petition to request a referendum for an elected mayor form of Constitution at any time from May 2010.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, the Cabinet, The Scrutiny Committee and Regulatory Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
  - (iv) inspect the Council's accounts as part of the annual audit and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by The Scrutiny Committee.
- (d) **Feedback.** Citizens have the right to give feedback about services to:
  - (i) the Council itself under its customer feedback scheme;
  - (ii) the Ombudsman after using the Council's own feedback scheme;
  - (iii) the Standards Board for England about a breach of the Councillor's Code of Conduct.
- (e) **Publicity and the media.** Information regarding services provided by the Council to local residents will be disseminated to the media in accordance with the protocol on publicity and the media.

### 2. Citizens' Responsibilities

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## ARTICLE 4 - THE FULL COUNCIL

### 1. Meanings

- (a) **Policy Framework.** The full Council will be responsible for adopting or approving the following plans and strategies :
- (i) Library Position Statement;
  - (ii) Best Value Performance Plan;
  - (iii) Children's Services Plan;
  - (iv) Community Care Plan;
  - (v) Economic Development Policy;
  - (vi) Community Strategy;
  - (vii) Crime and Disorder Reduction Strategy;
  - (viii) Unitary Development Plan;
  - (ix) Early Years Development Plan;
  - (x) Education Development Plan;
  - (xi) Youth Justice Plan;
  - (xii) Local Transport Plan;
  - (xiii) Housing Investment Plan;
  - (xiv) Local Agenda 21;
  - (xv) Lifelong Learning Development Plan;
  - (xvi) Quality Protects Management Action Plan.
  - (xvii) The Council's Corporate Plan.
  - (xviii) The Tourism Development Plan
  - (xix) The Housing Strategy

and other plans, policies and strategies as contained on a list maintained by the Head of Legal and Democratic Services, together with any others that the Council considers should be added to this list as part of the Council's Cabinet proposals.

Any plan or strategy for which the Council does not have sole responsibility for preparation, and involves action and targets to which other bodies will be contributing, shall not be amended at the final approval stage by the Council unless



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

A plan or strategy referred to above can be the subject of an amendment which is considered, in the opinion of the Head of Legal and Democratic Services, Chief Financial Officer and the relevant Strategic Director (after consultation with the Leader and appropriate Cabinet Member), not to be contrary to the principles of the plan or strategy and can be contained within the approved budget. Such an amendment does not require the approval of full Council.

- (b) **Budget.** The budget is defined as:
- (i) The identification and allocation of financial resources by the Full Council, including:
    - Revenue expenditure
    - Contingency and reserve funds
    - Council tax base
    - Council tax level
    - Borrowing requirements and limits
    - Capital expenditure
  - (ii) Any resolution of Full Council identified as a budgetary decision;
  - (iii) Any limitations to, conditions on or rules governing the management of budgets, virement between budgets, treatment of under spends, windfall income or reserves contained within the Financial Procedure Rules.

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

Only the full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Budget and Policy framework;
- (c) amending the policy framework or budget following recommendation from the Cabinet;
- (d) appointing the Leader of the Council;
- (e) appointing the Chairmen and Vice Chairmen of the Scrutiny Committee, Regulatory Committee and the Policy Commissions;
- (f) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (g) adopting an allowances scheme for elected members;
- (h) confirming the appointment of the Chief Executive;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and

(j) any other matters which, by law, must be reserved to the full Council.

### 3. Council meetings

(a) There are three types of full Council meeting:

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

and they will be conducted in accordance with the Council Procedure Rules in this Constitution .

(b) In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

(c) The Council shall hold ordinary meetings throughout the year on such days as shall be agreed at the Annual Meeting. In addition a meeting shall be held in February each year to agree the Council's budget

(d) Extraordinary meetings can be convened by the Chairman upon receiving written request to do so from at least five members of the Council.

(e) Meetings of the full Council will take place at 6pm unless expressly agreed otherwise by the Chairman.

### 4. Responsibility for Functions

The Council will maintain a list, set out in this Constitution, comprising the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

# ARTICLE 5 - SCRUTINY COMMITTEE

## Terms of Reference & Membership

11 members including a majority (~~which includes the AND a~~ chairman and vice chairman) who are not members of the majority political group on the Council. No Cabinet Member, Commissioner or Cabinet Secretary will be a member of the Scrutiny Committee.

(1) To undertake the statutory functions of overview and scrutiny except insofar as:

- (a) they relate to health scrutiny, or
- (b) statutory education scrutiny functions

where, in each case those overview and scrutiny functions are undertaken by one of the Policy Commissions, or

(2) In order to prevent duplication of policy development and scrutiny, and unless exceptional circumstances dictate otherwise, no enquiry will be ~~will be~~ undertaken by the Scrutiny Committee where the proposed enquiry is the subject of an ongoing enquiry by one of the Policy Commissions; has been the subject of such an enquiry completed within the last 6 months, or will be the subject of such an enquiry planned to commence within the next 3 months.

(3) To undertake enquiries into the budget and policy framework of the Council, exclusively at a political and strategic level.

(4) To adopt and deliver a work programme which reflects the priorities of the administration, corporate strategic objectives and the priorities of scrutiny members and the communities they serve.

(5) To play ~~the~~ leading role in the development of and challenge to an annual revenue budget.

(6) To play a leading role in the development of and challenge to the Policy Framework.

(7) To maintain and operate a system of call-in as a safety net in the event of a Cabinet decision which proves unexpectedly controversial.

(8) Enquiries will be time limited, to published terms of reference and lead to recommendations which are directed to named individuals and are clear, measurable, achievable, resourced, time bound and based on evidence received.

## Audit Committee

The Audit Committee is separately constituted. As the terms of reference of the Audit and Scrutiny Committees dovetail closely together, the membership of the Audit Committee will include (but not necessarily be limited to) all of the members of the Scrutiny Committee and deliver a similar opposition majority. See also Article 9 which details the role of the Audit Committee.

## Quorum

Quorum will be [54](#) members. In the absence of both the Chair and Vice Chair the Committee will elect a chair for that meeting.

## **Agenda**

The [Chairman](#) of the Scrutiny Committee in consultation with [the](#) Proper Officer will agree an agenda for each meeting. There will be a presumption that no agenda will require more than two hours to complete.

## **Meetings**

[Meetings of the Committee will take place at 6pm unless expressly agreed otherwise by the Chairman.](#)

Any member of the Committee may place an item on the agenda by giving notice to the Proper Officer [in sufficient time to allow consultation with the Chairman.](#)

## **Call-in**

Any 4 members of the Scrutiny Committee may sign a call-in notice in relation to any decision by the Cabinet member or an officer exercising a delegation from the Leader of the Council. On receipt of a call-in notice the Proper Officer will:

- Stop implementation of the decision.
- Call a meeting of the Scrutiny Committee, to meet within seven working days

When considering a call-in notice the Committee may:

- (i) Endorse the decision.
- (ii) Refer the decision back to the decision-maker with recommendations.
- (iii) Refer the decision to another body, with recommendations.
- (iv) Add an enquiry to its own work programme
- (v) If advice has been received that the decision is outside of the Budget and Policy Framework refer the advice to Full Council with a recommendation that the Budget or Policy Framework be amended.

Only in (v) is implementation of the decision prevented after the meeting of the Committee has disposed of the call-in.

## **Attendance and Speaking at [The](#) Scrutiny Committee**

- Unless the law requires or allows otherwise meetings of the Committee will be in public.
- The [Chairman](#) has an obligation to enable members of the public, stakeholders and community representatives to make representations to the Committee in order to assist to agree a work programme and to undertake specific enquiries.

## **Reports**

The Scrutiny Committee may take reports to the Cabinet, Cabinet Members, [Policy Commissions](#) or the Full Council.

### **Urgency**

Decision makers may need to take decisions under the urgency provisions in the Access to Information Rules and/or the Budget and Policy Development Rules.

In [such exceptional cases](#) the Call-in arrangements may be abridged or disapplied if to do so is necessary to safeguard the interests of the Council or of the public. In any such case reasons for the disapplication will be given [on the face of the report to the decision maker and by this means made available to the Scrutiny Committee Chair..](#)

### **Task and Finish Groups**

The Scrutiny Committee may establish working parties or other task and finish groups. These groups will be time limited, have clear terms of reference, may include members other than elected members and will not be committees or sub-committees under the law.

### **Voting**

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

## ARTICLE 6 – POLICY COMMISSIONS

The Council will establish, from time to time, a number of Policy Commissions, comprising 7 elected members (there will also be co-opted Commission Members from church and parent governor representatives where education functions are considered) and with the following terms of reference.

- (1) To drive the development of key areas of policy identified by the Cabinet and each Commission.
- (2) In the case of the Commission considering health matters to undertake the statutory functions of health scrutiny.
- (3) In the case of the Commission considering education matter to undertake the statutory functions of education scrutiny – including co-option of faith and parent representatives as voting members.
- (4) To agree and deliver work programmes reflecting the priorities of the administration, corporate strategic objectives and the priorities of the Commission Members and the communities they serve.
- (5) To deliver evidence based policy recommendations which are capable of adoption by the Cabinet or the full Council being outcome focussed, strategically coherent, clearly stated and with necessary resources identified.
- (6) To work at all times in collaboration with the relevant Cabinet Members, Cabinet Secretaries, the Scrutiny Committee and in a non party political-partisan manner.

### **Quorum**

Quorum will be 4. The Policy Commissioner will chair, unless absent in which case the Commission will elect a chair for the meeting.

### **Meetings**

Meetings of the Commissions will take place at 6pm unless expressly agreed otherwise by the Chairman.

### **Voting**

Voting will be by show of hands, a simple majority will prevail and in the event of a tied vote the Policy Commissioner will have a casting vote.

### **Agenda**

Agendas will be agreed by the Policy Commissioner in consultation with the Proper Officer to reflect the agreed work programme.

### **Attendance and Speaking at Meetings**

All formal meetings of Policy Commissions will be held in public unless the law requires or allows otherwise. The outcome of any informal meeting will be the subject of a report to a later formal meeting.

Policy Commissioners have a duty to engage the public, stakeholders and communities in their work. At the discretion of the Policy Commissioner meetings will be organised in flexible and innovative ways to ensure maximum engagement in the agreement of work programmes and the delivery of specific enquiries.

## **ARTICLE 7 - THE CABINET**

### **1. Role**

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **2. Form and composition**

The Cabinet will consist of the Leader of the Council (who will be the Chairman of the Cabinet) together with such other Councillors as are appointed by the Leader ([between the statutory limits of 2 and 9](#)).

### **3. Leader**

The Leader will be a Councillor elected annually to the position of Leader by the Council.

The Leader will hold office until the next Annual Meeting of the Council unless, at an earlier date:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council.

### **4. Other Cabinet members**

Other Cabinet members shall be appointed by the Leader. They shall hold office until the next Annual Meeting of the Council, unless in the meantime :

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office, either individually or collectively, by the Leader of the Council.

### **5. Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Rules set out in this Constitution.



6. **Portfolios of Responsibility**

- (a) The Leader may agree that individual members of the Cabinet shall take a specific remit for different aspects of the Council's work. The details of the allocated remit shall be known as the portfolio of responsibilities.
- (b) The proper officer will maintain and publish a list, from time to time, of the Cabinet Members, their titles, portfolios of responsibility and any delegations to them.

# ARTICLE 8 - REGULATORY COMMITTEE AND SUB-COMMITTEES

The Council will appoint a Regulatory Committee with the terms of reference set out below:

To determine any issue within the terms of reference set out by reference to the sub-committees below, where the determination is of policy, of an application with Island wide significance, or where other circumstances, on the advice of the Proper Officer, require or would benefit from determination by the parent committee.

## **Meetings**

Meetings (of the Committee and its Sub Committees) will commence at a time that in the opinion of the Chairman meets the needs of applicants, objectors or other interested parties.

## **Quorum**

Quorum will be 8. The Chairman will chair, unless absent in which case the meeting will elect one of the present Vice Chairmen to chair the meeting.

The Council will also appoint the following sub-committees:

- Regulatory (Development Control)
- Regulatory (Licensing)
- Regulatory (Human Resources, Miscellaneous and Appeals)

## **Development Control**

1. To exercise the powers and duties of the Council, within the corporate policies and strategies of the Council, in relation to:
  - (a) Its role as Planning Authority in its development control function, and
  - (b) The extraction of minerals, the clearance and reclamation of derelict land, subsequent after use of sites for waste disposal and restoration of site,

The committee will take decisions only where:

- the law or Council policy requires the decision to be taken by elected members, or
- an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.

## **Licensing**

2. To consider and determine any application or appeal in relation to the licensing or grant of consent or permission where
  - (i) the law or Council policy requires the decision to be taken by elected members.

- (ii) an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.
  - (iii) the licence, consent or permission is contained within the list set out below OR is not otherwise specifically delegated to another part of the Council.
3. To adopt policy in relation to the licensing or grant of consent or permission where the law allows the Regulatory Committee to determine that policy.
4. Licensing functions include the grant, renewal, refusal, revocation, variation, cancellation, imposition of conditions, (and appeals against any such action) in relation to the following regulated activities:
- 1. Acupuncture, Tattooing, Ear piercing and Electrolysis.
  - 2. Gaming by means of machines.
  - 3. Competitions and Amusements (Bingo).
  - 4. Caravan Site.
  - 5. Cinemas.
  - 6. Dangerous Wild Animals.
  - 7. Breeding of Dogs.
  - 8. Rag Flock and other Filling Materials.
  - 9. Gaming.
  - 10. Game Licenses.
  - 11. Guard Dogs.
  - 12. House to House Collections.
  - 13. Late Night Refreshment Houses.
  - 14. Lotteries and Amusements.
  - 15. Pet Shops.
  - 16. Pleasure boats and boatmen.
  - 17. Regulation of Street Collections.
  - 18. Street Trading.
  - 19. Theatres.
  - 20. Zoos.
  - 21. Minibuses.

22. Animal Boarding Establishments.
23. Sunday Trading.
24. Private Place of Entertainment.
25. Public Entertainments.
26. Riding Establishments.
27. Scrap Metal Dealers.
28. Sex Establishments.
29. Slaughterhouses and Knackers Yards.
30. Nurses Agencies.
31. Track Betting.
32. Door Staff.
33. Poisons, Explosives.
34. Pool Promotions.
35. Sports Grounds.
36. Marriage Premises.
37. Performing Animals.
38. Dairy and Dairymen.
39. Open Air Events under the Isle of Wight Act.
40. Hackney Carriages and Private Hire Vehicles.
41. Movement of Animals.
42. Liquor Licensing).

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

### **Miscellaneous Appeals**

5. To determine appeals against decisions of the authority where the law, or Council policy, requires the appeal to be determined by elected members in relation to the following functions:

Awards

School Transport

Curriculum Complaints

Staff Disciplinary, Grievance or Dismissal

Adoption and Fostering

Registration of Homes

Access to Social Services Files

Housing Benefit and Council Tax Appeals

Business Rate Hardship

Rights of Way Orders

Highway Orders

Tree Preservation Orders

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

6. To oversee arrangements, including the appointment of the pool of members from which independent appeal panels are selected by the Clerk to the Education Appeals Committee, for school exclusions, admissions and special education needs appeals.

### **Human Resources**

7. To adopt, where the agreement of recognised trades unions is not secured, policies relating to:
  - Terms and conditions of employment (including procedure for dismissal)
  - Recruitment, Selection and Appointment
  - Training and Development
  - Pay and other benefits
  - Redundancy and redeployment
  - Performance and Motivation
  - Capability and conduct
  - Attendance at Work
  - Equalities and Diversity
  - Other areas
  - Industrial and employee relations identified by the Head of Human Resources as requiring policy

In all cases where trades union agreement is secured policies will be adopted under powers delegated to the Chief Executive or the Head of Human Resources.

8. To hear appeals against dismissal by staff not on JNC for Chief Executive and Chief Officers' conditions of service.
9. To undertake functions (other than the appointment of staff) required to be undertaken by elected members in relation to staff employed on JNC for Chief Executive and Chief Officer conditions of service and/or the Officer Employment Rules.

Note: under s13 Local Government Act 2000 and the Local Authorities (England)(Functions and Responsibilities Order) 2001 responsibility for the deployment of staff and for the monitoring of the size and deployment of the establishment are the responsibility of the Cabinet.

## ARTICLE 9 – AUDIT COMMITTEE

### Role

To provide assurance of the adequacy of risk management structures; scrutiny of the Council's financial and non-financial performance (to the extent that it affects exposure to risk) and to oversee financial reporting processes – including approval of the Council's accounts.

### Composition

The Audit Committee will comprise those members who, from time to time, comprise the Scrutiny Committee. The chair and vice chair of the Scrutiny Committee will fulfil these roles in relation to the Audit Committee. Quorum will be [54](#) members.

### Terms of Reference

- Annually, approve the internal audit strategy, plan and performance.
- Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
- Consider the reports of external audit and inspection agencies.
- Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
- Be satisfied that the authority's assurance statements, including the Statement on Internal Control, properly reflect environment and any actions required to improve it.
- Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- Review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
- Approve the Council's accounts.
- [To make such recommendations \(to any member body, any officer of the Council and/or to any other interested party or stakeholder\) as it sees fit under these terms of reference.](#)

### Entitlement

- Senior Officer input sufficient to enable at least 4 meetings per year – including attendance by statutory officers
- Access to the External Auditor, at least annually [in a public meeting, and at other times by request.](#)
- Access to other member bodies, including the Cabinet.

- The ability to commission and submit reports to the Cabinet and/or Full Council.



# ARTICLE 10 - THE STANDARDS COMMITTEE

## 1. Standards Committee

The Council will establish a Standards Committee.

### Composition

#### Membership

- 7 independent members appointed by the Council
- 2 Members of the Isle of Wight Council (with three deputies) none of whom are members of the Isle of Wight Council's Cabinet and all of whom must have served at least one full term as a Councillor immediately preceding their appointment to the Standards Committee.
- 1 representative (with a deputy) of the Isle of Wight Association of Parish and Town Councils (who must also not be a member of the Isle of Wight Council) and who must be in attendance when the Committee is considering matters affecting Town and Parish Councils.

### Quorum

The quorum of the Committee will be:

For normal meetings of the Committee :

At least three independent members; and  
At least two Isle of Wight Council members: and (when considering matters affecting Town and Parish Councils) the representative of the Isle of Wight Association of Town and Parish Councils.

When Considering Requests for Dispensations :

At least two independent members; and  
At least one member from either the Isle of Wight Council (where the request came from an Isle of Wight Councillor) or the Association of Parish and Town Councils (where the request came from a Parish or Town Councillor).

When Determining Complaints Against an Isle of Wight Council Member as Referred by an Ethical Standards Officer:

Any three Members of the Committee of whom at least one shall be an independent member.

When Determining Complaints Against a Parish or Town Councillor as Referred by an Ethical Standards Officer:

Any three Members of the Committee of whom one shall be an independent member and another the representative (or their deputy) of the Isle of Wight Association of Parish and Town Councils.

The Full Council may, and if it does not the Committee shall, appoint a Chairman on an annual basis from amongst its independent members.

### **Terms of Reference**

1. To promote and maintain high standards of conduct by the members and co-opted members of the Isle of Wight Council and the Town and Parish Councils on the Isle of Wight.
2. To assist members and co-opted members of the Councils on the Isle of Wight to observe the relevant Council's code of conduct.
3. Specifically the Committee will:
  - Advise the various Councils on the adoption or revision of a code of conduct and monitor the operation of the code of conduct
  - Advise, train or arrange to train members and co-opted members of the Councils on matters relating to the code of conduct.
4. To consider any other matters that are referred to the Committee by either:
  - The Standards Board (subject to Regulations under Section 66 of the Local Government Act 2000)
  - The Isle of Wight Council
  - Any of the Parish and Town Councils on the Isle of Wight
5. Subject to any regulations issued by the Secretary of State in accordance with Section 81(5) of the Local Government Act 2000 to consider and determine any requests for dispensations to speak and/or vote on any matters in which the member has an interest.
6. To develop appropriate measures and monitoring systems to ensure Councillors are fulfilling their contract with the electorate (as agreed by the Council at its meeting on 19 April 2000).
7. To ensure that the measures and monitoring systems as set out in 6 above are fully and properly exercised within any prescribed timetable.
8. To enquire of its own instigation into any matter touching or concerning the ethics and standards of the Council.
9. To submit an annual report on the activities over the last year, to the Council.

# ARTICLE 11 - OFFICERS

## 1. Chief Officer Appointments

- (a) Appointments to the posts of Chief Executive, Strategic Directors, Heads of Service (and any other posts to which JNC Chief Officer Terms and Conditions applies) will be made by a politically proportionate panel of between 5 and 9 members, appointed as members of the panel under powers delegated to the Chief Executive and the Head of Legal and Democratic Services.
- (b) In determining the size and membership of the Panel established to make any appointment the views of Group Leaders will be sought and their nominations for seats allocated to their group complied with.
- (c) There will be a presumption that the most relevant Cabinet Member(s); Policy Commissioners and opposition members (in terms of seats on relevant member bodies) will be appointed.
- (d) The Panel appointed for each appointment will determine the process to be followed – such processes to be consistent with the law and this constitution.

## 2. Management Structure

- (a) **General.** The Head of Paid Service has the responsibility of determining the structure for delivering Council functions and policies within available resources.
- (b) **Head of Paid Service and Strategic Directors.** The current structure is shown below.

Chief Executive (who shall also be the Head of Paid Service and one of the Strategic Directors)  
Strategic Director, Corporate Services  
Strategic Director, Environment Services  
Strategic Director, [Childrens Services Education and Community Development](#)  
Strategic Director, [Adult and Community Services Social Services and Housing](#)  
Chief Fire Officer

- (c) **Head of Paid Service, Monitoring Officer, Chief Financial Officer and Proper Officer.** The Council is required to appoint three statutory officers, and has designated the following posts as shown :

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer and Proper Officer
Chief Financial Officer	Chief Financial Officer

Such posts will have the functions described below.

- (d) **Structure.** The Chief Executive will publish from time to time a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

### Functions of the Head of Paid Service

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

Where necessary the Chief Executive will report to full council on these matters.

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

### Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.

- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.
- (j) **Proper Officer.** The functions referred to throughout this Constitution in relation to the Council's Decision-Making Process.

#### **Functions of the Chief Financial Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council including the provision of an internal audit function.
- (c) **Contributing to corporate management.** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected mayor and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Financial Officer will provide financial information to the media, members of the public and the community.
- (f) **Financial Management.** The Chief Financial Officer will monitor the Council's financial performance on a continuous basis, and will advise the Council of the robustness of its budgets and the adequacy of its reserves.

### **Duty to provide sufficient resources to the Monitoring Officer and Chief Financial Officer**

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

## **ARTICLE 12 - DECISION MAKING**

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

Most decisions of the Council are made by the Cabinet, by the Regulatory Committee or by officers exercising delegated powers. The Full Council itself has some specific powers which only it can exercise and, in addition, it is responsible for approving the Council's budget and Policy framework. The Council has agreed a Protocol on Decision Making which identifies the different types of decisions made by the Council.

### **Principles of decision making**

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

- (a) that relevant matters were taken into account;
- (b) that nothing irrelevant was considered;
- (c) that procedural rules and Financial Procedure Rules have been complied with;
- (d) that proper advice was taken and considered before the decision was reached;
- (e) that any interests are properly declared;
- (f) that the decision is properly recorded and published.
- (g) proportionality (i.e. the action must be proportionate to the desired outcome);
- (h) due consultation and the taking of professional advice from officers;
- (i) respect for human rights;
- (j) a presumption in favour of openness;
- (k) clarity of aims and desired outcomes;
- (l) due consideration of all available options; and
- (m) the protocols and procedures contained in the Protocol on Decision Making and the Parish Protocol contained in this Constitution.

### **Types of Decision**

The Council adopts different approaches to various categories of decision making in order to ensure the right balance between quick and efficient decision making and openness:

Category A decisions: Decisions made by the Full Council in accordance with statutory requirements.

Category B decisions: Decisions by the Cabinet in accordance with their terms of reference.

Category C decisions: Decisions by a Committee in accordance with their terms of reference

Category D decisions: Decisions taken by a member of the Cabinet under delegated powers (these decisions also fall into categories to reflect the varying significance, financially, to service users and to communities)

Category E decisions: Decisions taken by a Director or Head of Service in conjunction with the relevant Cabinet member

Category F decisions: Decisions taken by the Director, Head of Service or by those authorised by the Director

### **Key Decision**

A key decision may only be taken in accordance with rules ensuring (except in case of genuine urgency) it is publicised before it is taken. Those rules are contained in the Access to Information rules in this Constitution.

- (a) to involve additional expenditure or a reduction in expenditure exceeding £250,000 in any one year on any individual service to the public; or
- (b) to be significant in terms of any individual service to the public.

Significant in this definition means likely to have a permanent impact on the amenity of an identifiable community or communities.



# ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

## 1. **Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out ~~in~~ [Part 4](#) of this Constitution).

## 2. **Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules as set out in [Part 4](#) of this Constitution.

## 3. **Legal Proceedings**

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

The Chief Financial Officer authorises Officers of the Council to institute proceedings in the Magistrates Court or the County Court on behalf of the Council for the recovery of sums due to the Council and sundry debts including recovery of Council Tax, Non Domestic Rates, Community Charge, Domestic Rates and to authorise any person to act on the Council's behalf in taking any Court Proceedings or other enforcement measures appropriate to the task of Recovery, and to authorise the Common Seal of the Council to be affixed to Documents of Council in this connection.

## 4. **Authentication of documents**

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

## 5. **Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or some other person authorised by them.

## *ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION*

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

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

In undertaking this task the Monitoring Officer may :

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

### **Changes to the Constitution**

**Approval.** Changes to the constitution by Full Council will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer.

**Delegation.** The Chief Executive has the delegated authority to amend the constitution to reflect decisions taken at Full Council, changes in the law, to correct errors or clarify ambiguities where to do so does not alter (but gives further effect to) the Executive Arrangements or the principles enshrined in the constitution.

# **ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

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

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

## **2. Interpretation**

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

## **3. Publication**

- (a) The Head of Legal and Democratic Services will ensure that a copy of this Constitution is available to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are accessible for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) Access by electronic means shall be sufficient for the purposes of this rule.
- (d) The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## *SCHEDULE : DESCRIPTION OF EXECUTIVE ARRANGEMENTS*

The following parts of this Constitution constitute the Executive arrangements:

1. Article 5 (Scrutiny Committee) and the Scrutiny Committee Procedure Rules
2. Article 6 (Policy Commissions) and the Policy Commission Rules
3. Article ~~7~~6 (The Cabinet) and the Cabinet Procedure Rules
- [4. Article 8 Regulatory Committee and Sub Committees](#)
- [5. Article 9 Audit Committee](#)
- [5.](#)  
Article 12 and the Access to Information Procedure Rules

## *RESPONSIBILITY FOR FUNCTIONS*

The Cabinet exercises the following functions, vested in it by the Functions and Responsibilities Orders and particularly :

### To Recommend to the Council

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

### To Determine

All matters not otherwise reserved to Full Council, delegated to the Regulatory Committee, the Scrutiny Committee or Policy Commissions, and in particular -

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

## *DELEGATION OF FUNCTIONS*

1. The Council has agreed that the Leader of the Council may
  - determine the size of the cabinet (within a minimum of 3 members, and a maximum of 10, including the Leader)
  - appoint members of the Council to the Cabinet
  - allocate titles and portfolios of responsibility to Cabinet members
  - determine a scheme of delegations for executive functions to be discharged by:
    - the Cabinet
    - a Cabinet Committee
    - a Cabinet Member
    - Officers of the Council
2. The Full Council has also agreed to delegate those full Council functions as appear in the following scheme.
3. By their nature, the portfolios of responsibility cut across the various functions of the Council and therefore in cases of uncertainty as to which Cabinet Member~~portfolio holder~~ is responsible, the Leader of the Council shall determine the appropriate Cabinet Member.

## *DELEGATED DECISION MAKING*

The Leader of the Council has determined that the following rules will apply to Cabinet Members and Officers exercising delegated responsibility for executive functions.

**Cabinet Members** – The Proper Officer will maintain and publish a list of Cabinet Members, titles, portfolios and responsibility and delegation.

Cabinet Members can make any decision within their remit which is within the Budget and Policy Framework.

Cabinet Members cannot make a decision which is -

(a) A Key Decision unless advance notice of the proposed decision has been included in the Forward Plan or the urgency provisions have been invoked;

or

(b) A decision that has been specifically reserved to the Council, the Cabinet, Regulatory Committee or delegated to Officers.

If the ~~Cabinet Member~~ ~~Portfolio Holder~~ wishes to take a decision contrary to the advice of the relevant Strategic Director then the ~~Cabinet Member~~ ~~Portfolio Holder~~ must refer the issue to the Cabinet for a decision.

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

When the Cabinet Member is making a decision the following process must be followed:

(a) A report must be prepared based on the normal pro-forma (identical to the style of reports to the Cabinet and the authoring officer must ensure that all relevant headings have been completed in consultation with the appropriate officers.

(b) The report must then be agreed with the Cabinet Members before any further action is taken on it.

(c) A list of the proposed decisions that the Cabinet Member is due to take must be sent to Committee Services by Wednesday of the week before the day of that the proposed decision is to be made. This list, and the date that the decisions are due to be made, will be circulated to all members via the Members' Bulletin.

(d) Any member of the Council who wishes to express a view about the proposed decision to the Cabinet Member must convey that view in writing to Committee Services within a period of 5 working days.

(e) The Cabinet Member accompanied by a Committee Administrator, will then consider the report in the company of any relevant officer that the Cabinet Member considers appropriate.

- (f) The Committee Administrator shall record the decision, record the reason for the decisions, detail any alternative options considered, record any conflicts of interests (and if necessary any relevant dispensations which have been granted).
- (g) The record of the decision shall be circulated to all members via the Members Bulletin and shall be subject to the usual call in arrangements. The decision shall not be effective until after the call in period.
- (h) The Members Bulletin is circulated on Fridays and it will include any decisions made up to the previous Wednesday.
- (i) The Committee Administrator shall record all the decisions in the appropriate format in the book kept for this process that shall be open to public inspection.
- (j) On the agenda for each meeting of the Cabinet there shall be an opportunity for questions to be put to any Cabinet Member on any decisions that they have taken since the last meeting.

## **DELEGATIONS TO OFFICERS**

The Chief Executive will maintain and publish a list of services for which each Strategic Director and Head of Service is responsible for, and in relation to which they have delegated powers under this scheme. The Chief Executive has authority to amend that list, and this scheme, to reflect operational necessity and in order to deliver continually improving services.

Where decisions are taken or powers are exercised by Officers the following principles and conditions shall apply:

- (a) Powers shall be exercised in accordance with the law, the Council's Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and any policies relevant to the functions delegated.
- (b) Any officer with delegated powers may authorise another officer to act either in their own name or in the name of the authorising officer. Such decisions remain the responsibility of the officer with the delegation.
- (c) It is the responsibility of officers who take delegated decisions to keep an appropriate and auditable record of the date the decision was taken, the principal considerations involved in reaching the decision, the reasons for the decision and any advice taken and/or consultation undertaken
- (d) In exercising delegated authority regard must be had to:
  - Furthering the achievement of the Community Strategy and the Council's strategic objectives;
  - Encouraging openness and accountability through consultation and participation;
  - Ensuring ethical and financial probity and the good management of financial, human and physical resources;
  - Pursuing lawful, proportionate and reasonable decision making taking into the account all relevant factors and having regard to the European Convention on Human Rights;



- Following any relevant protocols;
  - Demonstrating continuous improvement in the delivery of services;
  - Taking steps to promote equality and to eliminate unlawful discrimination in the Council and on the Island;
  - Taking steps to prevent and reduce crime and disorder;
  - Taking steps to promote the economic social and environmental financial well-being of the Island;
  - Absolute standards of integrity and priority;
- (e) In deciding whether or not to exercise delegated powers, officers shall whenever the decision is potentially controversial consult with the relevant Cabinet Member and/or Scrutiny Chair/Policy Commissioner and shall always be entitled to refer matters for decision to the appropriate Member body where they consider they should do so.
- (f) In exercising these delegated powers the officers concerned shall have broad discretion, subject to these rules, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary whether within or outside the Council.
- (g) Officers shall act so as to achieve for their service the policies and objectives of their service within the budget available and always having regard to the overall and corporate objectives and interests of the Council.

## 1 GENERAL DELEGATIONS TO DIRECTORS AND HEADS OF SERVICE

### GENERAL

- 1.1 Within the provisions of statutory requirements, schemes of conditions of service, Standing Orders, Standing Orders as to Contracts and Financial Regulations of the Council and subject to approved estimates and established policies, Strategic Directors and Heads of Service are empowered to make such decisions and to initiate such actions as they deem necessary in the interests of the efficient delivery and improvement of the services which they deliver.
- 1.2 The delegated powers within the scheme are exercisable by the Strategic Director or Heads of Service or other person authorised by them.

#### Finance

- 1.3 In accordance with Council policies, to authorise any increase, or decrease, in fees and charges subject to consultation with the relevant member of the Cabinet and the Chief Financial Officer.
- 1.4 Subject to Council policy and approved budgets to incur expenditure in the discharge of the responsibilities for each directorate provided that no commitment to expenditure is made in excess of the approved budget.
- 1.5 Subject to prior approval of the Chief Financial Officer to have the general power of virement as set out in Financial Regulations.
- 1.6 Within policy to make application for any grants or external funding on behalf of the Council.
- 1.7 Within approved policy and budget and within the competence of the Council to engage in providing services for outside agencies.
- 1.8 To serve notices in connection with any function within the competence of the Council.

#### Personnel

- 1.9 In accordance with policies and procedures to recruit, deploy and manage staff including, with appropriate consultation with the Head of Human Resources, capability and disciplinary procedures; the making of ex gratia payments in respect of loss or damage; waiver of repayment of expenses, allowances or the cost of training; approval of early retirement or redundancy and the determination of terms and conditions.

#### Emergency

- 1.10 In an emergency, to take such action as is necessary within the law to protect life, health and safety, the economic, social or environmental well being of the Island, and to preserve property belonging to the Council or others.

## STATUTORY OFFICERS

### 2 CHIEF EXECUTIVE

- 2.1 Where necessary in consultation with the Monitoring Officer, Chief Financial Officer, Political Groups, Leader of the Council and/or relevant [Cabinet Member/Portfolio Holder](#)(s), to authorise urgent action between Cabinet meetings and ensure that the decision be made available to the Chair of the Scrutiny Committee or relevant Policy Commissioner.
- 2.2 To ensure strategically lead improvements in the quality and efficiency of service delivery and to devise and maintain systems to deliver good governance, including performance management, risk management and ethics/probity structures.
- 2.3 To determine the management structure and the deployment of staff.
- 2.4 To authorise, as an approved duty, attendance of members at appropriate conferences, seminars, visits etc, both in this country and abroad.
- 2.5 To be the Council's Head of Paid Service.
- 2.6 Responsibility for ensuring:
- (i) that human resource management complies with current Council policy and standards.
  - (ii) propriety and observance of Codes of Conduct for all Council staff.
  - (iii) compliance with and observance of all established Council policies.
- 2.7 To provide professional advice to all partners in the decision making process.
- 2.8 In conjunction with the Monitoring Officer to maintain a system of record keeping for all the Council's decisions.
- 2.9 To make arrangements for the Council to be represented on partnership and external bodies as required by statute or the Council.
- 2.10 To have all the powers of any other officer of the Council in the event of their absence or inability to act, except insofar as the exercise of such powers is by law limited to a specific post holder.
- 2.11 To act as Returning Officer for Local Elections [a](#)And as Acting Returning Officer for Parliamentary elections.
- 2.12 Within the Council policy and within budget to manage and operate on a day to day basis County Hall accommodation.
- 2.13 To agree fees and charges for election staff as recommended by the Joint Working Party of Chief Executives and District Secretaries throughout Hampshire and the Isle of Wight.
- 2.14 To amend the constitution to reflect decisions taken at Full Council, changes in the law, to correct errors or clarify ambiguities where to do so does not alter (but gives further effect to) the Executive Arrangements or the principles enshrined in the constitution.

### **3 MONITORING OFFICER**

- 3.1 In collaboration with the Chief Financial Officer to and report as appropriate to the Council on any proposal, decision or omission that would give rise to unlawfulness or if any decision has given rise to maladministration.
- 3.2 To ensure effective arrangements for the undertaking of overview and scrutiny functions.
- 3.3 To deploy resources and incur expenditure (within and without resources allocated to the service area) in order to deliver improving standards of governance.
- 3.4 To authorise investigations and reports on issues that are relevant to the Council's functions.
- 3.5 To make arrangements for the promotion and maintenance of high standards of conduct within the Council.
- 3.6 To deliver appropriate support (including undertaking or arranging for investigations) in connection with the functions of Council's Standards Committee.
- 3.7 To make arrangements for decisions of the Cabinet, the reasons for those decisions, relevant reports and background papers to be publicly available.
- 3.8 To make arrangements for the maintenance and inspection of the register of members and co-opted members interests.
- 3.9 To provide appropriate support to members and officers to assist in undertaking their roles.

### **4 CHIEF FINANCIAL OFFICER**

- 4.1 To provide professional financial advice in relation to the Council's corporate management.
- 4.2 To make arrangements for the maintenance of the Council's financial administration and stewardship.
- 4.3 To make arrangements for the provision of financial information.
- 4.4 To monitor the Council's financial performance on a continuous basis, and advise the council of the robustness of its budgets and the adequacy of its reserves.

### **5 DIRECTORATE OF CORPORATE SERVICES**

The following functions are delegated to the Strategic Director and the relevant Head of Service:

#### **Legal and Democratic Services**

- 5.1 On behalf of the Council to institute, defend and carry on legal proceedings, including prosecutions, and to retain Counsel or instruct Parliamentary Agents and other solicitors as and when necessary.
- 5.2 To be responsible for implementing and managing at the direction of the Council, the Council's Business System including, in accordance with the wishes of the Political Groups, the changes to Committee membership.

- 5.3 To issue licences and permits, and to keep registers as required by any enactment within Council policy.
- 5.4 To serve notices and publish any matters in connection with any function within the competence of the Council including the Proper Officer with regard to any provision within the Local Government Acts unless otherwise delegated elsewhere.
- 5.5 To make Orders under any statutory provision within the powers of the Council and where such an Order has been approved either by a Committee or by a relevant officer whilst exercising his delegated powers.
- 5.6 To authorise the attestation of documents signed and sealed on behalf of the Council.
- 5.7 To make appointments to outside bodies where nominations have been sought from all members of the Council and appropriate nominations received to fill the vacancies available, subject to consultation with the relevant member of the Cabinet. Where there are more nominations received than vacancies the appointment to be referred to the Cabinet or Council as deemed appropriate, after consultation with the Leader.
- 5.8 To review the allocation of seats on the Cabinet, Scrutiny Committee, Commissions Regulatory Committee between political groups and advise on the allocation which meets the requirements of the appropriate legislation and in accordance with the decision of the Council, and wishes of the political groups, make the appropriate appointments to these.
- 5.9 In relation to the appointment as Proper Officer to exercise the function of Births, Deaths and Marriages.
- 5.10 To undertake functions in relation to data protection, freedom of information and information management, including the determination of requests and the arrangement of appeals.

**Chief Financial Officer**

- 5.11 To make arrangements for the proper administration of the financial affairs and in collaboration with the Monitoring Officer to ensure good and improving governance arrangements.
- 5.12 Subject to the Financial Procedure Rules of the Council and to all relevant legislation, to carry out all functions necessary to make arrangements for the proper administration of the financial affairs of the Council including the operation of such funds, provisions and reserves as he considers appropriate for this purpose.
- 5.13 To deploy resources and incur expenditure (within and without resources allocated to the service area) in order to deliver improving standards of governance.
- 5.14 Subject to the policies of the Council and within approved budgets to:
  - (a) Implement decisions of National Negotiating Bodies affecting employees, except insofar as such decisions give discretionary powers to employing authorities.
  - (b) Make arrangements for the borrowing of such moneys as are necessary and in accordance with the Council's Treasury Strategy and Policy, to invest any temporarily surplus funds and to borrow on overdraft from the Council's bankers such sum or sums as may from time to time be required up to a limit agreed between the Council's bank and the Council.

- (c) Select and/or switch financing methods for capital expenditure including leasing as appears to be in the Council's best financial interests, to include the annual statutory determinations for capital financing.
- (d) Arrange the issue of Revenue Bills to the maximum value permitted by Schedule 13, Local Government Act 1972.
- (e) After consultation where appropriate with the Head of Legal and Democratic Services to settle claims by third parties which are not recoverable from the Council's Insurers.
- (f) Authorise the payment of gratuities to part-time employees declared redundant who would not qualify for redundancy payments.
- (g) Make arrangements for the investment of the Pension Fund subject to any strategic decisions of the Investment Panel, to authorise persons to act as proxies at meetings and business in connection therewith, to authorise the Common Seal of the Council to be affixed to any necessary documents in connection with the above.
- (h) Provide financial services to external organisations on a full cost recovery basis.
- (i) Annually, in liaison with the Corporate Director of ~~Adult and Social Services and Housing~~ to set the rents of temporary housing accommodation.
- (j) To advise Members on policy issues in respect of pensions administration and to take decisions in respect of the Pension Scheme.
- (k) To maintain an internal audit of the Council's financial affairs.
- (l) Authorise officers to sign certificates as required by the Local Government Finance Act 1998.
- (m) To manage all routine matters arising under the Local Government Pension Scheme Regulations and the Local Government Compensation Regulations.
- (n) To take decisions on all pension cases falling within precedent, guidelines or regulations.
- (o) To make arrangements for the Billing and Collection of Council Tax and Non Domestic Rates and, where appropriate, outstanding Community Charge and Domestic Rates and for the determination and payment, where applicable, of Housing Benefit and Council Tax Benefit.
- (p) To authorise Officers of the Council to institute proceedings in the Magistrates Court or the County Court on behalf of the Council for the recovery of sums due to the Council and sundry debts including recovery of Council Tax, Non Domestic Rates, Community Charge, Domestic Rates and to authorise any person to act on the Council's behalf in taking any Court Proceedings or other enforcement measures appropriate to the task of Recovery, and to authorise the Common Seal of the Council to be affixed to Documents of Council in this connection.
- (q) To issue Attachment of Earnings Orders in respect of Council Tax and Community Charge and authorise any person to act on the Council's behalf in the issuing of such orders.

- (r) To issue warrants for the seizing of goods and chattels by the Bailiff in respect of the recovery of rent and authorise any person to act on the behalf of the Council.
- (s) To authorise any person to attend hearings of the Valuation Tribunal on behalf of the Council.
- (t) To determine the council tax base for each financial year

### **Organizational Development**

- 5.15 To be the Council's overall co-ordinator on all IT matters to assist with the proper functioning of the Council's business.
- 5.16 To authorise the use of computer hardware and software agencies to deal with programming and processing emergencies, to arrange mutual hardware standby facilities and to make the IT Section's services available to third parties for the same purpose on a full cost recovery basis.
- 5.17 To manage and operate on a day to day basis County Hall accommodation.
- 5.18 To allocate resources and incur expenditure (within and without those resources allocated to the service area) in order to efficiently and effectively deliver consistent high quality access to services for members of the public.

### **Corporate Policy aAnd Communications**

- 5.19 Agree the contents and arrange for the publication of material publicising the Council, its partners and policies and for the publication of statutory documentation and external inspection reports.
- 5.20 To devise and maintain performance management systems.

### **Human Resources**

- 5.21 Approval of policies and procedures, following consultation with Trade Unions and other staff representatives (including but not limited to variations contracts of employment) which collectively comprise the terms and conditions of employees.
- 6.18 To establish and maintain arrangements for the lawful management and deployment of staff (including but not limited to procedures for recruitment and dismissal, workforce planning, performance and motivation and remuneration).

## **6 STRATEGIC DIRECTOR, ENVIRONMENT SERVICES**

The following functions are delegated to the Strategic Director and the relevant Head of Service:

### **Highways and Transportation**

- 6.1 To authorise:
  - (a) the erection and sitting of buildings or structures or the carrying out of works in front of the prescribed building line pursuant to the powers contained in the Highways Acts 1980;

- (b) interference with or obstruction to highways pursuant to powers contained in the Highways Acts 1980.
- 6.2 To authorise the statutory powers of entry on to any land for the purpose of survey and to place or leave on or in that land any apparatus for use in connection with that survey.
- 6.3 In an emergency, to take such action as is necessary to protect life or to preserve property belonging to the Council or the well being of the occupants for whom the Council is responsible and to effect repairs.
- 6.4 (i) The power to contribute up to a maximum of 10% of the estimated costs of the maintenance of access roads, the route of which coincides with a by-way or bridleway.
- (ii) The discretion to undertake minor works of repair and general maintenance of rights of way.
- 6.5 In consultation with the Strategic Director, Corporate Services to demolish property acquired for road schemes in advance of requirements.
- 6.6 To authorise the entering into of agreements with developers under Sections 37, 38 and 278 of the Highways Act 1980 and Section 111 of the Local Government Act 1972 and for the adoption of streets constructed to specification and to exercise the default powers hereunder if required.
- 6.7 To plan and carry out highway improvements not requiring planning permission, subject to notification to the Local Land Charges Registrar as necessary and appropriate.
- 6.8 To approve :
- (a) the placing of structures within highway limits;
  - (b) the laying, maintenance and inspection of pipes, cables or other lines over or under the highway;
  - (c) the erection of stiles, gates or cattle grids;
  - (d) arrangements for motor vehicle and cycle trials subject to the concurrence of the relevant member of the Cabinet.
- 6.9 To exercise the Council's powers, including the giving of formal notices:
- (a) to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
  - (b) to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
  - (c) to pipe or culvert and fill up roadside ditches;
  - (d) to require the execution of works to prevent soil or waste from land from falling or being washed on to a street;
  - (e) to take any action in relation to any obstruction of or damage to the highway or users thereof;



- (f) in relation to alterations of the public highway whereby notices may be served on statutory undertakers or by them upon the Council, and to agree estimates and specifications in connection therewith and to exercise all other powers under the New Roads and Street Works Act 1991.
  - (g) to require the removal of abandoned vehicles and any appropriate action relating thereto.
- 6.10 To approve the advertisement of proposals to make Traffic Regulation Orders under the Road Traffic Regulation Act 1984, as amended, and to approve the making Orders in respect of advertised proposals where no objections have been received subject to consultation with the relevant member of the Cabinet.
  - 6.11 To approve the advertisement and making of Traffic Regulation Orders and to approve the posting of notices under Section 14 of the Road Traffic Regulation Act 1984.
  - 6.12 To agree contributions to regional water authorities' surface water drainage schemes calculated on the proportion of highway 'run-off' to that from other areas and to make payments of up to £1,000 to any minor drainage scheme of any type where the highway will benefit.
  - 6.13 To arrange for the temporary use of land for storing of highway materials or equipment.
  - 6.14 To carry out minor temporary repairs in private streets required to remove danger to persons or vehicles.
  - 6.15 To erect traffic signs and in consultation with the Head of Property Services to arrange wayleaves for their erection on private property.
  - 6.16 Routine street numbering in consultation with the relevant member of the Cabinet and the local member.
  - 6.17 To enter into agreements :
    - (a) permitting encroachments of the highway to remain;
    - (b) for the maintenance and planting of land within highway limits;
    - (c) with other public authorities for the provision of services and the recoupment of charges.
  - 6.18 To certify interim and ex gratia payments on all principal road and 'other roads' contracts.
  - 6.19 To grant permission for the erection of banners over highways, subject to appropriate conditions including conditions necessary for public safety.
  - 6.20 To seek planning permission for the purposes of Regulations 4(1) and 5(2) of the Town and Country Planning General Regulations 1976.
  - 6.21 To seek tenders for public transport services that in his opinion are necessary, with and that the tenders received being put before the Cabinet for determination.
  - 6.22 To adjust the timetable and routes for the tendered local bus services that in his opinion are necessary or essential to the maintenance of a balanced timetable.

- 6.23 To make public path orders under the Highways Act 1980 and modification orders under the Wildlife and Countryside Act 1981 where the approved consultation procedure has produced no objections to the proposed order; such action when taken to be reported to the next meeting of the Regulatory Appeals Committee.
- 6.24 To conclude agreements under the relevant sections of the Town and Country Planning Act or the Highways Act to enable developers to carry out works and dedicate land as part of the publicly maintainable highway subject to adequate budget provision, and in the case of capital contributions being required, in consultation with the relevant member of the Cabinet.
- 6.25 To authorise, after consultation with the relevant member of the Cabinet, that disposal of redundant vehicles to non-commercial charitable organisations provided that the availability of these are first advertised following which recipient organisations be chosen by lot.
- 6.26 Routine Street naming and numbering in consultation with the relevant member of the Cabinet and the local member.

### **Property Services**

- 6.27 Within approved budget and Council policy to manage the Council's property portfolio through the Council's Property Services Manager including, in particular, the power to buy and sell land; to enter into or grant leases and licences; to make planning applications building control applications and such other applications to comply with statutory requirements; to develop property in accordance with Council policy and to inform the relevant ward councillor.
- 6.28 In an emergency, to take such action as is necessary to protect life or to preserve property belonging to the Council or the well being of the occupants for whom the Council is responsible and to effect repairs.

### **Building Control**

- 6.29 Building Control matters, in particular the issue of notices and determination of applications, consents or approvals under the Building Act 1984 and the Local Government (Miscellaneous Provisions) Act 1982.

### **Planning**

#### Applications

- 6.30 The processing and determination of all applications and related submissions is delegated to the Director of Environment Services, the Head of Planning Services, the Development Control Manager and the Development Management Team Manager, with the following exceptions:
  - (a) Applications which have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies) or are contentious among the wider Island communities.
  - (b) Applications which by their nature need to be accompanied by an Environmental Impact Assessment (or Environmental Statement) as a requirement of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any future such Regulations.

- (c) Applications submitted by or on behalf of an Elected Member (or their spouse/partner) or by any officers (or their spouse/partner) employed in Planning Services or any other areas of the Council where the individual may be involved in the planning process (unless the Monitoring Officer certifies that the nature of the applications - being clearly within policy and for domestic/recreational and not commercial purposes - is such that they can be determined under delegated powers).
  - (d) Applications where the proposed development is for Council purposes or involves Council owned land or property (except where the application is for minor works to existing property, where the use is not to be changed and where there is no consequent proposal to dispose of the property).
  - (e) Applications for listed building consent (or the associated planning application) proposing the complete demolition of a listed building.
  - (f) Applications where an elected Member for the ward in which the scheme is proposed has, within the 21 day statutory consultation period submitted a written request for determination by the Development Control Committee. This request should be accompanied by relevant and sustainable planning reasons as to why, in the view of the Member, the application should not be determined by Officers without reference to the Development Control [Sub](#) Committee.
  - (g) Applications where a duly made ~~neighbour~~ representation has been submitted in writing within the 21 day statutory consultation period containing relevant and sustainable planning reasons that cannot be overcome by conditions and or amended drawings, shall be referred to the local member for consideration for call-in to the Development Control [Sub](#) Committee for determination.
- 6.31 Declining to accept for determination repetitive applications.
  - 6.32 Determination as to whether planning permission is required or not.
  - 6.33 To issue decisions made on planning applications and other related submissions.
  - 6.34 Determining the need for environmental statements.
  - 6.35 To carry out appropriate publicity for applications in accordance with the statutory requirements.
  - 6.36 To agree amendments to approved plans in accordance with approved procedures.
  - 6.37 To add or amend any condition or reason as appropriate to the decision notice as long as the resultant decision is in accordance with the intention of Development Control [Sub](#) Committee and the formal resolution.
  - 6.38 Determining the amount of loans/grants in accordance with any agreed historic built environment enhancement scheme.
  - 6.39 Power to enter land under the Town and Country Planning Act 1990 including but not limited to s.214, s.324 and s.325.

## **Trees, hedges and related matters**

- 6.40 Power to revoke, vary, make and confirm Tree Preservation Orders.
- 6.41 Power to determine applications to carry out works to trees protected by TPOs or situated within Conservation Areas.
- 6.42 Power to make and withdraw Tree Replacement Notices.
- 6.43 Power to deal with dangerous trees under s.23(1–7) of the Local Government (Miscellaneous Provisions) Act 1976.
- 6.44 Power to issue an Article 5 Certificate in connection with an application for works to protected trees.
- 6.45 Power to determine Hedgerow Removal Notices.
- 6.46 Power to make and withdraw Hedgerow Retention Notices and Hedgerow Replacement Notices.
- 6.47 Power to enter land and undertake works in connection with a Hedgerow Replacement Notice.
- 6.48 Power to determine complaints made under Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges Legislation).
- 6.49 Power to make and withdraw a remedial notice under Part 8 of the Anti-Social Behaviour Act 2003.
- 6.50 Power to enter land and undertake remedial works under Part 8 of the Anti-Social Behaviour Act 2003.

## **Enforcement**

- 6.51 Preparation and service of a Notice under S330 Town and Country Planning Act 1990, and S16 Local Government (Miscellaneous Provisions) Act 1996.
- 6.52 Preparation and service of Planning Contravention Notice.
- 6.53 Preparation and service of Breach of Condition Notice.
- 6.54 Preparation and service of an Enforcement Notice including a Listed Building Enforcement Notice.
- 6.55 Preparation and service of a Notice under S215 Town and Country Planning Act 1990.
- 6.56 Determinations to take no further enforcement action after detailed examination of circumstances surrounding an alleged breach of control, or the serving of a Planning Contravention Notice.
- 6.57 The preparation and service of a temporary Stop Notice.
- 6.58 Preparation and service of a Stop Notice.

- 6.59 The withdrawal of an Enforcement or Breach of Condition Notice.
- 6.60 The removal of illegally displayed advertisements.

**Miscellaneous**

- 6.61 Power to register land as a Town or Village Green under the Commons Registration Act 1969 and the Commons Registration (New Land) Regulations 1969.

The following is delegated to the Director of Environment Services and Head of Planning Services in consultation with the Cabinet Member responsible for Planning Policy:

- 6.62 To undertake appropriate action in connection with the preparation of the Local Development Framework (Island Plan).
- 6.63 In an emergency, to take such action as is necessary to protect life or to preserve property belonging to the Council or the well being of the occupants for whom the Council is responsible.

Note: For power to institute, defend and carry on legal proceedings – see functions delegated to Legal and Democratic Services.

**Environmental Health, Trading Standards and Bereavement Services**

- 6.64 Responsibility for fulfilling the Council's responsibilities and obligations for Trading Standards, including weights and measures, animal health, consumer safety, agriculture and consumer advice.
- 6.65 Responsibility for fulfilling the Council's responsibilities and obligations for Environmental Health, including food, health and safety and environmental protection.
- 6.66 Responsibility for fulfilling the Council's responsibilities and obligations in regard to licensing in those areas encompassed by the Service.
- 6.67 To ~~determine~~ grant street trading licences and regulated entertainment (includes liquor licences) after appropriate consultation with the Chairman, or Vice Chairman, of the Regulatory Committee or Licensing Sub Committee and the local member.
- 6.68 To waive charges for street trading consents where these are for charitable purposes where appropriate.
- 6.69 To approve contractors being included to the Council's list for pest control provided these in so far as the law allows, meet the Council's specifications.
- 6.70 Responsibility for fulfilling the Council's responsibilities and obligations with regard to the statutory requirements and general operation of Bereavement Services.

**Economic Development**

- 6.71 To ensure the implementation of the Economic Strategy including Single Regeneration Budget and European matters and the making of relevant applications for government and European funding, within approved budget and to liaise with the Isle of Wight Economic Partnership and the Tourism Partnership.

## **Tourism**

- 6.72 To manage through the Head of Tourism Services the Tourist Information Centres.
- 6.73 To fix the opening and closing hours of Tourism premises open to the public.
- 6.74 To produce and publish appropriate material and arrange for the sale in Tourism premises and other outlets of appropriate material

## **7 CHIEF FIRE OFFICER**

- 7.1 Maintenance of the Fire and Rescue Services.
  - (a) Standards of Fire Cover for the Island and such equipment that may be necessary to meet efficiently all normal requirements.
  - (b) The efficient training of the members of the Fire and Rescue Service.
  - (c) The efficient arrangements for dealing with calls for assistance for the Fire Brigade in case of Fire and for summoning members of the Fire Brigade.
  - (d) Efficient arrangements for obtaining by inspection or otherwise information required for fire fighting purposes with respect to the character of buildings and property in the Fire Authority's area and available water supplies and the means of access to them and other material local circumstances.
  - (e) Efficient arrangements for ensuring that reasonable steps are taken to prevent or mitigate damage to property resulting from measures taken in dealing with fires.
  - (f) Efficient arrangements for giving when requested of advice in respect of buildings and other property in the area of the Fire Authority as to fire prevention, restriction of spread of fire and the means of escape in case of fire.
- 7.2 The Council's responsibilities for its obligations as a Fire Authority under the Fire Services Act 1947 (as amended) and under any Fire Safety and associated legislation.
- 7.3 To authorise appropriate officers to carry out all functions including the services of all notices under fire safety legislation and to serve any other notices in connection with any function within the competence of the Council.
- 7.4 The maintenance of discipline under the Fire Services (Discipline) Regulations 1985.
- 7.5 Negotiation of minor adjustments in the scheme of Conditions of Service and to consult with staff and trade union representatives on industrial relations matters.
- 7.6 To be responsible to the Fire Authority for ensuring, so far as is practical, a reinforcement scheme for securing and rendering mutual assistance for the purpose of dealing with fires occurring on the Island.
- 7.7 Employing the Fire and Rescue Service or use any equipment for the purposes other than fire fighting for which it appears to be suitable and to make charges any services rendered in the course of such employment.
- 7.8 Take all reasonable steps for ensuring the provision of an adequate supply of water and for securing that it will be available for use in case of fire.

- 7.9 Maintenance of an establishment scheme as approved as approved by the Fire Authority and Secretary of State.

### **Emergency Planning**

- 7.10 The Council's responsibilities and obligations in regard to Emergency Planning preparedness.
- 7.11 The Council's obligations, responsibilities and duties for the control of the oil pollution.

## **8 STRATEGIC DIRECTOR OF CHILDREN'S SERVICES**

The following functions are delegated to the Strategic Director and the relevant Head of Service:

### **Education and Schools**

- 8.1 To fix, in consultation with the Island Teaching Council and Head teacher Groups, school terms and holiday dates.
- 8.2 To secure the admission of children to County and voluntary controlled schools including the establishment in consultation with governing bodies of annual admissions numbers and to agree admissions numbers and admissions policies with the governing bodies of voluntary aided schools.
- 8.3 To secure the transport of pupils and students to schools and other education establishments in accordance with statute or the policies of the Cabinet with due regard to budgetary provision.
- 8.4 To secure, in consultation with the Chief Financial Officer, the calculation, dissemination and monitoring of school budgets under the terms of the Council's Scheme for Local Management of Schools in fulfilment of the Council's statutory duty to provide for public education.
- 8.5 To secure the provision of education for those with special educational needs as defined under various legislation in accordance with the policies of the Cabinet and with regard to the Committee's estimates, such provision to include education otherwise than in a school in appropriate cases.
- 8.6 To authorise the payment or disbursement of grants, allowances, authorisations and services to pupils, teachers and others as determined by relevant legislation or in accordance with the policies of the Cabinet.
- 8.7 To initiate such action as falls to the responsibility of the Cabinet for the attendance of pupils at school or for pupil welfare under the Children Act 1989 and other relevant legislation.
- 8.8 To secure the implementation of the annual capital programme of the Cabinet, as approved by the Council, including the allocation of resources within the minor capital building programme and the preparation and purchase of furniture and equipment schedules in accordance with Financial Procedure Rules and Contracts Procedure Rules, and to include all arrangements with regard to voluntary aided school sites and buildings.
- 8.9 To authorise the publication of notices under Sections 12, 13 and 15 of the Education Act 1980 subject, where appropriate, to consultation with the governing bodies of the schools concerned.

- 8.10 To authorise the appointment of teaching and non-teaching staff in schools and elsewhere within the Education service and to undertake anything consequential to the employment of those staff as provided under legislation or the policies of the Cabinet subject in the case of schools to the provisions of the Council's Scheme for Local Management of Schools.
- 8.11 To undertake the landlord function in relation to the management of sites used for the delivery of Children's Services
- 8.12 To commission services as required under the Children Act 1989 involving the purchasing and contracting of services within the Contract Procedure Rules and Financial Procedure Rules, making appropriate care placements of individuals and to cancel contracts where contractual conditions have not been complied with following any remedial actions compliant with the Contract.
- 8.13 To execute responsibilities under various statutes relating to the care of children, including the responsibility for instituting and pursuing Court Proceedings, normally in consultation with the Head of Legal and Democratic Services.
- 8.14 To execute powers conferred by various statutes involving financial support to people, where expenditure can be contained within the overall Directorate budget.
- 8.15 To set the level of charges for the Directorate's services in consultation with the relevant members of the Cabinet.
- 8.16 To make appropriate payments and disbursements to any person or agency in execution of the Council policies subject to overall containment of the Service's agreed level of budget.
- 8.17 To authorise staff to execute statutory powers, enforcements, rights of entry, etc, as necessary to conduct the affairs of the Social Services functions, including the servicing of Notices under various Statutes.

## **9 STRATEGIC DIRECTOR OF ADULT AND COMMUNITY SERVICES**

The following functions are delegated to the Strategic Director and the relevant Head of Service:

### **Adult Services**

- 9.1 To commission services as required under the NHS and Community Care Act 1990 involving the purchasing and contracting of services within the Contract Procedure Rules and Financial Procedure Rules, making appropriate care placements of individuals and to cancel contracts where contractual conditions have not been complied with following any remedial actions compliant with the Contract.
- 9.2 To execute responsibilities under various statutes relating to the care of adults, including the responsibility for instituting Court Proceedings, normally in consultation with the Head of Legal and Democratic Services, where necessary.
- 9.3 To execute powers conferred by various statutes involving financial support to people, where expenditure can be contained within the overall Directorate budget.
- 9.4 To set the level of charges for the Directorate's services in consultation with the relevant members of the Cabinet.



9.5 To make appropriate payments and disbursements to any person or agency in execution of the Council policies subject to overall containment of the Service's agreed level of budget.

9.6 To authorise staff to execute statutory powers, enforcements, rights of entry, etc, as necessary to conduct the affairs of the Social Services functions, including the servicing of Notices under various Statutes and the authorisation of Officers to act under the Mental Health Acts.

## **Housing**

9.7 To authorise staff to execute the Council's statutory housing powers.

9.8 To deliver the targets set for the Capital Programme and as set by the Cabinet.

9.9 To authorise appropriate officers to sign documents relating to the Local Authority Social Housing Grant applications and supporting papers.

9.10 Determine the amount of loans/grants/assistance in accordance with the Council's Housing Renewal Strategy and Housing, Construction and Regeneration Act 1996.

9.11 Responsibility for fulfilling the Council's responsibilities for housing and private sector drainage fitness, including powers of entry, in accordance with the following acts:

- Public Health Act 1936
- Public Health Act 1961
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Building Act 1984
- Environmental Protection Act 1990
- Water Industry Act 1991

9.12 Responsibility for fulfilling the Council's responsibilities for tenants under the Protection from Eviction Act 1977.

## **Community Development**

9.13 In consultation with the Head of Legal and Democratic Services to authorise the institution of proceedings under Bye-Laws under Section 19 of the Public Libraries and Museums Act 1964

9.14 To fix the opening and closing hours of premises open to the public within the remit of the Service.

9.15 To negotiate and arrange public performances and exhibitions.

9.16 After consultation with the appropriate Chairman and the Chief Financial Officer to produce and publish appropriate material and arrange for the sale in premises and other outlets, within the remit of the Service of appropriate material.

9.17 To authorise the display of notices, posters and minor exhibitions in premises within the remit of the Service.

9.18 To occasionally waive or vary such charges as have been established by the Cabinet at the discretion of the Chief Officer.

## **Safer Communities**

9.19 Functions under the Anti-Social Behaviour Act 2003.

[9.20](#) Functions under the Crime and Disorder Act.

# COUNCIL PROCEDURE RULES FOR THE REGULATION OF PROCEEDINGS

## PROCEDURE RULE No. 1 ANNUAL MEETING OF THE COUNCIL

### 1. Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

### 2. The annual meeting will:

- (a) elect a person to preside if the Chairman of Council is not present;
- (a) elect the Chairman of Council;
- ~~(b) elect the Vice Chairman of Council;~~
- (b) elect the Deputy Chairman of Council;
- (c) approve the minutes of the last meeting;
- (d) receive any announcements from the Chairman and/or Head of the Paid Service;
- ~~(f) elect the Leader;~~
- (e) agree the number of members to be appointed to the Cabinet and appoint those members of the cabinet;
- (f) appoint at least one Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate;
- (g) decide the size and terms of reference for those committees;
- (h) decide the allocation of seats [and substitutes] to political groups in accordance with the political balance rules;
- (i) to appoint the Chairmen and Vice Chairmen of the Scrutiny Committee or Committees, and any other Committees or Sub Committees appointed by Council~~Development Control Committee, Licensing Committee and Regulatory Appeals Committee;~~
- (j) receive nominations of councillors to serve on outside bodies to be appointed by the Council (if any);
- (k) Re-affirm the scheme of delegation;
- (l) approve a programme of ordinary meetings of the Council for the year; and
- (m) consider any business set out in the notice convening the meeting.

### 3. No member of the Council shall serve as Chairman or Vice Chairman of the Council for more than one year.

### 4. In the period after ordinary council elections and before the Annual Council any member who holds office within the Council immediately prior to the election AND is re-elected, shall continue in that office until the date of the Annual Meeting.

## PROCEDURE RULE No. 2 ORDINARY MEETINGS

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

### 2. Ordinary meetings will:

- (a) elect a person to preside if the Chairman and Vice Chairman are not present;

- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from members;
- (d) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (e) receive any announcements from the Chairman, Leader, members of the Cabinet or the Head of Paid Service (total period for announcements shall not exceed 15 minutes and no [Cabinet Member/Portfolio Holder](#) will speak for more than 3 minutes in making announcements) ;
- (f) deal with any business from the last Council meeting;
- (g) consider motions;
- (h) consider any item referred to the Full Council by the Standards Committee or the Chair of the Standards Committee
- (i) consider any other business specified in the summons to the meeting;
- (j) receive recommendations from the Cabinet and the Council's Committees, Commissions or Panels and update reports from individual members of the Cabinet and receive questions and answers on any of those reports; and
- (k) receive reports about and receive questions and answers on the business of external organisations.

**PROCEDURE RULE No. 3  
EXTRAORDINARY MEETINGS**

1. A request may be made to the Proper Officer to call an extraordinary Council meeting by:
  - (a) the Council by resolution;
  - (b) the Chairman of the Council;
  - (c) the Monitoring Officer; or
  - (d) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
2. The business to be transacted at an Extraordinary Meeting shall be restricted to the matter(s) for which the meeting was called as set out in the agenda and no other business shall be considered at the meeting.

**PROCEDURE RULE No. 4  
APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

1. No Member can be appointed as a substitute (or deputy) for either the Leader or any member of the Cabinet at meetings of either the Cabinet or any Cabinet Sub Committees.
2. Members of the Regulatory Committee can only appoint substitutes from the named list of deputies for these Committees as held by the Proper Officer.

**PROCEDURE RULE No. 5  
TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Proper Officer and notified in the summons for the meeting.

**PROCEDURE RULE No. 6  
NOTICE OF AND SUMMONS TO MEETINGS**

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**PROCEDURE RULE No. 7  
CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chairman.

**PROCEDURE RULE No. 8  
QUORUM**

The quorum of a meeting of Full Council will be 12 members. During any meeting, if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**PROCEDURE RULE No. 9  
QUESTIONS BY MEMBERS OF THE PUBLIC**

**1. General**

Members of the public may ask questions at ordinary meetings of the Council. The time set aside for such questions will be limited to 15 minutes.

**2. Order of questions**

Questions will be asked in the order that notice of them was received, except that the chairman may group together similar questions.

**3. Notice of questions**

To guarantee a reply at the meeting, members of the public are requested to submit their questions, by delivering it in writing or by electronic mail, to the Proper Officer no later than 48 hours (not including weekends or bank holidays) prior to the start of the meeting. Each question must give the name and address of the questioner. Questions may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting.

**4. Number of questions**

At any one meeting, no person may submit more than one question and no more than three such questions may be asked on behalf of one organisation.

**5. Scope of questions**

The Proper Officer must reject a question if it:

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

**6. Record of questions**

The Proper Officer will give a unique reference number to each question and enter this number and the question in a book open to public inspection. Rejected questions will include reasons for rejection. Copies of all questions will only be circulated to Members who have asked Committee Services for a copy of the questions. Following the meeting the answer will be recorded adjacent to the question in the book maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

**7. Asking the question at the meeting**

Committee Services will provide assistance and an advocacy service for members of the public wishing to submit questions to Council meetings. This service will provide objective advice on the structure and wording of questions and submit/ask the question on behalf of the member of the public should they wish it.

The Chairman will invite the questioner to put the question to the member named in the notice. If a questioner who wishes to ask a question (whether or not prior notice has been given) prefers, their local member can ask the question on their behalf. If the questioner is not present the Chairman may determine how the question will be dealt with.

The Chairman shall prevent any question which in his/her opinion would be inappropriate for the Full Council.

**8. Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 9 (5) above.

**9. Written answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

**10. Reference of question to the Cabinet, Commission to a Committee**

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

## **PROCEDURE RULE No. 10 QUESTIONS BY MEMBERS**

1. A Member may ask Members of the Cabinet any question on any matter where the Council has powers or duties or which affects the Council. Any question submitted under this procedure must be restricted to questions on policy and budget and the Chairman shall have the discretion to rule a question out of order if it falls outside this definition.
2. Where the question meets the requirements of paragraph (3) below, the Proper Officer will give a copy of each question to every Member attending the Meeting.
3. Subject to sub paragraph (6) below, a question must be submitted to the Proper Officer in writing 24 hours (not including weekends and bank holidays) prior to the start of the meeting at which the question is to be asked.
4. The question shall be put and answered by the relevant member of the Cabinet without discussion. The Member shall be allowed one further or supplementary question provided that it is relevant to the original question and does not introduce a new subject matter.
5. The answer to a Member's question may be given orally or in writing.
6. In addition to the above, Members may ask questions of each Member of the Cabinet without any notice except that the period allowed for these questions shall be ten minutes for each member of the Cabinet.
7. If there are questions (raised under sub paragraph 6 above) outstanding at the end of this period they shall either be held over to the next meeting of the Council or dealt with by the relevant member of the Cabinet and/or officer outside the meeting.
8. If in the view of the Chairman the question asked (either in writing or orally) does not relate to policy or budget the Chairman will decline to accept the question at the Council meeting and instruct that either a written reply be given after the meeting (and that this be recorded in the record maintained under sub paragraph 10); or that the question be directed to the relevant Cabinet Member~~Portfolio Holder~~ or other Committee outside the meeting. Where the Chairman so directs for oral questions the questioner shall submit the question in writing to the Democratic Services Manager.
9. Questions may be asked on the discharge of Police functions and answered by the Council's Police Authority Member provided 5 clear working days' notice in writing is received by the Strategic Director, Corporate Services before the meeting.
10. The Proper Officer will give a unique reference number to each question and enter this number and the question in a book open to public inspection. Rejected questions will include reasons for rejection. Following the meeting the answer will be recorded adjacent to the question in the book maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

**PROCEDURE RULE No. 11  
MOTIONS ON NOTICE**

1. **Notice**

Except for motions which can be moved without notice under Procedure Rule 12, written notice of every motion, signed by the member submitting the notice, must be delivered to the Proper Officer not later than 7 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

2. **Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

3. **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Isle of Wight.

4. Any Motion the subject matter of which comes within the province of the Scrutiny Committee may, after it has been moved and on the decision of the Chairman:

- (a) be referred without discussion to the Scrutiny Committee; or
- (b) be referred without discussion to such other meeting as the Chairman may decide:  
or
- (c) be dealt with at the Meeting at which it is moved.

**PROCEDURE RULE No. 12  
MOTIONS ON EXPENDITURE**

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

**PROCEDURE RULE No. 13  
MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

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

**PROCEDURE RULE No. 14  
MOTIONS WITHOUT NOTICE**

1. The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;



- (c) to change the order of business in the agenda;
  - (d) to refer something to an appropriate body or individual;
  - (e) to appoint a Committee or member arising from an item on the summons for the meeting;
  - (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
  - (g) to withdraw a motion;
  - (h) to amend a motion;
  - (i) to proceed to the next business;
  - (j) that the question be now put;
  - (k) to adjourn a debate;
  - (l) to adjourn a meeting;
  - (m) to suspend a particular Council Procedure Rule;
  - (n) to exclude the public and press in accordance with the Access to Information Rules;
  - (o) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4; and
  - (p) to give the consent of the Council where it's consent is required by this Constitution.
2. The Chairman, with or without notice, may propose a resolution on any subject he may deem a matter of urgency and which is within the functions or powers of the Council.

### **PROCEDURE RULE No. 15 RULES OF DEBATE**

1. **No speeches until motion seconded**

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

2. **Right to require motion in writing**

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

3. **Secunder's speech**

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

4. **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chairman except that the mover of an original motion can speak for up to 10 minutes in moving the motion and then a further period of five minutes in replying at the end of the debate.

5. **When a member may speak again**

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;

- (c) to speak on the main issue when their first speech was on a moved amendment;
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

## 6. **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (i) to (iv) is not to negate the motion nor have the effect of introducing a new subject into the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 7. **Alteration of motion**

- (a) A member may alter a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (b) Only alterations which could be made as an amendment may be made.

## 8. **Withdrawal of motion**

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

## 9. **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment.

- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 10. **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

#### 11. **Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:

to proceed to the next business;  
that the question be now put;  
to adjourn a debate; or  
to adjourn a meeting.

- (b) If a motion to proceed to next business, or that the question now be put, is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 12. **Point of order**

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or point of law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### 13. **Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

14. **Non-members Invited to Speak**

That where non-members are invited to make presentations on matters being considered by the Council they also, at the Chairman's discretion, be invited to participate in any debate following the presentation other than the ability to move or second motions or vote thereon.

**PROCEDURE RULE No. 16  
STATE OF THE ISLAND DEBATE**

1. **Calling of debate**

The Leader of the Council or the Leader of another political group on the Council may call a state of the Island debate on a date and in a form to be agreed with the Chairman.

2. **Chairing of debate**

The debate will be chaired by the Chairman.

3. **Results of debate**

The outcome of the debate will be:

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

**PROCEDURE RULE No. 17  
PREVIOUS DECISIONS AND MOTIONS**

1. **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 members.

2. **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 members. Once the motion or amendment has been dealt with, no one can propose a similar motion or amendment for a further period of six months.

**PROCEDURE RULE No. 18  
VOTING**

1. **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

2. **Chairman's casting vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

3. **Show of hands**

Unless Procedure Rule 18(4) or (5) apply the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

4. **Voting on appointments by the Council**

The voting on all appointments by the Council will be conducted by a secret ballot unless a simple majority of those present agree otherwise.

5. **Recorded vote**

If 4 members present at the meeting demand it by standing immediately before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

6. **Right to require individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

7. **Voting procedure for appointments**

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

**PROCEDURE RULE No. 19  
MINUTES**

1. **Signing the minutes**

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

2. **Minutes of previous meeting at extraordinary meeting.**

There is no requirement to sign the minutes of a previous meeting at an extraordinary meeting of the Council.

3. **Form of minutes**

The Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

**PROCEDURE RULE No. 20  
RECORD OF ATTENDANCE**

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

**PROCEDURE RULE No. 21  
EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Procedure Rule 24 (Disturbance by Public).

**PROCEDURE RULE No. 22  
RECORDING OF COUNCIL MEETINGS**

1. Subject to paragraph (2) of this Procedural Rule, no person shall, during the course of a meeting of the Council without the prior consent of the meeting, be permitted to take photographs or to otherwise record the whole or parts of that meeting by means of recording equipment of whatever kind.
2. A duly accredited representative of:
  - (a) the press;
  - (b) a news agency which systematically carries out the business of selling and supplying reports or information to newspapers; and
  - (c) any organisation which is systematically engaged in collecting news for sound or television broadcasts.

shall be entitled to record those parts of the proceedings which are open to the press and public, by any photographic or electronic means.

**PROCEDURE RULE No. 23  
MEMBERS' CONDUCT**

**1. Standing to speak**

When a member speaks at full Council, they must stand and address the meeting through the Chairman. If more than one member stands, the chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

**2. Chairman standing**

When the Chairman stands during a debate, any member speaking at the time must stop and sit down.

**3. Member not to be heard further**

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

4. **Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

5. **General disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

**PROCEDURE RULE No. 24  
DISTURBANCE BY PUBLIC**

1. **Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

2. **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

**PROCEDURE RULE No.25  
SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

1. **Suspension**

All of these Procedure Rule except 15(6) and 17(2) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

2. **Amendment**

At the discretion of the Chairman any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

**PROCEDURE RULE No. 26  
INTERPRETATION OF PROCEDURE RULE**

The ruling of the Chairman as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

**MANDATORY STANDING ORDERS REQUIRED UNDER THE LOCAL GOVERNMENT  
AND HOUSING ACT 1989**

**PROCEDURE RULE No. 27  
POLITICAL ASSISTANT**

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

- (a) There shall be no appointment of any post allocated to a political group unless the Council has allocated such a post to each of the political groups which qualify for one;
- (b) No post to a political group will be allocated to groups that do not qualify for one; and
- (c) No more than one post will be allocated to any one political group.

**PROCEDURE RULE No. 28**  
**DURATION OF MEETINGS**

Any meeting of the Council, any committee or panel will stand adjourned to another day if it has not ended within 3 hours of the advertised start time, unless half of the members in attendance vote by a simple majority to extend the meeting by up to one hour.



# *ACCESS TO INFORMATION RULES*

## 1. **SCOPE**

These rules apply to all meetings of the Council, the Cabinet, The Scrutiny Committee, Regulatory Committee Standards Committee and Policy Commissions (together called meetings).

## 2. **ADDITIONAL RIGHTS TO INFORMATION**

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

## 3. **RIGHTS TO ATTEND MEETINGS**

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

## 4. **NOTICES OF MEETING**

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

## 5. **ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

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

## 6. **SUPPLY OF COPIES**

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

## 7. **ACCESS TO MINUTES/DECISION RECORD AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. **BACKGROUND PAPERS**

(a) **List of background papers**

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

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

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

(b) **Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. **SUMMARY OF PUBLIC'S RIGHTS**

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

10. **EXCLUSION OF ACCESS OF PRESS AND PUBLIC TO MEETINGS**

(a) **Confidential information - requirement to exclude press and public**

The press and public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

(b) **Exempt information - discretion to exclude press and public**

The press and public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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 Article 6.

(c) **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

(d) **Meaning of exempt information**

Exempt information means information falling within the following 15 categories (subject to any condition):

**NOTE: This table reflects the law as at May 2005. New legislation is expected to change the categories. That legislation will replace this table with effect from the day it comes into force, and the constitutional documentation amended to reflect the change.**

Category	Condition
1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates' court committee or probation committee.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
6. Information relating to the adoption, care, fostering or education of any particular child.	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989.
7. Information relating to the financial or business affairs of any particular person (other than the authority).	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.

Category	Condition
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the advantage would arise as against the authority or as against other such persons.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information within paragraph 9 is only exempt if, and for so long as, disclosure sure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it).
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.	For the purposes of this paragraph "tender" includes a DLO/DSO written bid.
11. 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.	Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or nay other consultations or negotiations in connection with a labour relations matter. "Labour relations matters" are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.
12. Any Instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings), and any advice received, information obtained or action to be taken in connection with: <ul style="list-style-type: none"> <li>(n) any legal proceedings by or against the authority; or</li> <li>(o) the determination of any matter affecting the authority;</li> </ul> whether, in either case, proceedings have been commenced or are in contemplation.	
13. Information which, if disclosed to the public, would reveal that the authority proposes – <ul style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of</li> </ul>	Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.

Category	Condition
<p style="text-align: center;">which requirements are imposed on a person; or (b) to make an order or direction under any enactment.</p>	
<p>14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	
<p>15. The identity of a protected informant.</p>	<p>A "protected informant" means a person giving the authority information which tends to show that: (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance, has been, or is being, or is about to be committed</p>

Information falling within any of paragraphs 1-15 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**11. EXCLUSION OF ACCESS BY THE PRESS AND PUBLIC TO REPORTS**

If the Proper Officer thinks fit, the Council may exclude access by the press and public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

**12. APPLICATION OF RULES TO THE CABINET**

Rules 13 - 24 apply to the Cabinet and any committees it may establish (collectively referred to as the Cabinet). If the Cabinet meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 11.03 of this Constitution.

**13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 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 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## 14. THE FORWARD PLAN

### (a) Period of forward plan

Forward plans will be prepared by the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### (b) Contents of forward plan

The forward plan will contain matters which the leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Cabinet Committee of the individual Cabinet members or officers during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained :

- (i) the matter in respect of which a decision is to be made;
- (ii) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (iii) the date on which, or the period within which, the decision will be taken;
- (iv) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (v) the means by which any such consultation is proposed to be undertaken;
- (vi) 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
- (vii) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (i) that key decisions are to be taken on behalf of the Council;
- (ii) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (iii) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (iv) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (v) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;

- (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (vii) that other documents may be submitted to decision takers;
- (viii) the procedure for requesting details of documents (if any) as they become available; and
- (ix) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

**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 Rule 16 (special urgency), 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 included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Proper Officer has informed the chair of the Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the Proper Officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

**16. SPECIAL URGENCY**

If by virtue of the date by which an Cabinet decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the officer, Cabinet member, (if an individual) or the leader of the Council of the body making the decision, obtains the agreement of the Chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no chair of the Scrutiny Committee, or if the Chair (and the Vice Chair in the absence of the Chair) is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice Chairman will suffice.

**17. REPORT TO COUNCIL**

If the Scrutiny Committee concludes that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) The subject of the special emergency procedure.

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the committee when so requested by resolution passed at a meeting of the Scrutiny Committee.

### **Cabinet report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

### **Quarterly reports on special urgency decisions**

In any event the Leader of the Council will submit quarterly reports to the Council on any Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet, whether held in public or private, the Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. SCRUTINY COMMITTEE – ADDITIONAL ACCESS TO INFORMATION**

All Members of the Council have the right to access background papers relating to an item on the Scrutiny Committee agenda, unless access is prohibited by law, by Court Order, or by resolution of the Scrutiny Committee.

Members of the Scrutiny Committee have, in addition, the right to access sufficient information on any issue falling within the Terms of Reference of the Scrutiny Committee upon which they sit to enable them to decide whether to seek to add the issue to an agenda of that Committee, unless access is prohibited by law or by a Court Order.

The Rights described above are without prejudice to any right of a member of the Council, not being a member of the Scrutiny Committee, to access information necessary to their function as an elected member, unless these rights are limited by law or by Court Order.



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

## **1. Framework**

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

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

- (a) The Cabinet will publicise by including in the forward plan and any other appropriate means depending upon the circumstances a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
- (b) Following consultation (including policy debates by Full Council where relevant) the Cabinet will then draw up firm proposals having regard to the responses to that consultation. The Cabinet will take any response from a Commission or the Scrutiny Committee into account in drawing up proposals for submission to the Council, and its report to the Council will reflect the comments made by consultees and the Cabinet response.
- (c) Once the Cabinet has considered the proposals these will then be referred to the Council, at the earliest opportunity, for decision.
- (d) In reaching a decision, the Full Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment or is formally setting the Council Tax base or the Budget or Council Tax levels for a financial year, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision.
- (f) The decision will be published in accordance with Article 11 and a copy shall be given to the Leader and members of the Cabinet.
- (g) An in-principle decision in relation to the budget, plan or strategy will automatically become effective 5 working days from the date of Proper Officer the Council's decision, unless the Leader informs the in writing, within 5 working days that he/she objects to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.
- (h) Upon receiving written notification from the Leader, the Proper Officer will make arrangements to call a Council meeting within a further 7 working days. The Council will be required to re-consider its decision and the Leader's written submission within 14 working days. The Council may :
  - (i) Approve the Cabinet recommendation; or
  - (ii) Approve a different decision which does not accord with the recommendation of the Cabinet.

- (i) The decision shall then be made public in accordance with Article 11, and shall be implemented immediately.

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

- (a) Subject to the provisions of paragraph 5 (virement) the Cabinet or individual Cabinet Members may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If they want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

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

- (a) The Cabinet or an individual member of the Cabinet may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the Chairman of the Scrutiny Committee agrees that the decision is a matter of urgency.

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

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **5. Virement**

There are detailed provisions concerning virement across budget heads and these are set out in the Council's Financial Regulations.

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

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

- (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 relation to the policy framework 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.

7. **Call-in of decisions outside of the budget or policy framework**

- (a) A decision outside of the Budget or Policy Framework (and not taken in accordance with the urgency provisions) is potentially unlawful.
- (b) Where the Scrutiny Committee is determining a call-in and is advised that a decision would be, or was, by the Chief Financial Officer and/or the Monitoring Officer, that a decision would be, or was, outside of the budget or policy framework it may:
  - (i) Refer the decision back to the decision maker for reconsideration, or
  - (ii) Refer the advice to the Full Council with a recommendation that the Budget and/or Policy Framework is amended.
- (c) Until such time as further advice is given that the decision now falls within the Budget and Policy Framework the decision shall not be implemented.

# *CABINET RULES*

## **Composition**

1. The size, appointment to, and allocation of roles within the Cabinet is determined by the Leader of the Council, who also agrees the delegation of functions.
2. The Proper Officer will maintain a list of Cabinet members and any delegations agreed by the Leader from time to time.
3. Th Leader of the Council, or when absent, the Deputy Leader of the Council, will chair the Cabinet. Otherwise members present will elect a chair for that meeting.

## **Responsibility**

4. The Cabinet is responsible for all functions which the law determines to be Cabinet functions or local choice functions.

## **Quorum**

5. Quorum of the Cabinet will be 4.

## **Access to Information**

6. Meetings of the Cabinet will be held in public unless the law requires or allow the press and public to be excluded.
7. If the press and public are excluded from any meeting the Chair of the Scrutiny Committee and the Cabinet Secretaries will be regarded as members of the Cabinet with equal rights to information as members of the Cabinet.

## **Agenda**

8. The Leader of the Council will determine, in consultation with the Proper Officer, the agenda for each Cabinet meeting.
9. The Council will maintain a protocol on decision making and the Leader and Proper Officer will have regard to that protocol when agreeing the agenda for each Cabinet meeting.

## **Speaking at Cabinet**

10. Members of the public have the right to ask questions at each Cabinet meeting.
11. Members of the Council may ask questions about budget and policy, at a strategic level, at each Cabinet meeting.
12. At the discretion of the Leader Policy Commissioners and/or scrutiny members may speak at the Cabinet meeting.
13. Other members of the Council wishing to speak at the Cabinet may give notice that they wish to do so prior to the meeting. The participation of other members is at the discretion of the Chairman.

## **Voting**

14. Voting will be by show of hands. A simple majority prevails and in the event of a tied vote the Chair will have a casting vote.

## REGULATORY COMMITTEE RULES

### Composition

The Committee comprises 15 voting members (and 5 deputies) appointed by the Chief Executive following nominations from group leaders to reflect the principles of proportionality insofar as to do so does not inhibit the appointment of Members with particular skills or interest.

### Quorum

Quorum will be 8.

### Meetings

Meetings (of the Committee and its Sub Committees) will commence at a time that in the opinion of the Chairman meets the needs of applicants, objectors or other interested parties.

### Agenda, Voting, Chairing & Procedure

The Development Control Sub-Committee is a committee of the Council for the purposes of Sections 101 and 102 of the Local Government Act 1972, with terms of reference to determine any issue within the terms of reference of the sub-committees below, where the determination is of policy, of an applications with Island wide significance, or where other circumstances, on the advice of the Proper Officer, require or would benefit from determination by the parent committee.

Other procedural matters will be determined by reference to the Council Procedure Rules.

# DEVELOPMENT CONTROL SUB-COMMITTEE RULES

## 1. COMPOSITION

The Development Control Sub-Committee is a committee of the Council for the purposes of Sections 101 and 102 of the Local Government Act 1972.

The terms of reference of Development Control Sub-Committee are:

To exercise the powers and duties of the Council, within the corporate policies and strategies of the Council, in relation to applications and appeals relating to:

- (i) the role as planning authority in its development control function;
- (ii) the extraction of minerals, the clearance and reclamation of derelict land, subsequent after use of sites for waste disposal and restoration of sites.

The committee will take decisions only where:

- the law or Council policy requires the decision to be taken by elected members, or
  - an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.
- (a) The Committee comprises 14 voting members of the Regulatory Committee~~appointed on a politically proportionate basis, and as far as possible to reflect a geographical spread.~~
  - (b) Six named substitutes (being the remaining member of the Regulatory Committee and the 5 substitute members for that committee) may be called upon to replace members of the Committee.
  - (c) Quorum for a meeting of the Committee shall be seven voting members.

## 2. MEETINGS

Ordinary meetings of the Committee will be every four weeks on Tuesday evenings. Extraordinary meetings will be held on times and dates to be agreed by the Proper Officer at the request of the Vice Chair (Development Control).

## 3. CHAIRMAN

A Regulatory Committee Vice Chairman (Development Control) will be appointed by the Council and will chair the Sub-Committee. If the Chairman is present they will preside and in their absence a Vice Chairman of the Sub-Committee (appointment by the Sub-Committee) shall preside. If both the Chairman and Vice Chairman are absent, the Committee will elect a chairman for the meeting.

## 5. ACCESS

All meetings of the Sub-Committee shall be held in public unless there are grounds for excluding the press and public, as set out in the Access to Information Procedure Rules.

## 6. BUSINESS

At each meeting of the Sub-Committee the following business will be conducted:

- (i) Approval of the records of decisions from the last meeting.
- (ii) Declarations of interest.
- (iii) An opportunity for the public to ask questions of the Chairman in accordance with Council procedure rules.

~~(iv) Urgent business.~~

~~(v)(iv)~~ Matters set out in the agenda for the meeting.

~~(vi)(v)~~ Any urgent item of business which is not included on an agenda but the Chairman, after consultation with the Director of Environment Services, agrees should be raised.

~~(vii)(vi)~~ An opportunity for members of the Council to ask questions of the Chairman in accordance with the Council Procedure Rules.

## 7. DECISIONS

Decisions will be taken in accordance with the Council Procedure Rules and Access to Information Procedure Rules.

All Development Control business shall be conducted in accordance with the Members' Code of Conduct, the Protocol on Member/Officer Relations and, particularly, the Code of Practice for Councillors and Officers dealing with Development Control matters.

## 8. WRITTEN REPRESENTATIONS

- (i) Written representations received within the published timetable will be summarised in written reports placed before Development Control Sub-Committee.
- (ii) Late representations will be summarised and circulated to Development Control Sub-Committee at the time of the meeting. Where appropriate and necessary the meeting will adjourn at the discretion of the Chairman to consider such representations.

## 9. SITE VISITS

~~(i)~~ Site visits will take place the day prior to the Sub-Committee meeting. The need for visits will be agreed by the Head of Planning Services and/or the Development Control Manager in consultation with the Vice Chairman (Development Control).

(i) ~~Site visits are public meetings of the Sub-Committee.~~

(ii) Site visits are open to the public and press but access to any site is subject to permission being granted by the landowner or their agent.

(iii) No debate ~~nor~~ decision regarding the application should be taken on the site.



10. **DELEGATION**

- (i) Terms of reference of Development Control Sub-Committee are determined by Full Council.
- (ii) Delegations to officers, in relation to functions within the terms of reference of Development Control Sub-Committee, are also determined by Full Council.
- (iii) Development Control Sub-Committee may at any time make recommendations about changes either to the terms of reference or the scheme of delegations.

11. **ADOPTION OF POLICY**

Planning Policy development and adoption is principally the responsibility of the Cabinet. Where there is a need for planning policy to be considered by the Regulatory Committee it will not be referred to the Development Control Sub-Committee but considered by the parent committee.

# LICENSING SUB-COMMITTEE RULES

## 1. Composition

- (a) To comprise 15 voting members and 5 deputies of the Regulatory Committee - any 3 of these to be called by the Proper Officer to consider.
- (b) A Regulatory Committee Vice Chairman (Licensing) will be appointed by the Council to chair meetings of the Sub-Committee.
- (c) Every voting member of the Sub-Committee, including the named deputies, shall attend the training provided by the Council prior to participating in the work of the Sub-Committee.
- (d) Quorum for a meeting of the Sub-Committee shall be 3 voting members.
- (e) Applications and appeals will be determined by a quorum of 3, unless the Sub-Committee determines otherwise.
- (f) If the Chairman of the Regulatory Committee is present he/she will preside. In his/her absence, then the Vice Chairman (Licensing) or if neither present then the meeting shall to elect a chairman for the day (to be selected by the Sub-Committee) shall preside.

## 2. Attendance and voting

All meetings of the Sub-Committee shall be held in public unless there are grounds for excluding the press and public as set out in the Access to Information Procedure Rules. Voting will be by show of hands, a simple majority prevails and in the event of a tied vote the chairman will have a casting vote.

## 3. Agenda

At each meeting of the Sub-Committee the following business will be conducted :

- (a) Consideration of the ~~latest~~ latest available -minutes of a previous meetings of the last meeting;
- (b) Declarations of interest, if any;
- (c) Any urgent item of business which is not included on an agenda but the Chairman, after consultation with the Strategic Director, Corporate Services, agrees should be raised.
- (d) Matters set out in the agenda for the meeting.

## 4. Terms of Reference

The Licensing Sub-Committee will determine appeals and applications. The adoption of policy in relation to licensing of regulated functions will be the responsibility of the Regulatory Committee unless it determines otherwise.

## 5. Hearing of Licensing Applications/Issues

- (a) All applicants, agents and objectors shall be sent copies of the agenda and relevant papers in advance of the meeting.
- (b) Anyone wishing to address the Sub-Committee in respect of an application or other licensing matter can be legally represented.
- (c) Consideration of applications or licensing matters shall be in accordance with statutory procedures or to the common law rules of natural justice as recommended by the Strategic Director, Corporate Services.
- (d) All persons, except for the Sub-Committee members, Clerk to the Sub-Committee and Solicitor may be asked to withdraw from the room whilst the Sub-Committee decides the matter in private. Upon reconvening in public the Chairman will announce the Sub-Committee's decision and the reasons for this.

**6. The Council's scheme of Delegation**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council.
- (b) If the Licensing Sub-Committee wishes to amend the scheme of delegation at any time during the year, then the Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes proposed.

# ***HUMAN RESOURCES AND MISCELLANEOUS APPEALS SUB-COMMITTEE RULES***

## **1. Composition**

- (a) To comprise the 15 voting members and 5 substitutes [of the Regulatory Committee](#) - any 3 of these to be called by the Proper Officer to consider a specific human resources or regulatory, application, appeal or other quasi judicial matter.
- (b) A Regulatory Committee Vice Chairman (Human Resources and Miscellaneous Appeals) to be appointed by the Council.
- (c) Every member of the Sub-Committee shall attend the training provided by the Council prior to participating in the work of the Sub-Committee.
- (d) The quorum for a meeting of the Sub-Committee shall be 3 voting members.
- (e) If the Chairman is present he/she will preside. In his/her absence, then the Vice Chairman shall preside.

## **2. Attendance and Voting**

All meetings of the Sub-Committee shall be held in public unless there are grounds for excluding the press and public as set out in the Access to Information Procedure Rules. Voting will be by show of hands, a simple majority prevails and in the event of a tied vote the chairman will have a casting vote.

## **3. Agenda**

At each meeting of the Sub-Committee the following business will be conducted :

- (a) Consideration of the minutes of the last meeting;
- (b) Declarations of interest, if any;
- (c) Any urgent item of business which is not included on an agenda but the Chairman, after consultation with the Strategic Director, Corporate Services, agrees should be raised.
- (d) Matters set out in the agenda for the meeting

## **4. The Council's Scheme of Delegations**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council.
- (b) If the Regulatory Appeals Committee wishes to amend the scheme of delegation at any time during the year, then the Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes proposed.

# *FINANCIAL PROCEDURE RULES*

## **1 Purpose of Financial Regulations**

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

## **2 Budget Setting**

- 2.1 The approved revenue and capital budgets are the financial expression of the Council's service delivery plans. The budgets and associated financing implications are approved each year by Full Council, on the basis of recommendations from the Cabinet, and after having regard to the results of Stakeholder consultation.
- 2.2 Full Council may approve overall capital service allocations but leave the selection of individual schemes to the Cabinet.
- 2.3 Approval of revenue and capital budgets as above confers authority on the Cabinet, Strategic Directors and Heads of Service to spend up to the net sums specified for each of the services within their remit, as set out within the Financial Information System.
- 2.4 Changes to the budget may be agreed by Directors in consultation with Cabinet members and the Chief Financial Officer, provided that there is:
  - 2.4.1 No resulting reduction in the General Reserve
  - 2.4.2 No material reduction in service levels
  - 2.4.3 No resulting un-financed increase in commitments in future yearsFull Council approval is required for other budget changes.
- 2.5 Unspent budgets may be carried forward into the next financial year with the approval of the Chief Financial Officer. Overspendings will be a first call against the following year's budget.

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

- 3.1 The Cabinet is responsible for proposing a budget and for the strategic delivery of services within approved budgets and the approved policy framework. Full Council sets the budget and also the policy framework. The Cabinet shall receive in-year budget monitoring information and ensures that any remedial action is taken.

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

3.3 Policy Commissions will pursue work programmes developing specific policy and strategic solutions to longer term issues, including those with a financial context.

#### **4 Duties and Responsibilities of the Chief Financial Officer**

4.1 The Chief Financial Officer has particular statutory and case law responsibilities which are incorporated in the following:

4.1.1 Proper administration of the Council's financial affairs

4.1.2 setting and monitoring compliance with accounting and financial management procedures and standards

4.1.3 implementing the Council's duty to maintain an effective and adequate internal audit

4.1.4 advising on the corporate financial position, including the robustness of the budget and the adequacy of reserves

4.1.5 giving financial advice on all reports considered by the Cabinet and delegated decisions of Cabinet members

4.1.6 determining financing of capital and revenue budget items in the best financial interests of the Council

4.1.7 prescribing key financial controls and where necessary, the format of the Council's financial records

4.1.8 providing financial information

4.1.9 co-ordinating forward revenue and capital plans and monitoring delivery

4.1.10 treasury management and all banking arrangements

4.1.11 arrangements for the disbursement of the Council's payments in respect of creditors, staff and partners

4.1.12 arrangements for the collection of income due to the Council as identified by Directors, Heads of Service and their staff

4.1.13 advising the Pension Fund Investment Panel

#### **5 Duties and Responsibilities of Directors and Heads of Service**

This section sets out the financial management responsibilities of Directors and Heads of Service. Most or all tasks will be delegated to Heads of Service who may in turn further delegate to more junior staff. The general presumption is that decisions should be taken at the lowest appropriate level, but it should be kept in mind that whilst tasks can be delegated, Directors and Heads of Service remain jointly and severally responsible for compliance. Responsibilities include the following:

5.1 Deploying budget resources to deliver the Council's objectives in the most economically advantageous way, and reporting on performance as required.

- 5.2 Ensuring that expenditure and income are monitored on at least a monthly basis and that:
  - 5.2.1 service cash limits are not exceeded
  - 5.2.2 future expenditure commitments are constrained to matching resources
  - 5.2.3 an 'exit strategy' is in place for projects funded from non-recurring or declining income streams
  - 5.2.4 potential overspends are reported to the Chief Financial Officer, Directors Board, and the Cabinet if appropriate, together with proposals for remedial action.
- 5.3 Producing and implementing medium term service plans which incorporate:
  - 5.3.1 Revenue and capital bids prioritised in terms of corporate objectives
  - 5.3.2 Least harmful responses to corporate savings requirements
  - 5.3.3 Analysis of risks to service delivery and business continuity planning
  - 5.3.4 Forthcoming procurements and other significant projects. Application of the Council's risk assessment and 'Gateway' process where appropriate
  - 5.3.5 Maximisation of income through charging and trading, as well as any other sources of additional funding
  - 5.3.6 Business cases in support of spend to save and prudential code projects
  - 5.3.7 Contributions to the Council's medium term financial plan
- 5.4 Ensuring value for money through delivery of the Council's efficiency savings targets, and by benchmarking unit costs and performance against other organisations on an annual basis.
- 5.5 Developing partnerships where these provide clear advantages to service quality or efficiency, subject to:
  - 5.5.1 Clear definition of the benefits expected
  - 5.5.2 Robust monitoring arrangements
  - 5.5.3 Clarity in the way risk is to be minimised and shared
  - 5.5.4 A viable exit strategy
  - 5.5.5 Corporate approval where size or degree of risk warrants
- 5.6 Maintaining accounting records and audit trails in a form acceptable to the Chief Financial Officer, together with a documented scheme of delegation and authorised signatories. Each account and budget head to have a named responsible officer.
- 5.7 Ensuring that financial systems in operation, and any changes thereto, are approved by the Chief Financial Officer, and that statutory taxation requirements are adhered to.

- 5.8 Minimising the possibility of loss through error, theft or fraud, or misuse of Council assets, and the risk of litigation, damage to the Council's reputation and its interests. This includes:
- 5.8.1 Applying risk management techniques in order to reduce risk to optimal levels
  - 5.8.2 Keeping the Chief Financial Officer informed about existing, new or changing risks, both insurable and uninsurable
  - 5.8.3 Providing assurance that the system of internal control is operating effectively within their service areas and if not what remedial action they propose. Such assurance will form the basis of the Council's Statement of Internal Control.
  - 5.8.4 Applying the principles of segregation of duties, such that wherever possible, more than one individual is involved in managing the Council's financial transactions

## 6 Other Policies and Guidance

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

<b>Document</b>	<b>Required reading by:</b>
Asset Management Plan	Officers involved in investment planning
Capital Strategy	Officers involved in investment planning
Code of Conduct	All staff and members
Contract Standing Orders	Officers ordering goods or services, officers and managers who procure and manage contracts
Counter Fraud Policy	All managers and supervisors
Medium Term Financial Plan	Service and budget planners
Procurement Guidance	Officers ordering goods and services officers and managers who procure and manage contracts
Risk Management Framework	All managers
<b><i>Financial Procedures and Guidance:</i></b>	
Anti-money laundering policy	Staff involved in income collection
Accounting standards & practice notes	Budget managers
Banking arrangements	Budget managers
Managing the Council's financial resources (Treasury Management)	Managers and staff involved in treasury management
Controlled (financial) stationery	Staff involved in systems using controlled financial stationery
Payment Services Guidance	Staff dealing with creditor payments



<b>Document</b>	<b>Required reading by:</b>
Insurance	All managers
Principles of segregation of duties	Managers
Sundry Income Policy	Staff involved in income collection
Transactions with staff and members (including remuneration and the reimbursement of expenses)	All managers and supervisors
Use of corporate financial systems	All managers
Receiving Income	Staff involved in income collection
Protecting the Council's Assets (including :Disposal)	All managers
Asset records	All managers
Partnerships	All managers and staff involved in partnerships
Retention of Financial Records	All managers
Dealing with fraud and irregularity	All managers and staff
Authorisation of transactions, delegation of financial authority	All managers and staff
Accounting for Voluntary Funds	All managers and staff involved in administering voluntary funds
Emergency Provisions	All managers and staff
Miscellaneous Financial Procedures	All managers and staff

# CONTRACT STANDING ORDERS

The main purposes of these Contract Standing Orders (CSO's) are:-

- To ensure that the Council obtains genuine value in the way it spends money, so that it delivers Best Value services to the public it serves
- To comply with the laws which govern the spending of public money
- To demonstrate good corporate governance
- To reasonably protect individuals and the Council from any criticism or allegations of wrongdoing regarding specific procurement decisions.

Both 'procurement' and 'contract' are used as generic terms covering the purchase of goods, services or works from a supplier, contractor or other entity - whether it is through a formal tendering process, placing of a purchase order, call-off via an established framework agreement or other similar arrangement.

The highest standards of probity are required of all officers and members involved in the procurement, award and management of any Council contract. Similarly the Council will endeavour to be fair and open in its dealings with all suppliers and prospective suppliers, and all members and officers shall uphold these principles. Nine key objectives of the Council's Procurement Strategy, which underpin the Council's overall approach to good procurement practice are reproduced as Appendix A.

## 1 BASIC REQUIREMENTS

### 1.1 Key Principles and Responsibilities

- 1.1.1 All procurement activity must be in connection with the Council's lawful functions and within the bounds of its statutory powers.
- 1.1.2 All procurement shall be in accordance with all relevant legislation including Best Value and, when applicable, the European Union Procurement Directives.
- 1.1.3 All procurement activity shall be conducted with integrity and fairness throughout. It shall also be conducted with sufficient openness to engender public confidence in the procurement processes generally and meet the requirements of the Freedom of Information Act.
- 1.1.4 Those awarding contracts shall have a duty to ensure and demonstrate that the best value for money is obtained, having regard to an appropriate and realistic balance between price, quality and service considerations.
- 1.1.5 Unless there are sufficient and explicitly stated reasons to the contrary, a reasonable show of competition shall be sought as part of all contract-letting processes.
- 1.1.6 No contract shall be awarded unless there is delegated authority to award the contract and there are adequate budget funds available.
- 1.1.7 Strategic Directors and Heads of Service are responsible for ensuring compliance with these CSO's by their staff, and for ensuring that staff who are given such delegated responsibility have the necessary skills and knowledge appropriate to the task. Staff have a responsibility to familiarise themselves with these CSO's and undertake any necessary training.
- 1.1.8 Proportionate and timely consultation shall take place with elected members regarding procurement exercises. Most contracts can be let (subject to relevant delegated authority) without formal reference to members. Only where a contract has a particularly high risk, sensitivity, value or other substantial effect on the Council's corporate objectives or its reputation, shall the Cabinet (or where appropriate the designated [Cabinet Member Portfolio Holder](#)) be called upon to take procurement decisions.

1.1.9 Where elected members are involved in procurement decisions, this should be as early as possible in the process (see paragraph 2.2.2).

## **1.2 Conduct**

1.2.1 Members and staff must ensure that when involved in making any procurement decisions, they always act in the best interest of the Council and the community it serves.

1.2.2 It is important to be impartial. The Council has well-defined policies on gifts & hospitality and on registering personal interests, and all members and staff are required to comply with these.

## **1.3 Financial values**

1.3.1 Unless otherwise stated, any financial values or thresholds stated in these CSO's refer to the projected value of a contract for its whole duration, not the annual value. For contracts that have an extension option, then the contract value shall be calculated on the basis of the original contract period plus the possible extension period. For any contracts that are for an unspecified period, a 'default' duration of four years shall be assumed for the purposes of calculating the financial value.

1.3.2 No attempt must be made to break down one large purchase into a number of smaller purchases, solely with the aim of trying to circumvent the financial thresholds specified in these CSO's. Moreover, it is the aggregated expenditure by the Council as a whole on like or similar goods and services, rather than that of individual budget holders, that shall have effect – this being particularly important as regards compliance with the EU Procurement Directives.

1.3.3 All values stated throughout these CSO's exclude VAT.

1.3.4 The list of all staff having approved delegated authority limits shall be maintained by the Exchequer Services Manager. Strategic Directors and Heads of Service are responsible for ensuring they provide the necessary details to enable the list to be kept fully up-to-date.

## **1.4 Exceptions to the rules**

1.4.1 These CSO's do not apply to:-

- Contracts of Employment
- Contracts that relate solely to the purchase or acquisition of land and property

1.4.2 In addition, exemptions from the full provisions of these CSO's as regards seeking competition may apply in the following circumstances:-

- **Genuine emergencies** – Critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from a hitherto unforeseen 'catastrophic' event or incident such as fire, bombing, flooding, major landslide, etc.
- **Urgency not of the Council's own making** – The urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation, urgently imposed statutory changes, etc.) and genuinely be a case of 'time is of the essence'. However, urgency arising through problems of the Council's own making (whatever the cause and regardless of whether it involved previous delays or shortage of resources, etc.) shall not in itself justify exemption.
- **Collaborative/Joint Purchasing** – Where another authority/public body is acting as 'lead buyer' and provided that the person(s) awarding the contract can demonstrate the arrangements comply with the requirements of Best Value and other applicable legislation including, if necessary, the EU Procurement Directives. This includes any recognised wider public sector agreements including, for example, Office of Government Commerce (OGC) contracts, etc.
- **Sole source of supply** - Where suitable goods or service are genuinely only available from one supplier (e.g. if patent, copyright or other exclusive design rights exist). Similarly, for any highly specialised/niche services where, for all practical purposes, no realistic alternative source of supply exists.

- **Reasons of compatibility** - If compatibility with existing goods, equipment or services is essential (e.g. spare parts/components for existing equipment) or where additional units are being purchased to match existing equipment and there is an overwhelming case for matching the existing items on the grounds of functionality, aesthetics, etc.
  - **Partnering** – Where a formal partnering arrangement and/or established framework agreement already exists as the result of an earlier competitive selection and award process.
- 1.4.3 No exception to these Contract Standing Orders shall be permitted unless a CSO Waiver Form (see Appendix B) has been completed and confirmation of authorisation received. The waiver form shall be submitted in the first instance to the Compliance and Risk Manager, who shall confirm whether the waiver is granted or if (in the light of the particular circumstances and in his judgment) the matter needs to be referred further to the Strategic Directors' Group for a decision to waive the CSO's.
- 1.5 Other considerations**
- 1.5.1 Where they exist, corporate contracts and framework agreements shall be used. The Procurement Section shall be responsible for maintaining and distributing details of such contracts as necessary.
- 1.5.2 Any procurement activity shall accord with other relevant Council policies, technical standards or requirements as necessary e.g. ICT hardware and software compatibility policy, in-house printing protocol, etc.
- 1.5.3 A library of relevant procurement information and good practice guidance shall be developed and maintained on the Council's intranet by the Procurement Section.
- 1.5.4 Consultants acting as an agent on behalf of the Council are required to operate in accordance with these Contract Standing Orders. It is the responsibility of the officer engaging the consultant to ensure such compliance. Furthermore, the selection and engagement of consultants is a procurement in itself, and therefore subject to these CSO's.

## **2 ESTABLISHING AND MANAGING CONTRACTS**

### **2.1 Openness and forward planning**

- 2.1.1 The Procurement Section shall maintain a register or database of all the Council's current contracts and publish extracts of this on the Council's website as part of the "Selling to the Isle of Wight Council" guide for prospective suppliers. Heads of Service shall provide the relevant details in a timely manner to enable the accuracy of the information to be kept up-to-date.
- 2.1.2 As part of the annual service planning process, the Procurement Section shall compile a procurement forward plan identifying the Council's major contracts (over £75000) that are expected to be procured over the next three years. This shall include an initial risk-assessment, which will indicate whether the procurement should be considered for a 'Gateway Review' process.

### **2.2 Pre-procurement considerations**

- 2.2.1 Realistic consideration (proportionate to the risk, complexity and value of the purchase) should be given to possible alternative options. For example, this might include a fundamental revision of the need or standardisation of the specification; reuse or recycling of equipment; internal provision of the service; collaboration with other purchasers; etc. Narrow departmental considerations should never jeopardise any wider benefits to the Council.
- 2.2.2 The involvement of elected members in procurement decisions is generally most effective at the earlier rather than later stages of the procurement cycle – particularly in terms of helping to scope the requirement, developing an outline business case and determining the procurement approach. For example, members can often bring valuable insight and perspectives to issues such as how well a proposed requirement meets the Council's strategic objectives and its

current priorities (“strategic fit”), or whether a wide enough range of possible supply options (including innovation and/or collaboration with other organisations etc.) is being explored.

Such involvement can be far more beneficial overall than having members merely “rubber stamp” a subsequent decision to award a contract to a particular supplier following the evaluation of tenders, by which time it could effectively be little more than accepting a virtual ‘*fait accompli*’. Therefore, for all service-specific procurements above the Council’s formal tendering threshold (currently £75000) Heads of Service (or the designated Authorised Officer/Project Manager for a particular Tender) shall liaise with the relevant ~~Portfolio-Cabinet Member-Holder~~. The input of the ~~Portfolio-Cabinet Member-Holder~~ will be confirmed in an auditable record. For any very high risk or strategically sensitive projects, including those where Gateway Reviews are to be conducted, the Head of Service shall refer the matter to the Strategic Directors’ Group, who shall advise whether it is more relevant to refer the matter to the Cabinet for approval to proceed.

- 2.2.3 General market research or consultation can be undertaken with potential suppliers before the issuing of an Invitation to Tender (e.g. regarding the nature or extent of supply, contract ‘packaging’, etc.) provided this does not prejudice any potential tenderers. No technical advice on the preparation of an Invitation to Tender or similar shall be accepted from anyone who may have a commercial interest in this if it might prejudice the equal treatment of all potential suppliers or distort competition in any way.

### 2.3 Seeking competition

- 2.3.1 Formal competitive tenders shall be invited for any procurement with an estimated value of **more than £75,000**. Tendering opportunities shall be advertised on the Council’s website and, as appropriate, in the local press and/or relevant trade journals (except where a recognised approved/select list exists).

- 2.3.2 Where applicable, the further requirements of the EU Procurement Directives must be complied with, including advertising in the supplement to the Official Journal of the European Union (OJEU). This potentially affects all contracts (with a few exceptions, mainly covering so-called ‘Part B’ Services) **above £153,376\*** in the case of goods and services, or **above £3,834,411\*** in the case of works contracts. There are additional thresholds for the publication of Prior Information Notices. Guidance on the application of the EU Procurement Directives shall be sought from the Procurement Section as necessary. All OJEU notices will be compiled in conjunction with, and submitted for publication by, the Procurement Section.

*[\* Note: These are the £sterling equivalents of the EU thresholds, which are formally stated in Euros and Special Drawing Rights. The exchange rates are normally re-calculated every two years; the current values took effect from 1 January 2004]*

- 2.3.3 For contracts with an estimated value **between £10,000 and £75,000**, at least three written quotations from *bona fide* suppliers shall be sought. Although Requests for Quotations (RFQ’s) tend to involve less formality than the tendering process, in reality there is little difference in either the purpose or outcome. As with an Invitation to Tender, any Request for Quotation must communicate clearly to the potential suppliers what is required (the specification).

- 2.3.4 For contracts **below £10,000**, no formal competition is strictly required. However, it will often be appropriate to obtain one or more quotations in order to demonstrate best value.

- 2.3.5 These requirements are summarised in the following table:-

<b>Estimated Total Value</b> (i.e. for full duration of contract including any extension options)	<b>Competition requirements</b>
Below £10,000	No formal competition required, although quotations can be sought in order to demonstrate best value
£10,000 - £75,000	At least 3 quotations
£75,000 and above	Invitations to Tender

£3,834,411 and above (Works) or £485,481 and above (Goods and Services)	Publication of Prior Information Notices (in accordance with EU Procurement Directives)
£3,834,411 and above (Works) or £153,376 and above (Goods and Services)	Invitations to Tender in accordance with EU Procurement Directives

## 2.4 Choosing the tendering methodology

2.4.1 There are three basic tendering methodologies or procedures to choose from – Open, Restricted and Negotiated. The selection of the most appropriate one shall depend on circumstances as follows:-

2.4.2 The **open** procedure makes no advance assessment of a tenderer's suitability to supply before submission of the tender. This is a useful process where speed is important, where there are a limited number of potential providers in the marketplace or if the procurement is for a relatively simple product or service where technical capability might be less crucial. However, it can make the tender evaluation stage much more time-consuming and onerous if a large number of tenders are received.

2.4.3 The **restricted** procedure is a two-stage process. Firstly expressions of interest in the tender are sought and then on the basis of responses to a pre-qualification questionnaire, short-listed candidates are invited to tender. This is useful where a large number of potential tenders are likely to be received, although a disadvantage is that the tendering process can take longer overall.

2.4.4 A derivative of the restricted procedure is the use of a recognised **approved vendor list** (sometimes also referred to as a select list). This is best used where there is likely to be a regular need for work or services of a similar nature over a period of time. Any such approved lists must be reviewed, refreshed and made open to new applicants at least every three years.

The existence of an approved list avoids the need to keep advertising tender (or quotation) opportunities on the open market and enables a manageable 'bank' of capable and generally proven suppliers to be kept. A disadvantage is that such a list requires regular use to justify the time and effort of setting up and keeping the list up-to-date. Furthermore some caution can be needed to guard against suppliers' expectations of future business potential being unreasonably high. It is also important to rotate the companies on an approved list who are invited to tender (or quote) for individual procurements in order to ensure fairness and a realistic sense of competition, and achieve best value.

[*Note: The Council does not make extensive use of approved lists, with the principal exceptions of:-*

- *Contractors for building, construction & maintenance trades and related services (for which the Property Services Department shall use the Constructionline accreditation service for selecting suitable suppliers/contractors)*
- *Contractors for Highways minor works.]*

2.4.5 The **negotiated** tender procedure is only to be used in limited circumstances such as complex ICT projects where the specification cannot be defined at the outset with sufficient certainty to make sealed bid tendering practical. Where the negotiated procedure is used, the process shall conclude with the submission of 'Best and Final Offers' as sealed bids. There are strict restrictions on any price negotiation on tenders conducted under the EU Procurement Directives (although, with effect from 2006, a new procedure under the Directives called "Competitive Dialogue" will allow some increased flexibility on this particular issue).

## 2.5 Determining tender award/evaluation criteria

2.5.1 Tenders will be awarded on the basis of the Most Economically Advantageous Tender (or 'best value' solution) - in other words, a realistic balance between **price** and **quality/service** factors.

2.5.2 The actual mix between these elements shall be established at the outset of the tendering process and will depend on various considerations including the complexity of the project or purchase itself, the degree of innovation sought from suppliers and the flexibility required in terms of project/service delivery, etc. The following quality/price ratios are deemed to be a

realistic split and are given for guidance purposes, but may be varied depending on particular circumstances:-

	<u>Qualitative factors</u>	<u>Pricing factors</u>
Straightforward or repeat purchases	20%	80%
Projects/services of medium complexity	40%	60%
Complex projects/services/products	50%	50%
Innovative/creative design projects	70%	30%
Feasibility studies/consultancy work	80%	20%

2.5.3 As far as possible, pricing factors should cover all identifiable elements that make up the 'whole-life cost'. Where price is not a fixed sum as such (but instead comprises a schedule of prices or rates with no firm commitment as to quantities) then a best endeavours or notional bill of quantities shall be incorporated into the Invitation to Tender/evaluation process to facilitate satisfactory total price comparisons between tenderers.

2.5.4 The various qualitative award criteria must be appropriate to the contract in question and reasonably expected to provide a best value outcome. These qualitative factors can include moderate recognition of what are often termed 'Corporate Social Responsibility' issues. In other words, taking into account how well each supplier is in accord with the Council's own policies, objectives and values in relation to, for example, care for the environment; promoting equalities & diversity; supporting fair trade; well-being of the local community; etc.

2.5.5 The award criteria (though not necessarily the actual weightings to be applied to each criterion in the evaluation model) should be stated to prospective tenderers in the Invitation to Tender (ITT) documentation. Subsequently, evidence of each tenderer's suitability to supply shall be judged against these criteria - usually by small panel of suitably knowledgeable officers (typically up to 3) convened as required.

**2.6 Preparation of invitation to tender**

2.6.1 Every effort shall be made to produce clear and straightforward Invitation to Tender documentation. Whenever practical, specification details should focus on successful outcomes rather than being unnecessarily prescriptive as to the precise method of achieving those outcomes, as potentially this can encourage innovation from tenderers and avail particular market expertise. Similarly, variant bids (i.e. allowing tenderers to suggest possible variations or alternative ways in which they might satisfy the potential contract) should be an allowable option and duly considered in the pursuit of best value.

**2.7 Receipt and opening of tenders**

2.7.1 A reasonable length of time must be allowed for tenderers to compile and submit their bids, having regard to the complexity of the tender and, when appropriate, any mandatory timescales under the EU Procurement Directives (see Appendix C). The Invitation to Tender must state clearly the latest date and time that tender bids can be received by. Any tenders received after the closing date shall not be considered unless there is clear evidence that it was posted at least the day before the closing date and any delay in delivery was wholly outside the control of the tenderer.

2.7.2 All tenders submitted must be in plain sealed envelopes and are to be posted or delivered to Customer Services at County Hall, where they will be held in a secure locked box until the designated tender closing date. They will then be passed unopened to the Procurement Section for opening. Two members of the Procurement Section will then open all the tenders received and record the value of each tender bid in a register maintained for that purpose. No assessment or recording of any of the qualitative information shall be practical at this stage.

*[Note: Invitations to Tender can be issued to tenderers electronically (e.g. as a Word or PDF file) but completed tenders must be submitted in paper form currently. Electronic tendering and/or e-auctions shall be acceptable in due course, but at the present time the Council is still evaluating suitable and secure systems for their use as part of the current e-Procurement project.]*

2.7.3 The tenders shall then be passed to the lead officer responsible for the tender, who shall arrange the evaluation of the tenders.

## 2.8 Evaluation and award of contract

2.8.1 All compliant tenders shall be checked for basic arithmetic accuracy. If any arithmetical errors are found they must be notified to the tenderer who shall be given the opportunity to confirm (urgently and in writing) what the correct price is or withdraw the tender bid altogether. Commonsense shall prevail as to the nature of any such errors and that they do not undermine the basic integrity of the tendering process.

2.8.2 All tenders shall be evaluated against the designated award criteria (see section 2.5).

2.8.3 Officers with the appropriate delegated authority are empowered to award contracts without formal reference to elected members provided CSO's have been fully complied with. However if the contract is considered to be of a particularly important or sensitive nature, the approval of the relevant Cabinet MemberPortfolio Holder to award the contract shall be obtained.

2.8.4 The authority to award contracts is summarised in the following table:

Summary of delegated authority for procurement			
	Request Quotations (for below £75,000)	Invite tenders (for above £75,000)	Award contracts (subject to necessary budget available)
Service Manager's named delegates	<ul style="list-style-type: none"> <li>No restriction</li> </ul>	<ul style="list-style-type: none"> <li>Up to £2,000,000</li> <li>Subject to appropriate liaison with Cabinet Member</li> <li>No direct authority if project is very high risk or strategically sensitive.</li> </ul>	<ul style="list-style-type: none"> <li>Up to delegated authority limit only</li> <li>No direct authority if strategically important or politically sensitive nature</li> </ul>
Head of Service	<ul style="list-style-type: none"> <li>No restriction</li> </ul>	<ul style="list-style-type: none"> <li>Up to £10,000,000</li> <li>Subject to appropriate liaison with Cabinet Member</li> <li>Refer to Strategic Directors if project is very high risk or strategically sensitive (including those for Gateway Review)</li> </ul>	<ul style="list-style-type: none"> <li>Up to delegated authority limit, except where strategically important or politically sensitive</li> </ul>
Strategic Directors	<ul style="list-style-type: none"> <li>No restriction</li> </ul>	<ul style="list-style-type: none"> <li>Unlimited (but determine if necessary to seek agreement of Cabinet to proceed for very high risk or strategically sensitive projects)</li> </ul>	<ul style="list-style-type: none"> <li>Unlimited (but seek agreement of Cabinet for very high risk or strategically sensitive projects)</li> </ul>
<u>Cabinet MemberPortfolio Holder</u>	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>Confirm agreement to proceed as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Confirm agreement to award (only necessary if project is strategically important or politically sensitive nature)</li> </ul>
Cabinet	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>Confirm agreement to award (if referred by Cabinet Members)</li> </ul>

2.8.5 Performance bonds shall not be required as a matter of course, as in many instances they can drive up costs unnecessarily and out of proportion to the real exposure to risk of a failing supplier. However, they shall be considered if there are genuine concerns about the stability of a particular supplier. In such instances, the bond must be in place before the commencement of work by the supplier.

2.8.6 Suppliers and contractors are required to have appropriate **public liability insurance** cover (and professional indemnity insurance where deemed necessary) that provides a realistic level of protection to the Council and is proportionate to the value/risks involved.



*[Note: Typically, a "standard" public liability cover level of £5million for any one single incident shall be sought, although alternative levels may be considered acceptable in relation to the adjudged risks and in consultation with the Risk & Insurance Section.]*

## **2.9 Debriefing of unsuccessful tenderers**

- 2.9.1 If requested, unsuccessful tenderers shall be given constructive feedback on why their bid was unsuccessful. This must not betray any commercially confidential information provided by other tenderers, whilst the requirements of the Freedom of Information Act shall be properly considered.

## **2.10 Contract documentation**

- 2.10.1 In many instances, a straightforward acceptance letter (and/or purchase order) by the Council of a supplier's tender shall be sufficient to form the binding contract. However, a pre-requisite for this is that the Invitation to Tender document itself is well-structured in the first place (including the inclusion of the Council's chosen terms and conditions) and that good records are kept of all salient correspondence with the supplier concerning the agreement itself, such that there can be no doubt about the rights and obligations of both parties to the contract.
- 2.10.2 Contractual documentation should be subject to approval by the Legal Services team or, if appropriate, by suitably qualified external legal advisors. The formal sealing of contracts shall not be deemed necessary except on the advice of the Legal Services department.
- 2.10.3 All contracts shall provide for contractors' obligations in relation to Human Rights, Freedom of Information, Data Protection and other statutory obligations as required.
- 2.10.4 The officer awarding the contract shall send a completed Contracts Register Form (see Appendix D) to the Procurement Section **within two weeks** of award of contract so that the Council's Contracts Register can be updated. Where required, a mandatory Contract Award Notice (including those for Part B Services) shall be published in the OJEU within the statutory **48days** period from award of contract.

## **2.11 Variations and extensions**

- 2.11.1 Reasonable variations to the contract can be agreed with the supplier during the lifetime of the contract provided they comply with the spirit of these Contract Standing Orders and be within the delegated authority limits of the relevant officer(s).
- 2.11.2 Options to extend a contract must have been stated in principle in the original Invitation to Tender.

**PROCUREMENT STRATEGY – KEY OBJECTIVES**

Delivering quality public services is an overriding objective of Government – both at central and local level. The Isle of Wight Council will actively strive to obtain best value in the way it spends money, so that it may in turn offer best value services to the public it serves. In doing so, the Council will seek:-

1. To ensure all procurement activity undertaken by and on behalf of the Council is carried out with integrity and is compliant with all relevant legislation, and that it is conducted in a fair, objective and transparent manner.
2. To ensure that the appropriate procurement skills are developed and embedded throughout the organisation (whilst recognising the highly devolved nature of the organisation and the fact that the great majority of spending is carried out by front-line staff in individual Service Units).
3. To identify and pursue a range of options and tactics most suitable to the particular procurement being undertaken, having regard to the “procurement positioning matrix” set out in the strategy.
4. To systematically review all current contracts (and non-contract expenditure) to identify potential opportunities for improvements through:-
  - More effective demand aggregation
  - More suitable “repackaging” of the service work content
  - Alternative methods of service delivery (including partnership/ collaborative/ outsourcing/ internalising options, etc.).

Furthermore, to ensure that such efforts are not diluted or undermined by the existence of artificial barriers such as departmental boundaries (and ensuring the mandatory use of any established corporate contracts throughout the Council).

5. To recognise the Council’s position in the local community as both a significant customer and a key strategic player in the well-being of the local economy, and thus to seek to develop a range of procurement initiatives (where practical and legally allowable) to encourage the development of the local supplier base.
6. To actively encourage the identification and utilisation of a range of “environmentally friendly” products and services by the Council as a whole, thereby contributing positively to the Council’s Agenda 21 strategy and its commitment to sustainability issues in general.
7. To present to the marketplace as a whole a positive image of the Isle of Wight Council as being an “intelligent client” with whom suppliers and contractors would wish to do business. This to be reinforced through:-
  - Good standards of procurement documentation and communications generally
  - A balanced approach to risk
  - Open and fair conduct throughout
8. To review and develop effective and efficient information systems relevant to the needs of a modern day procurement activity, including the development of e-procurement capability.
9. To invest in the Compliance Section of the Council’s Finance & Business Services Department the necessary resources and authority to effectively focus on, co-ordinate and help deliver the key elements of this procurement strategy, and the dissemination of procurement best practice throughout the Council.

**REQUEST FOR A WAIVER FROM THE FULL REQUIREMENTS  
OF CONTRACT STANDING ORDERS**

<b>Contract Title</b>	
<b>Brief description of contract</b>	
<b>Officer responsible</b>	
<b>Estimated total value of contract</b>	
<b>Proposed start date of contract</b>	

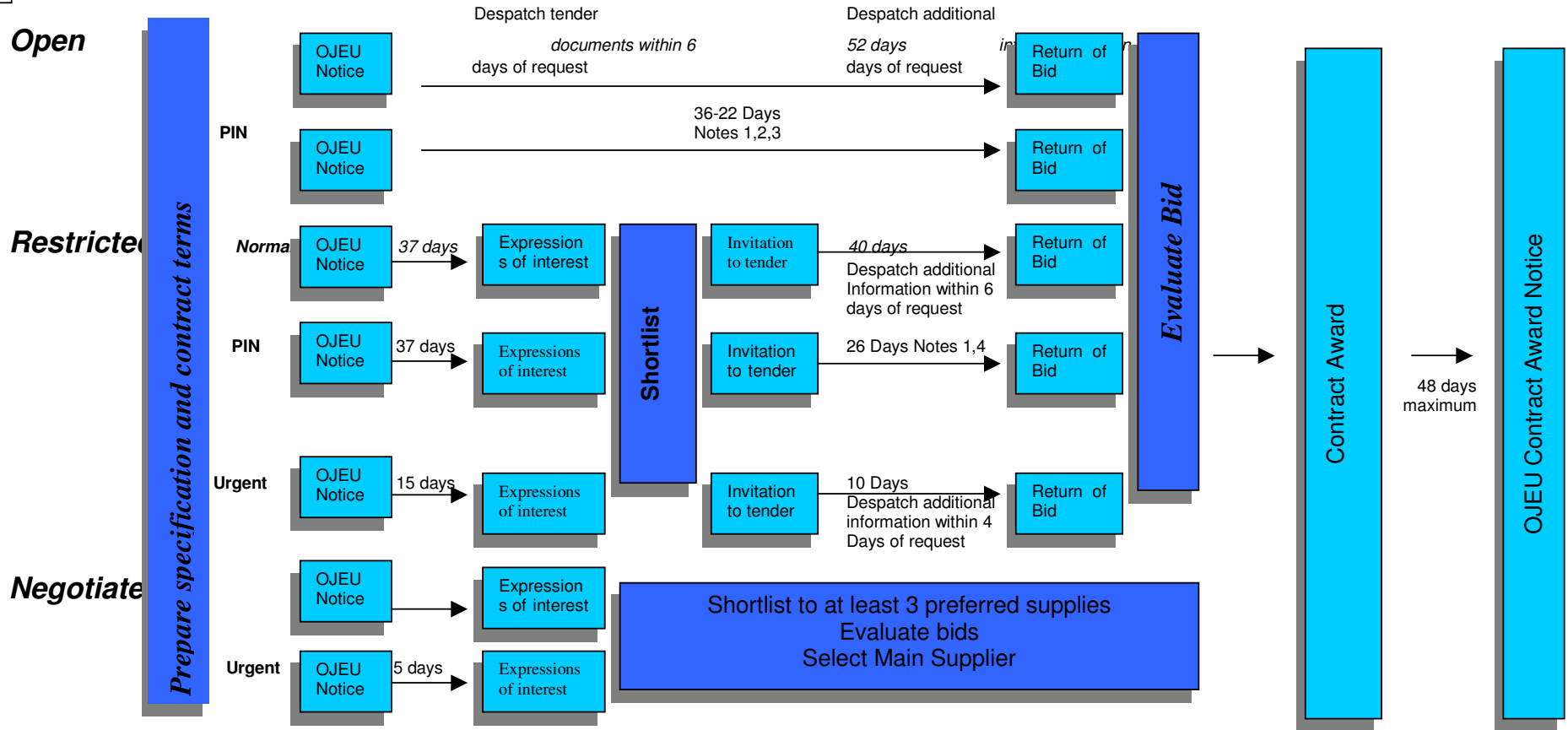
<b>Nature of waiver being sought</b> (Please refer to CSO paragraph 1.4.2 for further clarification)		<b>Details and justification for waiver</b> (Please continue on a separate sheet if necessary)	
<input checked="" type="checkbox"/> appropriate box below:			
<input type="checkbox"/>	Genuine emergency (with real & imminent risk to safety)		
<input type="checkbox"/>	Urgency <u>not</u> of the Council's own making		
<input type="checkbox"/>	Collaborative/joint purchasing with another public body		
<input type="checkbox"/>	Sole source of supply		
<input type="checkbox"/>	Reasons of compatibility		
<input type="checkbox"/>	Other (please specify):		

Request submitted by			
Name		Signature	
Department			
Telephone		Email address	

*Send this completed form to the Compliance & Risk Manager (Floor1, County Hall, Newport) who will respond to this request for a waiver to CSO's within seven working days. No contract must be entered into until confirmation of approval of such request has been given.*

Decision		Comment
<input type="checkbox"/>	Waiver approved	
<input type="checkbox"/>	To be referred to the Strategic Directors' Group for decision	
<input type="checkbox"/>	Waiver not agreed (insufficient grounds/justification)	
Signed:		
Compliance & Risk Manager		
Date:		

## EU PROCUREMENT DIRECTIVES - MINIMUM TIMESCALES (in calendar days)



1. Provided PIN published no less than 52 days and no more than 12 months before the despatch of the Contract notice and PIN contained all relevant information (later appearing in the contract notice) which was available at the time of publication of the PIN.
2. The period is to be "sufficient long to permit effective tendering, which generally, shall not be less than 36 days and in any case not less than 22 days"
3. Reg 11(4) of Works and Services Regulations and 11(3)A of the Supplies Regulations as amended.
4. Reg 12(12) of Works and Services Regulations and 12(11)(A) Supplies Regulations as amended.

**Isle of Wight Council Contract Registration Form**

1)	Contract Title	
	Services/works/goods included	
	Contractor/Supplier Name	
	Address of Contractor/Supplier	

2)	Contract Type (tick one option)	<input type="checkbox"/> Services	<input type="checkbox"/> Works
		<input type="checkbox"/> Goods	<input type="checkbox"/> Software Licence
	Selection Method (tick one option)	<input type="checkbox"/> Tender EU	<input type="checkbox"/> Wider Public Sector Contract
		<input type="checkbox"/> Tender non-EU	<input type="checkbox"/> Single Source
		<input type="checkbox"/> Quotation	

3)	Annual Value of contract	£	Value for whole contract	£
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4)	Contract start date		Contract end date If open ended, please go to table 5	
	Option to extend?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, no. of years
	Extension start date		Extension end date	
	Current status of contract (tick one option)	<input type="checkbox"/> Original contract		<input type="checkbox"/> Extension period

5)	Is the contract end date 'open ended'? If no, please go to table 6	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Internal Review Date?		

6)	Is this a one off contract?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<b>OR</b> , does this contract supersede an existing contract, currently on the database that now needs to be removed?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	If Yes to the above, please provide the name of the previous Contractor		

7)	Notes			
	Officer Responsible		Section	
	Service Unit		Directorate	
	Contact email		Contact phone	

Please return completed form to: **Procurement Section, County Hall, within two weeks of award of contract. Thank you**

<b>Contract Ref. No.</b> (allocated by the Procurement Section)	
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# OFFICER EMPLOYMENT RULES

These Procedure Rules are Standing Orders made under S135 Local Government Act 1972.

In these rules references to Chief Officers means the Chief Executive, Strategic Directors, and Heads of Service.

## Role of Head of Paid Service

1. Subject to paragraphs 3 and 7, the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him (and not by members of the Council, except in accordance with Rule 8).

The Head of Paid Service has nominated all Strategic Directors and Heads of Service as officers who can carry out on his behalf the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff, under Rule 1.

2. Rule 1 shall not apply to the appointment or dismissal of, or disciplinary action against—
  - (a) the officer designated as the head of the authority's paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act assistants for political groups).
3. Recruitment and Appointment of Officers
  - (a) Declarations
    - (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, or officer of the council or of the partner of such persons.
    - (ii) No candidate so related to a councillor or an officer, or of a partner of such persons, shall be appointed without the authority of the relevant chief officer of the council.
  - (b) Seeking Support for Appointment
    - (i) Subject to paragraph (iii) below, the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph

(or words to similar effect) will be contained in any recruitment information.

- (ii) Subject to paragraph (iii) below, no councillor will seek to support any person for appointment with the council.
- (iii) Nothing in this Rule will prevent a councillor from giving a written reference for a candidate for submission in connection with an application for appointment.

#### 4. Recruitment of Head of Paid Service and Chief Officers

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

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

4.2 Where a post has been advertised as provided in standing order 1(b), the authority shall -

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

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

4.4 Every appointment of a Chief Officer shall be made by the Authority.

#### 5. Appointment and Dismissal of Head of Paid Service, Statutory and Other Chief Officers and Deputy Chief Officers

5.1 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the functions of appointment or dismissal of:

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

- (d) a deputy chief officer within the meaning of section 2(84) of the 1989 Act;

This rule will apply.

- 5.2 In this Rule, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- 5.3 An offer of an appointment as a Chief Executive to in this Rule must not be made by the appointor until -
  - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Cabinet of the authority of-
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
    - (iii) the period within which any objection to the making of the offer is to be made on behalf of the Cabinet to the proper officer; and
  - (c) either
    - (i) The Leader of the Council within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
    - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Cabinet; or
    - (iii) the appointor is satisfied that any objection received from the Cabinet within that period is not material or is not well-founded.
- 5.4 In this Rule, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- 5.5 Notice of the dismissal of an officer referred to must not be given by the dismissor until -
  - (a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (b) the Proper Officer has notified every member of the Cabinet of the authority of-



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

#### 6. Additional Rule in Relation to Appointment and Dismissal of Head of Paid Service

Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the Full Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

#### 7. Discipline of Head of Paid Service, Monitoring Officer and Chief Finance Officer

##### 7.1 Subject to paragraph (5), where, after a local authority has incorporated provisions in standing orders pursuant to regulation 6, it appears to the local authority that an allegation of misconduct by -

- (a) the head of the authority's paid service;
- (b) its monitoring officer; or
- (c) its chief finance officer,

as the case may be, ("the relevant officer"), requires to be investigated, the authority must appoint a person ("the designated independent person") for the purposes of the standing order which incorporates the provisions in Schedule 3 (or provisions to the like effect).

##### 7.2 The designated independent person must be such person as may be agreed between the authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.

##### 7.3 The designated independent person –

- (a) may direct -

- (i) that the authority terminate any suspension of the relevant officer;
  - (ii) that any such suspension must continue after the expiry of the period referred to in paragraph 3 of Schedule 3 (or in provisions to the like effect);
  - (iii) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
  - (iv) that no steps (whether by the authority or any committee, sub-committee or officer acting on behalf of the authority) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
- (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the authority, or which the authority has power to authorise him to inspect;
  - (c) may require any member of staff of the authority to answer questions concerning the conduct of the relevant offer;
  - (d) must make a report to the authority -
    - (i) stating his opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and
    - (ii) recommending any disciplinary action which appears to him to be appropriate for the authority to take against the relevant officer; and
  - (e) must no later than the time at which he makes his report under sub-paragraph (d), send a copy of the report to the relevant officer.

7.4 A local authority must pay reasonable remuneration to a designated independent person appointed by the authority and any costs incurred by him in, or in connection with, the discharge of his functions under this regulation.

## 8. Additional Rules in Relation to Appointment of Political Assistants

- (a) no appointment of a political assistant to a political group shall be made until such posts have been allocated to all political groups which qualify,
- (b) no political assistant will be allocated to a political group which does not qualify for one,
- (c) nor shall more than one political assistant be allocated to a political group,
- (d) the prohibition on the involvement of members of the council in the appointment of officers does not apply to the appointment of political assistants.

9. Appeal Committees

Nothing in Rule 7 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by -

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

10. Definitions

In these Rules:

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

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

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

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part (the officer appointed is the Chief Executive who is designated Head of Paid Service or their nominee).

"Chief Officer"

For the purposes of these Rules Chief Officer includes the Chief Executive, Strategic Directors, Heads of Service and any employee contractually entitled to JNC Terms and Conditions for Chief Officers.

# THE CODE OF CONDUCT

## PART 1

### GENERAL PROVISIONS

#### *Scope*

1. - (1) A member must observe the authority's code of conduct whenever he -
  - (a) conducts the business of the authority;
  - (b) conducts the business of the office to which he has been elected or appointed; or
  - (c) acts as a representative of the authority,and references to a member's official capacity shall be construed accordingly.
- (2) An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.
- (3) Where a member acts as a representative of the authority -
  - (a) on another relevant authority, he must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, he must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (4) In this code, "member" includes a co-opted member of an authority.

#### *General Obligations*

2. A member must -
  - (a) promote equality by not discriminating unlawfully against any person;
  - (b) treat others with respect; and
  - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
3. A member must not -
  - (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
  - (b) prevent another person from gaining access to information to which that person is entitled by law.

4. A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.
5. A member -
  - (a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of the authority –
    - (i) act in accordance with the authority's requirements; and
    - (ii) 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 authority or of the office to which the member has been elected or appointed.
6. - (1) A member must when reaching decisions –
  - (a) have regard to any relevant advice provided to him by –
    - (i) the authority's chief finance officer acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988; and
    - (ii) the authority's monitoring officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989; and
  - (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements in relation to the taking of an executive decision.

(2) In sub-paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
7. A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

## PART 2

### INTERESTS

#### *Personal Interests*

8. - (1) A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers,

ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or –

- (a) any employment or business carried on by such persons;
  - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (d) any body listed in sub-paragraphs (a) to (e) of paragraph 15 below in which such persons hold a position of general control or management.
- (2) In this paragraph -
- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
  - (b) "partner" in sub-paragraph (2)(a) above means a member of a couple who live together.

#### *Disclosure of Personal Interests*

9. - (1) A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

#### *Prejudicial Interests*

10. - (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- (2) A member may regard himself as not having a prejudicial interest in a matter if that matter relates to -
- (a) another relevant authority of which he is a member;
  - (b) another public authority in which he holds a position of general control or management;
  - (c) a body to which he has been appointed or nominated by the authority as its representative;

- (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
- (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
- (f) the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
- (g) the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

*Overview and Scrutiny Committees*

- 11.** - (1) For the purposes of this Part, a member must if he is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee, regard himself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's -
- (a) committees or sub-committees; or
  - (b) joint committees or joint sub-committees,
- of which he may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

*Participation in Relation to Disclosed Interests*

- 12.** - (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must –
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the authority's standard's committee;
  - (b) not exercise executive functions in relation to that matter; and
  - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, participate in a meeting of the authority's –

- (a) overview and scrutiny committees; and
- (b) joint or area committees,

to the extent that such committees are not exercising functions of the authority or its executive.

**13.** For the purposes of this Part, "meeting" means any meeting of -

- (a) the authority;
- (b) the executive of the authority; or
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

### PART 3

#### THE REGISTER OF MEMBERS' INTERESTS

##### *Registration of Financial and Other Interests*

**14.** Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of -

- (a) any employment or business carried on by him;
- (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
- (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
- (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above;
- (f) the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority;
- (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a



partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and

(h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.

**15.** Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any -

(a) body to which he has been appointed or nominated by the authority as its representative;

(b) public authority or body exercising functions of a public nature;

(c) company, industrial and provident society, charity, or body directed to charitable purposes;

(d) body whose principal purposes include the influence of public opinion or policy; and

(e) trade union or professional association.

**16.** A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's monitoring officer of that change.

#### *Registration of Gifts and Hospitality*

**17.** A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.

#### **NOTE:**

**The Council has adopted its own local code for the registration of Gifts and Hospitality and this is attached set out on the following pages. This local code must be followed.**

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

**Introduction**

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

**Gifts**

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

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

## Legacies

9. Staff may not accept legacies from clients. If it becomes known to any employee that they are likely to benefit from a legacy made by a former or existing client, they must inform their Strategic Director as soon as possible. The Director will then consider what action to take and if necessary consult the Head of Paid Service and Monitoring Officer. If the beneficiary is also a relative of the former client, it is advisable that they notify their Director as soon as they are aware of the legacy in order to avoid any misinterpretation.

## Hospitality

10. The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the Council or where purchasing decisions may be potentially compromised.
11. Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the Council's wider interest in the community. Staff may, for example, need to attend functions in support of local members. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.
12. The following criteria should be applied when deciding whether or not to accept offers of hospitality:
  - whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to an Island event which meets the criteria below may be appropriate.
  - whether the Council's interest is better served by attendance.
  - whether the scale of the hospitality is appropriate to the circumstance.
  - whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
  - whether the hospitality is offered by a person or organisation who is not tendering or about to tender for Council business.
  - whether members are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
  - whether it is more appropriate to bear the expense oneself.
13. Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant Strategic Director. In case of doubt, staff should consult their Strategic Director for guidance. In the case of Members, an appropriate declaration should be completed in advance of the hospitality being accepted. In the event of doubt, the Council's Monitoring Officer should be consulted for guidance.
14. If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the Council with, if appropriate, the following or similar statement:

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

15. Below are some examples of acceptable and unacceptable hospitality:

#### **Acceptable**

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

#### **Unacceptable**

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

#### **Recording of Gifts and Hospitality**

16. Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each Directorate's register maintained for such purposes. For members, the register is maintained by Committee Services. The Council has a prescribed format for the register (as set out in Appendix 1 to this guidance) which includes the following detail:

- employee's/member's name
- job title (if staff)
- name of company/organisation making the offer
- relationship with Council
- nature of gift/hospitality offered
- date offered
- whether declined or accepted.

17. Registers of gifts and hospitality will be reviewed at least monthly by the relevant Director. The Head of Paid Service will review the Register of Directors and the Monitoring Officer will review the Register of Members' registrations. All such reviews will be evidenced by signature and date.

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

18. An outline of the legislation applicable to the acceptance of gifts and hospitality by Council employees is given below.

##### **i Prevention of Corruption Acts 1889-1916**

Under the Prevention of Corruption Acts 1889-1916 it is an offence for any employee to solicit or accept any gift, loan, fee, reward or advantage for allowing themselves to be influenced in any way in their official capacity. Where an employee has been proved to have received any money, gift or

other consideration from a person holding or seeking to hold a contract with the Council, corruption may be presumed unless the contrary is proved.

ii **Local Government Act 1972**

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

# GIFTS AND HOSPITALITY REGISTER

1. Name:
<u>3.2.</u> Name of Company (or individual) offering hospitality:
<u>4.3.</u> Relationship with Council:
<u>5.4.</u> Type of hospitality/gift offered/received:
<u>6.5.</u> Date hospitality/gift offered or received:
<u>7.6.</u> Accepted or declined?
<u>8.7.</u> Where hospitality took place:
Signed .....
Date .....
Received by .....
Date .....

## *A PROTOCOL FOR MEMBER/OFFICER RELATIONS*

1. Good Member/Officer relations, based on mutual respect and understanding, are essential to the effective operation of the Council.

### ***Members' Roles***

2. The Constitution sets out detailed job profiles reflecting the many and varied roles and responsibilities which Members may take on at various times whilst they sit on the Council.
3. In undertaking those roles and responsibilities, elected Members are required to operate within the law, the Constitution of the Council and within local and national codes and protocols. Members must always act in the public interest. Ultimately however, Members are accountable to the electorate through the ballot box.

### ***Role of Officers***

4. Officers are paid employees of the Council (not of elected Members). Officers are also required to operate within the law, the Constitution of the Council, local and national codes and protocols and must always act to achieve the objectives of the Council. Ultimately as employees, Officers are accountable under their contracts of employment. Some employees are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties
5. Officers have a duty to provide information, advice and recommendations to elected Members. Such information, advice, etc can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.
6. Proper, open dialogue between Elected Members and members of staff of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the Council, certain principles should be followed.

### ***Member Decision Making***

7. Officers should never lobby Members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
8. The principal focus of Member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to development control and licensing matters, to which specific codes of practice apply.
9. Member decision making is always formal, public and auditable on the basis of written reports and their advice from all relevant officers.
10. Accordingly, Members should not purport to give instructions directly to Officers on an informal basis, except to the small number of Officers employed specifically to provide support services to elected Members.

11. Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by Members, and in particular should avoid being in a position where they could be seen as asking an officer to act against Council policy, against the Officer's professional judgement or otherwise under pressure from the member.

### ***Provision of Information***

12. Members have a need to know a wide range of information, but there are some limits to their rights. In order to protect the Council and those about whom information is held, Officers are entitled to request Members identify the purpose for which they require information. Those purposes may only be in connection with the Members' duties as an elected Member and not for personal, political or other purposes.
13. Equally on the rare occasions when a request by a Member for information is refused, the Member is entitled to request written reasons and that a copy of those reasons is sent to the Monitoring Officer for advice.

### ***Officer's Advice***

14. Advice by Officers must be confined to Council business and must be sought and given, in a manner which will avoid compromising the political neutrality required of employees.
15. Many officers are willing to be contacted by members at home outside of normal working hours, but this step should only be taken in cases of genuine importance or urgency or by prior arrangement.

### ***Group Briefings***

16. Political Groups may request private and confidential briefings, including the provision of written information on matters of policy, which are or may become, the subject of discussion by the full Council, [Cabinet/Executive](#) or any Committee.
17. Attendance by Officers at Group meetings may be requested, but Officers will always have the option of declining to attend and give written advice as an alternative. It is not usually considered good practice for officers to attend such briefings alone.
18. Where an Officer attends a Group meeting, they have an obligation to notify the Monitoring Officer of the fact of their attendance and the subject of the briefing. The Monitoring Officer will then notify the other Political Groups that the briefing has been given.

### ***Complaints and Criticism***

19. Neither Officers nor Members should pass comment about Officers in a way which could be taken as personally critical of, or as undermining, that Officer. Similarly, it is never the role of an Officer to criticise or undermine a Member.
20. Complaints about elected Members should be made to the Monitoring Officer (or in serious cases, direct to the Standards Board for England). A breach of this protocol may be evidence of a breach of the Members' Code of Conduct.



21. Complaints about Officers should be made to their Head of Service, or where necessary, to their Strategic Director or direct to the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure.
22. Except as part of an appointment or appeals panel, Members are prevented by law from becoming involved in matters relating to individual employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of Members to access information.

### ***Cabinet and Scrutiny Committee***

23. The Constitution of the Council establishes a separation of powers between the Cabinet and the Scrutiny Committee. Officers owe an equal duty to both the Cabinet and the Scrutiny Committee. Sometimes real or perceived conflicts may arise, for example, when the Scrutiny Committee wishes an Officer to explain their advice in relation to a controversial policy or decision. In such circumstances, conflict can be avoided by Officers advising impartially on the relative merits of alternative approaches.

### ***Advice and Guidance***

24. This protocol deals with general principles and is not designed to address particular circumstances. Advice can be sought from the Monitoring Officer and Chief Cabinet Officer whenever difficult situations arise. Some circumstances will benefit from deliberation by the Standards Committee of the Council, which has [been](#) advising Members on standards of ethics and probity as one of its terms of reference.

### ***Personal/Family/Financial Relationships***

25. Usually it is incompatible with good [M](#)member/[O](#)fficer relations for close personal, or any financial, relationships to develop between [O](#)fficers and Members. Very occasionally there may be exceptions to this rule, and/or that family relationships will exist.
26. Where there are unusually close relationships (and in the case of any financial relationships) guidance should be sought and the relationship notified in writing to the employee's Strategic Director (or in the case of Directors to the Chief Executive)

# *CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH LICENSING MATTERS*

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## **1. THE NEED FOR GUIDANCE**

- 1.1 This code has been written to help everyone understand the standards required of the Isle of Wight Council in carrying out its licensing function.
- 1.2 This code applies to all Isle of Wight Council Members and staff involved in the licensing system. It applies equally to the operation of the Licensing Sub-Committee when it is exercising its licensing functions and the Cabinet and the Council in their policy formulation function.
- 1.3 Licensing decision making relies on informed judgement within a firm policy context. It is also highly contentious because its decisions can affect the daily lives of everyone and the private interests of individuals, applicants and residents. This is heightened by the openness of the system, inasmuch as it actively invites public opinion on certain licensing functions before taking decisions. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 1.4 The aim of this code of practice is to ensure that the Council operates an open and fair system. Failure to follow this code of practice, without good reason, could be taken into account during investigations into possible maladministration or by the Courts in considering any appeal.
- 1.5 Members and staff are requested to read this code thoroughly and put it into practice consistently. It is intended to review the code regularly so that it remains useful and relevant. If any points are unclear or need review, please contact the Head of Public Protection or the Monitoring Officer.

## **GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and officers have different, but complementary, roles. Both serve the public but Members are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 2.2 Applicants and the public are entitled to expect high standards of conduct and probity by all people holding public office and, in particular, when dealing with licensing matters. Only material licensing considerations should be taken into account. There are statutory provisions and code setting standards which must be followed. Both Members and officers are guided by national codes of conduct.
- 2.3 The Code of Conduct provides guidance and standards for Members. Breaches of the Code may be regarded as maladministration by the Local Government Ombudsman and may also give rise of a complaint to the Standards Board. Members should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take.
- 2.4 Officers must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 imposes political restrictions.
- 2.5 If any officer believes that pressure is being exerted upon him by a Member of the Council in relation to any particular application or vice versa, he or she shall forthwith

notify the matter in writing to the Monitoring Officer. Members shall not attempt in any way to influence the terms of the officer's report or recommendation on any application.

- 2.6 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting licensing permission, unless that opposition or support is based upon valid reasons and concerns which can be sustained.
- 2.7 Following Council elections, and at intervals thereafter, a range of training seminars are held for Members. Guidance is given on the Code of Conduct and on licensing matters. No member may sit on the Licensing Sub-Committee until they have satisfactorily attended the relevant training sessions.
- 2.8 Members and officers should be very cautious about accepting gifts and hospitality and should follow the advice in the local Code for receipt of gifts and hospitality.

### **DECLARATION AND REGISTRATION OF INTERESTS**

- 4.1 The law and the Code of Conduct set out requirements and guidance for Members and officers on declaring interests and the consequences of having such interests. The Code of Conduct advises that not only should impropriety be avoided, but also any appearance or grounds for suspicion of improper conduct. The responsibility for this rests individually with each Member and officer.
- 4.2 The Register of Member's Interests maintained under the Code of Conduct will be updated every six months, although any intermediate changes should be notified to the Monitoring Officer as soon as they occur.
- 4.3 The law makes specific provision requiring a Member to disclose both personal and prejudicial interests (including those of a spouse, partner or relative) which they may have in any licensing application coming before the Licensing Sub-Committee. The Member will be prohibited from speaking or voting on the application if a prejudicial interest is declared and must withdraw from the meeting before it is considered. It may be possible to obtain a dispensation from the Standards Committee where the interest affects so many members that the political balance of the Council is upset or where more than half of the Member's are affected by the interest.
- 4.4 Personal interests can be just as important. A personal interest arises when the issue under discussion affects the member, for any reason, more than it affects other voters or taxpayers. If a Member or officer has a personal interest, they must always declare it, but can speak and vote on the issue under consideration.
- 4.5 Members who have substantial Licensing interests, or other interests, which would prevent them from voting on a regular basis, should avoid serving on the Licensing Sub-Committee. Members who have business or other interests which may bring them into contact with the licensing system on a regular basis should not be considered for membership of the Licensing Sub-Committee.
- 4.6 Further advice on these matters is available from the Monitoring Officer.

### **LICENSING PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS**

- 1.1 If an application has been made by a Member or one of their family or friends, that Member should not vote or speak on the application and should withdraw from the meeting. Equally, a Member who has acted in a professional capacity for any

individual, company or other body pursuing a licensing matter should not vote or speak in relation to that matter and should withdraw from the meeting.

- 1.2 In similar terms, where a Member wishes to object or support an application he/she may submit written representations, but would have to declare an interest and not speak or vote at the Licensing Sub-Committee. An officer could similarly submit written representations but having advised the Head of Public Protection should take no part in the work of processing the application and, if required, to attend the Licensing Sub-Committee, would have to declare an interest.

## **LOBBYING OF MEMBERS AND LOBBYING BY MEMBERS**

- 5.1 Individual Members on the Licensing Sub-Committee should reach their own conclusions on licensing matters, rather than follow the lead of another Member. In this regard, any political group meetings prior to a Sub-Committee meeting should not be used to decide how Members should vote. The use of political whips at group meetings in this way may be seen contrary to the Code of Conduct, amounting to maladministration. Decisions can be taken only after full consideration of the Officer's report and information and discussion at the Licensing Sub-Committee.
- 5.2 When dealing with the public, it is quite proper for Members to give factual information, advice as to the process and procedures followed by the Council, and who to contact in the Council for further information. Equally, it is appropriate for a Member to report the public's views, either to officers or to the Sub-Committee, but it would be wrong for the Member to put pressure on officers for a particular recommendation to the Licensing Sub-Committee.
- 5.3 A Member of the Licensing Sub-Committee who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it – this creates real or perceived bias and it will be very difficult for that Member to argue convincingly, when the Licensing Sub-Committee comes to take its decision, that they have carefully weighed the evidence and arguments presented at Sub-Committee. The proper course of action for such a Member would be to not participate in decision making. Accordingly, a Member should avoid organising support for or against a licensing application if they intend to participate in its determination at Sub-Committee. A Member should not lobby other Members to support or oppose a Licensing application.
- 5.4 Members who also serve on parish councils may need to clarify their separate roles in each Council regarding Isle of Wight Council licensing policies. The public and other interested parties should be clear at all times when the Members are acting as a parish councillor and when they are acting in their role as an Isle of Wight Councillor.
- 5.5 Merely taking part in Town/Parish Council debates on licensing matters does not automatically debar a Member from decision-taking at the Licensing Sub-Committee. However, Town/Parish Councils do not have expert licensing advice or complete information on the application and other licensing matters when they make their representations to the Council. Therefore, Members who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider licensing issues at their Town/Parish Council meeting. They should not declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the Licensing Sub-Committee. Such

conclusive statements at Town/Parish Council meetings could debar Members from speaking or voting at the Licensing Sub-Committee meetings dealing with licensing applications or other matters.

- 5.6 If Members consider they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer who will, in turn, advise the appropriate Officers.

## **PRE-APPLICATION DISCUSSIONS**

- 6.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example: to overcome objections by the Police, Fire or Environmental Health; or to meet relevant neighbour concerns.
- 6.2 It should always be made clear at the outset that pre-application discussions will not bind the Council to making a particular decision, and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.
- 6.3 Advice should be consistent, and based on precedent, policies and other material considerations. There should be no significant difference of interpretation of licensing policies between licensing officers. All officers taking part in such discussion should make it quite clear whether or not they are the decision maker. Licensing Officers will ensure their advice is not partial, nor seen to be. A written note should be made of all meetings.
- 6.4 When attending public meetings and site visits, Members should take great care to maintain their impartial role as a Member, listen to all the points of view, and not state a conclusive decision on any proposal or submitted licensing application. Members of the Sub-Committee should not make unaccompanied "unofficial" site visits in connection with pre-submission discussions, the determination of current applications or familiarisation visits.
- 6.5 It is preferable that Members do not take part in pre-application discussions, so as to maintain impartiality and avoid apparent bias arising. Where Members do become involved in such discussions, including meetings on site, they must seek the assistance and attendance of a Licensing Officer. If any contact is made in the absence of officers, a written note of any discussions between the Member and the applicant and/or his agent should be sent to the Head of Public Protection so that it may be placed on the file.

## **OFFICER REPORTS TO COMMITTEE**

- 7.1 Certain applications are dealt with under the scheme of delegation, which gives clear guidelines on when applications will be determined by the Head of Public Protection, in some cases in consultation with the local Member and then the Chairman or Vice Chairman of the Licensing Sub-Committee. Where an application is dealt with under the agreed delegation procedure, a record will be kept of the considerations taken into account in the determination of that application with an appropriate sustainable justification for the decision.
- 7.2 Where appropriate, the reports will give comprehensive detail and a clear explanation of the location, the relevant licensing history, the policies and any other material

considerations. Reports will identify a range of options which the Sub-Committee may choose.

- 7.3 Oral reporting, except to update a report or to make a brief presentation (if invited to do so by the Chairman of the Licensing Sub-Committee), will be rare. Additional information on items on the agenda received after the publication of the Sub-Committee agenda will be reported to the Licensing Sub-Committee and it will be for the Sub-Committee to decide whether this should be taken into account.
- 7.4 A Member shall not be able to vote in relation to any licensing application unless he or she has been present at the meeting of the Licensing Sub-Committee throughout the consideration of that particular application.
- 7.5 Licensing Sub-Committee decisions should be properly recorded and the reasons for all decisions should be clear.

### **SUB-COMMITTEE SITE VISITS**

- 8.1 The purpose of a site visit is for Members of the Licensing Sub-Committee to gain knowledge of the site/premise involved in the application. A decision by the Licensing Sub-Committee to carry out a site visit should only be made where objective decisions could not be taken without such a visit. It should be remembered that site visits will cause delay and additional costs and should only be used where strictly necessary.
- 8.2 The Head of Public Protection may decide that it is necessary for the Licensing Sub-Committee to visit the site prior to considering the application at a forthcoming meeting but he must obtain the necessary authorisation from the Chairman of the Licensing Sub-Committee.
- 8.3 The applicant (or their agent) shall be formally notified in writing of the site visit. The applicant (or their agent) will be asked to notify the Committee Administrator at the earliest possible date if they have any objections to the Sub-Committee entering their property or coming onto their land.
- 8.4 Authorised attendance at a site visit shall be limited to Members of the Licensing Sub-Committee, the local Member (if not a Member of the Sub-Committee), relevant Council officers, Officers of other relevant agencies (i.e. Police) and landowner/applicant/agent. Only those members of the Sub-Committee who attended the site visit will be able to consider the matter when the Sub-Committee formally meets.
- 8.5 Members will follow the Chairman of the Licensing Sub-Committee, accompanied by the relevant officer(s), on the site. Members should form and continue to form a single group. A site visit is for the purpose of viewing the site and ascertaining the facts. The Head of Public Protection (or his representative) will summarise the issues which have led to the site visit and draw attention to any salient points but there will be no discussion on the merits of any application during the site visit although, of course, Members may ask questions and request clarification on individual points.
- 8.6 The applicants (or their agents) and members of the public shall not be permitted to make representations to Members of the Licensing Sub-Committee during a site visit. As an exception to the rule, however, the applicant/agent may, with the permission of the Chairman of the Licensing Sub-Committee, give any purely factual information

which is required by Members and which cannot be ascertained by viewing alone. Such information shall be relayed through the Head of Public Protection (or his representative).

- 8.7 The application will be determined at a meeting which will take place immediately after the conclusion of the site visit.

## **SANCTIONS**

- 9.1 The purpose of this code is to provide guidance to Members, and Members of the Licensing Sub-Committee in particular, and officers in relation to the performance of the Council's licensing function. The application of and adherence to the code is intended to build public confidence in the Council's licensing system and to produce a strong platform for licensing decision making. The code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications.
- 9.2 The failure to adhere to the code gives rise to a range of potential consequences to the Council and individual Members, especially if this results in a pattern of inconsistency. Consistency and fairness are important qualities in the public eye and they are vital to the conduct of a Licensing Sub-Committee. Beyond the normal democratic process, a number of specific consequences can be identified.
- 9.3 The Council's Standards Committee provides a forum where issues relating to the conduct of Members can be addressed.
- 9.4 If an individual believes that a Member has breached the Code of Conduct they can complain to the Standards Board who will investigate the matter.
- 9.5 Although the Local Government Ombudsman will not investigate the balance of argument in any licensing decision, he/she may agree to investigate a licensing complaint if it concerns the manner in which a decision was taken. If it is found that injustice has been caused by maladministration in the light of statutory or established Council procedures, he/she will recommend redress which may take the form of compensation. Where the Local Government Ombudsman makes a finding of maladministration on the basis of a breach of the Code of Conduct, then the report may name the individual Member and give particulars of the breach.
- 9.6 An applicant who has been refused permission, or granted permission on a conditional basis, has a right of appeal to the Magistrates Court or Crown Court. If an appeal is successful the appellant's costs may be awarded against the Council.
- 9.7 If objectors are convinced that the Council, in determining to grant an application, did not observe its statutory obligations to carry out all necessary procedures, based its decisions on approved policies and take into account all representations, they may apply for judicial review of the decision. In such circumstances it would be normal for the costs of an applicant to be awarded against the Council. The Human Rights Act 1998 may give objectors, who are personally affected by a decision a further ground to apply to the courts.
- 9.8 Each of the above courses of action could result in significant additional costs to the Council. These costs will be closely examined by the District Auditor. Where it appears to an Auditor that a loss has been incurred or deficiency caused in the Council's accounts by the wilful misconduct of any person(s) he/she is required to certify that the loss or deficiency is due to that person(s).



# *CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH DEVELOPMENT CONTROL MATTERS*

## **INTRODUCTION**

1. This Protocol sets out guidance for all elected members, in various roles including as local member and as member of Development Control Sub-Committee (including those co-opted members who are regarded as being elected members for the purposes of the Members Code of Conduct).
2. Development Control Sub-Committee is established by the Full Council to determine those issues which have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies); are made for commercial or potentially contentious purposes by Elected Members or officers (or their spouses); or are contentious among the wider Island communities.
3. As such, Development Control is among the most controversial and high profile functions of the Local Authority. Councillors need to balance their duties to individual constituents, and to the community which they represent, with the need to objectively determine Development Control issues in accordance with the law, and locally adopted planning policies.
4. The principal purpose of this guidance is to assist Officers and Members in delivering unimpeachably high standards of Development Control decision making. It applies equally to Elected Members who are sitting on the Development Control Sub-Committee, Members who otherwise attend the Development Control Sub-Committee and/or who have an interest as a Local Member in issues being determined by that Sub-Committee. It also applies to Officers throughout the Local Authority.
5. Officers need to be able to exercise their professional roles, which involve advising applicants, Elected Members taking decisions and, also, taking decisions themselves under the scheme of delegations.

## **OTHER RELEVANT CODES AND PROTOCOLS**

6. Regulation of Members' conduct is principally by the National Code of Members Conduct which has been adopted by this Authority. Breaches of this code are investigated and policed by the Standards Board for England.
7. Local Codes of Conduct, such as this code of practice, are policed by the Standards Committee and the Monitoring Officer.
8. Relationships between Members and Officers are considered in detail in the Member/Officer Protocol also forming part of this constitution.
9. The roles of Councillors are considered in some detail in a number of job profiles, also forming part of the constitution.
10. Officers who are members of the Royal Town Planning Institute must follow a code of professional conduct. Breaches of that code may be subject to disciplinary action by the institute.

11. The constitution contains rules on acceptance of gifts and hospitality. Neither Councillors nor Officers should ever place themselves in a position of accepting hospitality from an applicant or an objector.

## **DECISION MAKING**

12. The Town and Country Planning Act 1990 establishes a plan led system. Planning applications must be determined by reference to the Unitary Development Plan. Each application must be decided in accordance with the plan unless there are enough material considerations to justify a departure from the policy.
13. Members who are consistently unable to support national or local planning policies will inevitably find themselves unable to take objective decisions in relation to individual planning applications, and should not participate in Development Control decision making. The decision as to whether a member can continue to participate in Development Control decision-making is one primarily for individual members, having [received advice from the Monitoring Officer](#). However, any member who finds themselves speaking against a particular policy on two or three occasions during a twelve month period or five or six occasions during the lifetime of the Council might choose to regard themselves as unable to support that particular policy and withdraw from debate where it is being applied. Where a member speaks against ~~all~~ three or more policies during a twelve month period, or against five or six over the lifetime of a council similarly they may find themselves as being unable to support national or local policies to the extent they should not make Development Control decisions.
14. Local opposition or support for an application is not a ground for making a decision unless that opposition or support is based on material planning considerations.
15. Development Control regulates the right and privileges of individuals. There will always be a recommendation from Officers. Only in exceptional circumstances will Members abstain. Where a Member does wish to abstain they should explain the reasons for doing so during their contribution to the debate.
16. Members can only take informed, objective, decisions when they have received and carefully read all written reports and submissions. They must also carefully listen to all public speaking contributions and to all contributions to the debate from Members. Therefore any Member who has not been present throughout the whole consideration of an item must not vote.
17. Where officers determine applications under delegated powers;
  - A record will be kept of the planning considerations taken into account;
  - Appropriate documentation will be retained indicating the Chairman of the Committee's and the ward member's agreement with that delegated decision.

## **DECLARATION AND REGISTRATION OF INTEREST**

18. The National Code of Members Conduct, adopted by this Authority, sets out a regime for recording personal and prejudicial interests.
19. A personal interest is one which affects the member more than other voters, residents or tax payers. The fact and nature of a personal interest must be declared and the member may stay and participate in the debate and vote.

20. A prejudicial interest is a personal interest which may reasonably be taken to prevent the Member from taking an objective decision. The fact and nature of such an interest must be declared and the Member must leave the room, not participate in debate, vote or otherwise attempt to influence the decision.
21. Details of the interests regime are set out in the Members Code of Conduct elsewhere in the constitution.

### **LOCAL MEMBER**

22. Any Local Member who is not a member of the Development Control Sub-Committee is entitled to attend and speak in relation to any issue with direct impact on their electoral division. They may not vote.
23. Members of the Sub-Committee who are determining matters of direct relevance to their electoral division will, by local convention, declare the fact and nature of the impact on their electoral division as a personal interest and may speak but will not vote on the issue. This convention is followed in order to protect the Development Control Sub-Committee from the perception that decisions are being taken on the basis of local opposition or support rather than material planning consideration.
24. This arrangement also protects against the perception that those areas which are represented by a local member who sits on Development Control Sub-Committee have a disproportionate influence on the planning processes.

### **OTHER MEMBERS**

25. The Chairman of Development Control Sub-Committee has the discretion to invite members of the Council who are not members of the Development Control Sub-Committee nor the member within whose electoral division the proposed development is located to address Development Control Sub-Committee. The Chairman will usually allow a member in this position to speak in relation to any issue where that member has a contribution to make which relates to material planning considerations, where it has not been practicable for the contribution to be made in writing via officers of the Planning Service and no other member of the Development Control Sub-Committee can, or will, make the contribution which the non-local member wishes to make.

### **CABINET MEMBERS**

26. The Cabinet Members with responsibility for planning policy will not be appointed to the Regulatory Committee. That Cabinet Member is nevertheless entitled to attend the Committee and Sub-Committee and speak on any item which raises particular planning policy issues.
27. Sometimes the Cabinet Member may ~~still~~ as Local Member wish to speak on an issue which also interests them as Cabinet Member. In order to be able to do this they must avoid prejudging the issue before the meeting, and they must declare as a personal interest the potential for conflict between their Cabinet Member interest and their role as a decision maker. So long as the declaration of a personal interest is made they may speak ~~and vote~~.

## **LOBBYING OF AND BY COUNCILLORS**

28. Development Control decisions must be taken objectively on the basis of relevant information.
29. Where the Development Control Sub-Committee are taking the decision all, and only, relevant information must be presented either in writing or orally to the Sub-Committee meeting.
30. It is perfectly proper for Elected Members to give applicants and objectors factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular Members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.
31. Whilst it will usually be easier for Members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens they should use a form of words such as “on the basis of the information I have at the moment I am likely to oppose/support the application”. Any Member who makes a stronger statement, such as “this application will be passed over my dead body” will not be able to take part in the decision by the Committee.
32. Any Member who believes they are being lobbied by applicants, objectors or other Elected Members should report the lobbying to Head of Planning Services, who will retain a register of such reports.
33. Members should be particularly careful not to exert pressure on an Officer who has to make a recommendation to the Development Control Sub-Committee. If any Officer believes that pressure is being exerted upon them they should notify the Head of Planning Services and/or Monitoring Officer immediately. In the event that the Head of Planning Services believes that pressure is being exerted upon his/her role, he or she should notify the Strategic Director of Environment Services and/or the Monitoring Officer immediately.
34. Officers will take many planning decisions under Delegated Powers. It is similarly unacceptable for those Officers to be lobbied or subject to undue pressure.

## **BIAS/APPARENT BIAS**

35. Any member who is or appears biased towards an issue can leave the decision vulnerable to challenge in the courts.
36. The court will undertake a detailed investigation of a Councillor’s conduct over a period rather than look just at the circumstances relating to that decision itself.
37. It is therefore extremely important that Councillors are well aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality.

## **BIAS**

38. The test for bias applied by the courts in terms of a particular Councillor who participates in the decision-making itself is as follows:

“Would a fair minded observer<sup>re</sup> knowing the background, consider there was a real possibility of bias arising from a particular councillor being a member of the relevant decision making body.”

## APPARENT BIAS

39. In recent years the courts have been more willing to find that there has been an appearance of bias:

“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues.”

40. The court will look at the facts in each case. Expressing a view may not disqualify a member on the basis of bias or the code of conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the Member had an open-mind will be of little value – they do not relate to the all important impression portrayed.

41. Once the bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the Court to exercise its discretion not to do so. It is no answer to suggest that only one Member was “guilty” and therefore the decision should stand.

42. In light of the above, and the obvious issues this raises, the following further guidance is given:

- (a) In respect of a live/current planning application, if Members of [the](#) Development Control Sub-Committee wish to take part in the debate and vote in respect of an application, they should not attend/participate in any discussions/public meetings.
- (b) In respect of pending/forthcoming applications (pre-application discussions) members of the Development Control Sub-Committee or local members who wish to take part in the debate should have regard to paragraph 10 (of the Code of Practice for Councillors and Officers dealing with Development Control matters), and may take the view that they should not attend/participate in any discussion/public meeting if they wish to take part in the debate and vote [o](#)in an application.
- (c) Councillors who are not members of the Development Control Sub-Committee and who do not intend to participate in the debate as local member do not need to avoid discussions/meetings but must at all times have regard to the Code of Conduct for Members.

## PARISH COUNCILS

43. The danger of prejudging an issue arises not just at public meetings but also in Parish Council debates. Taking part in a Parish Council debate does not prevent Councillors from decision taking at [the](#) Development Control [Sub-Committee](#) or other Members from participating in the debate. However Parish Councils do not have the advantage of planning advice nor complete information on any application. Contributions by Elected Members at Parish Councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.
44. When a Member has participated in a public debate, at a Parish Council or elsewhere, they should declare this as a personal interest when they speak at [the](#) Development Control [Sub-Committee](#) and should make a clear statement that they have not prejudged the issue. Detailed advice on this matter is set out in paragraph [187](#) of this Code of Practice.

## WHIPPING

45. The use of party political whips in Development Control decisions is maladministration. Whipping must not therefore take place. It is inappropriate for political parties to take a view on planning applications.
46. Individual Councillors should reach their own conclusions on planning matters rather than follow the lead of another Councillor. However, the views of other Members of the [Sub-Committee](#), where they are relevant, can be one of the factors taken into account in taking a decision.

## PRE APPLICATION DISCUSSIONS

47. The opportunity for developers to discuss development proposals with planning officers in advance of the submission of applications is recognised best practice. It provides potential developers with detailed guidance on planning policies and other material considerations relevant to proposals. It is preferable that Members do not take part in pre-application discussions in order to maintain impartiality. In certain circumstances, Members may be invited by officers to become involved in such meetings. In no circumstances should Members become involved in pre-application meetings without the assistance and attendance of a planning officer.
48. Notes of all pre-application meetings will be taken, and agreed with the parties attending the meeting. Where appropriate, notes of pre-application meetings will be included on subsequent application files.
49. At the discretion of the Head of Planning Services, developers proposing the submission of major planning applications may be offered ~~with~~ an opportunity to present the outlines of their proposal to [Members](#) of the Development Control Sub-Committee prior to formal submission. In such circumstances, Members should recognise that the presentation is for information only, and that the decision making process should not commence until such time as any ensuing application is subsequently made.

## DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS, AND FOR COUNCIL DEVELOPMENT

50. In order to ensure that the public has full and proper confidence in the planning system, all planning applications submitted either by Members of the Isle of Wight

Council, a member of their family, or by an officer employed in Planning Services of the Isle of Wight Council shall be reported to the Development Control Sub-Committee. Any planning application submitted by an officer other than in Planning Services who has contact with Planning Services shall also be reported to the Development Control Sub-Committee. The Head of Planning Services, in consultation with the Chairman of the Development Control Sub-Committee and the Monitoring Officer, shall determine which such proposals are reported to the Sub-Committee.

51. All Planning Services officers shall declare to the Head of Planning Services any interest which they may have in any third party application (eg~~g~~ an application submitted in their immediate neighbourhood or by a society or club of which they are a member) and take no part in the determination of that application.
52. At the meeting of the Development Control Sub-Committee to which an application submitted by a Member of the Isle of Wight Council is reported, that Member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the Sub-Committee as part of the Public Speaking scheme (see paragraphs ~~6150-6352~~ of this Code) will be available. All Members of the Council who may be considering the submission of an application are strongly advised to employ the services of a professional agent to avoid partiality, to ensure proper contact with officers during its processing and to address the Sub-Committee as appropriate.
53. Applications made on behalf of the Council for its own development must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied. Decisions must be made strictly on planning merits and without regard to any financial or other gain which may accrue to the Council if the development were to be permitted.

In general terms, the following types of Council development will be considered by the Development Control Sub-Committee:

- Proposals which due to their scale and extent would automatically be considered by the Development Control Sub-Committee.
- Proposals which involve the subsequent disposal of land or premises to a third party.
- Proposals which involve a significant change of use or operation of land and premises.
- Proposals which have attracted a significant amount of public representation.

The Head of Planning Services and the Monitoring Officer will determine which applications fall into the latter two categories.



## TRAINING

54. The importance of informed objective decision making in relation to Development Control issues is so important that this Council has a policy of training all Members taking Development Control decisions before they start to do so. Members shall not participate in a Development Control decision without having attended Development Control [training](#).
55. As well as training new Members periodic refresher and updating training is also delivered. This training will be undertaken either by the Head of Planning Services, Planning Officers or external trainers as appropriate. It is extremely important that Elected Members participate in this training. Any Member who believes they are not sufficiently trained should not participate in Development Control decisions.

## REPORTS TO DEVELOPMENT CONTROL SUB-COMMITTEE

56. All reports will :
- Give comprehensive details of the location and nature of the site
  - Summarise the planning history.
  - Identify relevant planning policies.
  - Evaluate all material planning considerations.
  - Assess any human rights implications.
  - Set out the representations received on the proposal.
  - Set out the Human Rights issues relevant to the proposal.
  - Set out a clear recommendation. In the case of a recommendation to approve, appropriate conditions will be set out. In the case of a recommendation to refuse, detailed reasons for refusal will be set out.

## BRIEFING

57. In the period between the publication of the Sub-Committee agenda and the holding of the meeting itself, a briefing will be held for the Chairman and Vice Chairman of Development Control Sub-Committee and the [Cabinet Member Portfolio Holder](#) for Planning Policy issues on the Council's Cabinet. The briefing will be organised by the Development Control Manager and appropriate planning officers. An appropriate legal officer will also be in attendance, together with the Committee administrator.
58. The purpose of the briefing is to:
- Advise Members of the key points on each planning application,
  - Advise Members of the extent of public speaking at the Sub-Committee meeting.
  - Discuss administrative issues in relation to the detailed organisation of the meeting.



59. The briefing should not be used by Members attending as an opportunity to exert pressure on officers to pursue a particular course of action. Detailed guidance on this matter is set out in paragraph 30 of this Code of Practice. Similarly the briefing should not be used by officers to impose a particular outcome.

## **CONDUCT AT MEETINGS**

60. It is important that public confidence in Development Control is maintained. The conduct of Members at meetings is extremely important. The following arrangements will help:
- Members of the Sub-Committee will sit in a designated seat marked with their name plate.
  - A seating plan will be available for members of the public.
  - Members will speak clearly and concisely using microphones so the public and other Members can hear what is being said.
  - The Chairman will introduce speakers by family name.
  - Mobile phones will be switched off.
  - Eating and drinking is discouraged.
  - Occasional breaks will be taken during long meetings.
  - Only exceptionally will the Chairman allow Members to speak for more than five minutes.

## **PUBLIC SPEAKING**

61. In order to ensure that Sub-Committee Members have access to a full and appropriate understanding of the often divergent comments on a planning application, the Council operates a scheme of public speaking at Development Control Sub-Committee.
62. Full details of the Public Speaking scheme are set out in "Your Chance to Speak - Public Speaking at Development Control Sub-Committee" available in leaflet form from the Head of Planning Services. In summary, the key elements of this scheme are as follows:
- Public speaking is permitted on all planning applications considered by the Development Control Sub-Committee.
  - Three groups of speakers are permitted on any application - the applicant/agent/[supporter](#), objectors and Parish/Town Councils. Each of these groups will have up to three minutes to present its case. A maximum of three people can speak for each group, with the time divided equally between them.
  - Public speaking on any application is only permitted on the first occasion the application is considered by the Development Control Sub-Committee.

63. Members of the Development Control Sub-Committee should give appropriate weight to the representations made by the public in their determination of planning applications. Comments made by speakers exercising their right to address the Sub-Committee will, in most cases, highlight comments already summarised in the officer report on the application. In some cases, other issues will be raised which will not already be covered in the report. In assessing comments made during public speaking, Members must only give weight to issues which are material planning considerations. Detailed guidance on this matter is set out in paragraph 169 of this Code of Practice. Where appropriate and/or necessary, the Chairman of the Sub-Committee will request officers to comment on items raised by the public in general, and whether or not they are material to the determination of the application in particular.

### **SITE INSPECTIONS**

64. The need for site inspections (which if required will take place prior to the Sub-Committee meeting) will be determined by the Head of Planning Services or the Development Control Manager in consultation with the Vice Chair (Development Control).

### **COOLING OFF PERIOD**

65. Where a decision in the opinion of the Head of Planning Services is contrary to Section 54A Town and Country Planning Act 1990 and could not be sustained under challenge, the “cooling off” procedure adopted in September 1997 may be invoked. The effect of this action is that a decision notice will not be issued on the application. A report to the next available meeting of Development Control Sub-Committee will analyse the sustainability of the decision and the possibility of precedent. This report may include external legal or planning advice. Reasons will be given for the invoking of the cooling off period.

### **MINUTES/RECORDING DECISIONS**

66. Decisions by Development Control Sub-Committee will be clearly minuted.
67. Where a decision against officers' recommendation is made, clear and sustainable reasons must be set out by the Sub-Committee. Members who are considering determining an application contrary to officer recommendation are strongly recommended to seek professional advice from the Development Control Manager and/or the case officer before raising the matter at the Sub-Committee. In any event, all decisions made at the Sub-Committee contrary to officer recommendation will be subject to a named vote.
68. It is not possible to revisit decisions after the meeting and the Chairman and those advising and assisting them, must be confident that sufficient and comprehensively recorded reasons for the decision have been set out before the next agenda item is taken.

### **REVIEW AND MONITORING**

69. Annually, the Development Control Sub-Committee will review a sample of Development Control decisions in order to assess their impact. As part of this process a visit will be organised by the Head of Planning Services and/or the

Development Control Manager to a sample of sites where developments have recently been completed.

70. Every six months, the Monitoring Officer and/or Head of Planning Services will report to the Development Control [Sub-Committee](#) an analysis of:
- All decisions which are a departure from policy.
  - All decisions which are against officers' recommendation.
  - Site Visits.

## **SANCTIONS**

71. Elected Members who act in breach of this code of practice risk one or both of the following:
- (a) Being the subject of a complaint about a breach of this code to the Monitoring Officer. Where that complaint cannot be resolved, to the satisfaction of the complainant, on an informal basis the complaint will be investigated and referred to the Isle of Wight Council Standards Committee.
  - (b) More serious cases, particularly breach of paragraphs [187](#), [198](#), [287](#), [298](#), [310](#) and [5048](#) will be regarded by the Isle of Wight Council as bringing the Council in to disrepute and therefore being in breach of the Code of Members Conduct. Complaints about such a breach are referred to, and investigated by the Standards Board for England.
72. Breaches of the Council Procedure Rules, particularly the Development Control Procedure Rules, may invalidate a planning decision leaving that decision vulnerable to challenge on appeal, through judicial review or by the ombudsman.
73. Breaches of Codes of Practice and Protocols are more likely to render individual Members open to personal sanctions rather than invalidate the decision or make a finding of maladministration more likely.
74. Officers who act in breach of this Code of Practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

## ***PROTOCOL - DEVELOPMENT CONTROL SUB-COMMITTEE REQUESTS FOR SITE INSPECTIONS***

### **BACKGROUND**

1. This protocol has been prepared to establish procedures for the organisation of Development Control Sub-Committee site inspections which take place prior to the Sub-Committee meeting.

### **GENERAL PRINCIPLES**

2. A Sub-Committee site inspection plays an invaluable role in the determination of more complex or controversial applications. Site inspections allow Sub-Committee Members to better understand the context and content of the previously published Committee report. Site inspections also provide Members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised by Officers, the applicant or objectors.
3. Sub-Committee Members should under no circumstances make decisions on applications during the site inspection itself.
4. Members should debate the proposal at the Sub-Committee meeting held on the following day, and take into account both the appropriate policies in the UDP and all other material planning considerations (both those identified on site and others which may not have been considered directly on the site inspection).
5. Planning Officers will arrange the itinerary and make the appropriate arrangements for the Sub-Committee to gain access to sites or to address the Sub-Committee before, during or after the inspection a Planning Officer will also be in attendance at all Site Inspections.
6. The Site Inspection is not open to the general public for reasons of probity, possible health and safety issues as well as entry onto private land or premises.

### **PROCEDURES AT SITE INSPECTIONS**

7. The Development Control Sub-Committee site inspection provides the opportunity for Sub-Committee Members (including where appropriate the local Ward Member) to be briefed by planning Officers on or around an application site. Neither members of the public (including supporters/objectors/Parish Councillors) nor the applicant (or the applicant's agents) are permitted to participate in the site inspection.
8. Sub-Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant during the course of the site inspection.
9. Sub-Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant in the period between the termination of the site inspection and the commencement, the following day, of the Development Control Sub-Committee.

10. Sub-Committee Members (including where appropriate the local ward Member) will receive a group presentation from an appropriate planning officer at the outset of the site inspection.
11. Sub-Committee Members (including where appropriate the local ward Member) will be shown by an appropriate planning officer key elements of both the site and its wider environment (as appropriate).
12. Sub-Committee Members (including where appropriate the local ward Member) will ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation.
13. Sub-Committee Members (including where appropriate the local ward Member) will remain as a single group throughout the full course of the site inspection as set out in Points 8 to 10 (inclusive) above.

## **BACKGROUND**

1. ~~This protocol has been prepared to identify circumstances in which either Members of Development Control Sub-Committee, or other Members of the Council, can request for a site inspection prior to the determination of a planning application.~~
2. ~~Requests for a site visit should be made in writing to the Head of Planning Services or the Development Control Manager.~~
3. ~~Site inspections play a valuable role in the determination of planning applications. They allow Sub-Committee Members to inspect the site first hand and to appreciate the issues raised by the applicant, objectors and planning officers. Correctly used site inspections can enhance the decision-making process, can enhance public confidence in the development control process and can avoid any suggestion that the Sub-Committee was making decisions on the basis of inadequate information.~~
4. ~~Sub-Committee site inspections should, however, never be used to delay the processing of an application, to replace the need for accurate plans to be submitted with the application, to placate local residents or directly in response to a request from an objector taking up his or her public speaking opportunity at the Sub-Committee meeting.~~

## **PROCEDURE FOR REQUESTING A SUB-COMMITTEE SITE INSPECTION**

5. ~~In making their requests for a Sub-Committee site inspection, Members should clearly indicate the purpose to be achieved by the proposed visit.~~
6. ~~The following list is not intended to be a definitive and exclusive list of criteria appropriate for Committee site inspections. Nevertheless, the following list of criteria sets out the type of applications that frequently lend themselves to site inspections by the Committee:~~
  - (a) ~~applications where a Sub-Committee site inspection would allow Members to assess the impact of a proposal on the amenity of neighbouring properties where that impact is not obvious from the application drawings.~~
  - (b) ~~applications where a Sub-Committee site inspection would allow Members to assess and/or understand the comments of consultees.~~

~~(c) applications where a Sub-Committee site inspection would allow Members to assess the impact of the design, scale and massing of a proposal either in the local street scene, or in the wider environment.~~

**OTHER INFORMATION**

~~7. This protocol should be read in association with the protocol on the Organisation of Development Control Sub-Committee Site Inspections.~~

## ~~PROTOCOL — ORGANISATION OF DEVELOPMENT CONTROL SUB<sub>sub</sub>-COMMITTEE SITE INSPECTIONS~~

### **BACKGROUND**

- ~~1. This protocol has been prepared to establish procedures for the organisation of Development Control Sub-Committee site inspections.~~
- ~~2. This note should be read in association with the Protocol on Requests for Development Control Sub-Committee Site Inspections.~~

### **GENERAL PRINCIPLES**

- ~~3. A Sub-Committee site inspection plays an invaluable role in the determination of more complex or controversial applications. Site inspections allow Sub-Committee Members to have first-hand experience and understanding of both the application site and the proposal. Site inspections also provide Members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised at the Development Control Sub-Committee by officers, the applicant or objectors.~~
- ~~4. Sub-Committee Members should under no circumstances make decisions on applications during the site inspection itself.~~
- ~~5. Members should debate the proposal at the Sub-Committee meeting immediately following the site inspection, and take into account both the appropriate policies in the UDP and all other material planning considerations (both those inspected on site and others which may not have been considered directly on the site inspection). Planning Officers will make the appropriate arrangements for the Sub-Committee to gain access to sites or to address the Sub-Committee before, during or after the inspection.~~

### **PROCEDURES AT SITE INSPECTIONS**

- ~~6. The Development Control Sub-Committee site inspection provides the opportunity for Sub-Committee Members (including where appropriate the local Ward Member) to be briefed by planning officers on or around an application site. Neither members of the public (including supporters/objectors/Parish Councillors) nor the applicant (or the applicant's agents) are permitted to participate in the site inspection.~~
- ~~7. Sub-Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant during the course of the site inspection.~~
- ~~8. Sub-Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant in the period between the termination of the Sub-Committee site inspection and the commencement of the Development Control Sub-Committee **immediately** following the site inspections. In the event that a site inspection takes place prior to the consideration of the application at Development Control Sub-Committee Members will consider their findings at the inspection with other material considerations at the meeting.~~

- ~~9. Sub-Committee Members (including where appropriate the local ward Member) will receive a group presentation from an appropriate planning officer at the outset of the site inspection.~~
- ~~10. Sub-Committee Members (including where appropriate the local ward Member) will be shown by an appropriate planning officer key elements of both the site and its wider environment (as appropriate).~~
- ~~11. Sub-Committee Members (including where appropriate the local ward Member) will ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation.~~
- ~~12. Sub-Committee Members (including where appropriate the local ward Member) will remain as a single group throughout the full course of the site inspection as set out in Points 9 to 11 (inclusive) above.~~



# CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PROPERTY TRANSACTIONS

## 1. THE NEED FOR GUIDANCE

- 1.1 The sale and acquisition of property by the Local Authority will always have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

## PREPARATORY WORK

- 2.1 The Head of Property Services will produce each year a plan setting out proposed disposals of property, freehold or on long leases, which are likely to reach completion within the next 12 months and also an indication of planned disposals in subsequent years.

- 2.2 The plan of proposed transactions will appear on the Forward Plan as part of the process of setting the capital programme and be sent to the Chairman of the Scrutiny Committee so that the Scrutiny Committee can have the opportunity to consider the contents of the plan.

- 2.3 The plan of proposed transactions will show :

- The objectives of the transaction (egg maximising capital receipt; delivering policy objective)
- The proposed method of disposal (open market, restricted tender, special purchaser, etc)
- The proposed decision-maker (officer delegation, [Cabinet Member portfolio holder](#), Cabinet)
- Whether or not the disposal is of redundant property or to achieve some other identified policy objective.

- 2.4 The programme of proposed disposals will be updated in [the](#) year.

## MEMBER DECISION-MAKING

- 3.1 Member decision-making should concentrate on setting the objectives, parameters and mechanisms for proposed transactions and Members, where their involvement adds value to the process, should be involved as early as possible.

- 3.2 Reports to Members will, therefore, set out :

- The proposed objectives (including alternative objectives) of the transaction.
- The proposed method of pursuing the transaction.
- The circumstances in which a further report to Members is necessary.

- Proposed consultation with local Member(s), the local community and other stakeholders (exceptionally the report will be sufficiently late in the process to set out the outcome of consultation already undertaken).
- Arrangements to secure the long term objectives of the sale.

3.3 Where a disposal also declares property redundant or is to achieve a policy objective which is the responsibility of another Cabinet member then any report to Members will be to that Cabinet member and the Cabinet member for Resources (in the case of delegated decisions) or to the Cabinet, jointly in the name of those two Cabinet members (in the case of decisions by the Cabinet).

## CONFIDENTIALITY

4.1 There is a presumption that both the plan of proposed transactions and reports to Members will be taken in public. The exception is when, and for so long as, information contained within them would prejudice *either* the Local Authority *or* would give an advantage to any person seeking to enter into a contract with the Local Authority *or* would disclose information about the financial or business affairs of a person other than the Local Authority.

4.2 The reasons for confidentiality, where these exceptions apply, will be recorded on the face of the report.

## URGENCY

5.1 Sometimes property transactions are urgent. Where it is, in the opinion of the Cabinet member, not reasonably practicable to delay a decision until the transaction has appeared in a plan, other means of informing the Scrutiny Committee in advance of the decision wherever possible will be followed.

5.2 Where it is not possible to involve the Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Scrutiny Committee as soon as is reasonably practicable. The Scrutiny Committee will, by these means, be able to hold the ~~Cabinet Member~~Portfolio Holder to account for their judgement in relation to urgency.

## SPECIAL PURCHASER

8-16.1 Some transactions involve disposal of property rights which directly affect :

- An existing leaseholder and/or
- Some other individual with a particular interest in the property in question.

6.2 When such a transaction is proposed the bid of a special purchaser will either be above the market value because landed interests are being merged or the Council will be better able to pursue a particular policy objective such as economic development. In either case a negotiated settlement is to be pursued rather than a tender or other competitive process.

6.3 Where there is known to be a special purchaser :

- This will be shown on the plan of proposed transactions as the method of disposal.
- A report proposing the use of the special purchaser regime will be submitted to the ~~Cabinet Member Portfolio Holder~~ for Resources, Auditing, Council Efficiency and Customer Champion Resources and copied to the Chairman of the ~~Resources~~ Scrutiny Committee.
- The opinion of two independent valuers will be obtained and taken into account in determining the terms of any disposal of property to a special purchaser.

6.4 The Cabinet will take decisions in relation to special purchaser transactions.

## INTERESTS

- 7.1 The regime from the Members' Code of Conduct in relation to declaration of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) will wish to consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a personal or prejudicial interest.
- 7.2 Members taking decisions (or engaging in policy development or scrutiny) will wish to consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a personal or prejudicial interest. Interests may arise due to the location of the property being in the area where the elected member resides, being in the electoral division which the member represents, or for some other reason to do with the private or public life of the member.
- 7.3 The ~~Cabinet Member Portfolio Holder~~ will not use delegated powers in relation to property transactions in their own ward.

## LOCAL MEMBER

- 8.1 The elected member for the ward where the property is located will be informed of the proposed transaction (except where genuine urgency prevents) firstly when the plan of disposals is put to the Scrutiny Committee and again, prior to any public marketing or before substantial negotiations with a special purchaser.

## TOWN/PARISH COUNCILS

- 9.1 A copy of the annual plan of disposals will be sent to all Town and Parish Councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

## ACQUISITIONS

- 10.1 This protocol supplements existing arrangements to plan and report proposed acquisitions through the capital programme.
- 10.2 Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the Scrutiny Committee will be given the opportunity to

consider the proposal, or if genuine urgency prohibits this, to subsequently consider the acquisition.

PRO FORMA REPORT TO CABINET AND SCRUTINY COMMITTEE

<u>Proposed Disposals 2005-2006</u>					
<b>Description of Property</b>	<b>Electoral Division /Town or Parish Council</b>	<b>Reason for Sale</b>	<b>Value</b>	<b>Proposed Decision Maker</b>	<b>Proposed Method of Sale</b>
Sufficient to identify Scrutiny Committee, Cabinet Member and Town/Parish Council		e.g. surplus to requirements or to achieve identified policy objective	By bands – low, medium, high, very high*	Officer/Cabinet Member/Cabinet	e.g. open market, private treaty, special purchaser.

\* Bands to be set in consultation with Scrutiny Committee Chair and Cabinet Member.

# *CONSULTATION PROTOCOL BETWEEN PARISH/TOWN COUNCILS AND ISLE OF WIGHT COUNCIL*

1. The Isle of Wight Council will endeavour to consult with Parish or Town Councils on the schedule of services attached. This protocol does not affect any consultation that is required by statute. In these circumstances the consultation to be followed will be that required by law although the provisions in 2 a) (iii) and (iv) below will apply.
2. Form of Consultation
  - (a) The form of consultation will in every case consist initially of the provision of sufficient written information by the Isle of Wight Council to enable the local council to respond properly. The information will therefore :
    - (i) Identify clearly the matters on which the views of the local council are sought.
    - (ii) Where a Parish or Town Council is consulted a clear consultation period will be given and this will not normally be less than 6 weeks. For all such consultation an officer of the Isle of Wight Council will normally be available to explain direct to the Parish and Town Councils concerned the proposals so that any comments can be made with all the necessary information.
    - (iii) In the case of statutory consultation or notification, provide copies of all the relevant documents (including plans) and indicate the closing date.
    - (iv) Indicate by name and title the appropriate officer of the Isle of Wight Council to whom responses must be addressed.
  - (b) If either of the Isle of Wight Council or the local council wish for a meeting to discuss any matter arising out of the consultation, appropriate arrangements will be made by agreement.
  - (c) The Isle of Wight Council will in all cases inform the local council in writing of its decision following consultation and will, where necessary, explain why that decision is not in accord with the view of the local council. Notification of a decision will normally be given within 15 working days after the decision has been made.
  - (d) Where, following consultation, the Isle of Wight Council changes the substance of a proposal, it shall consult the local council again in accordance with these procedures. If the Isle of Wight Council changes the substance of a proposal in accordance with the representations of the local council this section will not apply.

## **Obligations of Local Councils**

3. The local council will respond in writing to consultation in accordance with the following:
  - (a) The response will normally be despatched in time to be received by the Isle of Wight Council within the stated time limit.
  - (b) If the local council is unable to respond within that time limit, it shall inform the designated officer of the Isle of Wight Council as soon as possible, and in any event

before the time limit has expired, and may request a further period of time within which to respond.

- (c) If the local council does not wish to respond to a consultation it shall so inform the Isle of Wight Council in writing within the stated time limit.

4. The local council will provide to the Isle of Wight Council:

- (a) The names, addresses and telephone/fax numbers of the clerk, chairman/mayor and the chairmen of any relevant committees of sub- committees.
- (b) Details of council/committee/sub-committee meetings.
- (c) Details of office hours (if any).

Changes in the above will be notified as and when they occur.

### **Review**

5. The Protocol will be reviewed on an annual basis.

## SCHEDULE

1. Establishment of conservation areas and tree preservation orders (wherever possible).
2. Local recreation or other facilities:  
  
major changes of use or closure of any leisure or sports field, major changes of use or closure of any community centre or community facility, closure of a cemetery, major new arrangements or changes in respect of play areas, major new initiatives and developments in local arts provisions, opening or closure or alteration of opening times of libraries (including mobile libraries), community projects which relate to a specified locality or community, the grant or revocation of public entertainment licences (wherever possible).
3. Local education matters:  
  
proposals for the opening or closure of schools under local education authority control or funding.
4. Cleansing, health and pollution:  
  
major changes and methods to the provision of household waste collection and disposal, major changes and new methods of street cleansing or litter clearance, the establishment or abolition of litter control zones, major changes to the provision and location of recycling facilities, environmental health or pollution issues, major changes to the location or provision of public lavatories, establishment of noise abatement zones.
5. Highways, access and public transport:  
  
major highway maintenance schemes, major traffic management schemes, major road safety schemes, major lighting development, major changes in parking(including on and off street parking) provision, major revisions to winter highway maintenance regimes, street naming, local authority supported bus services (wherever possible), local authority provided bus shelters, alterations in rail services where supported by the principal authority, major changes to taxi and hire car licensing.
6. Open space and woodlands:  
  
new and updated landscape management plans, new and updated tree and woodland management strategies in so far as they relate to the Isle of Wight Council's land holdings, major new developments or changes to local countryside service provision by the Isle of Wight Council.
7. Housing and land:  
  
housing schemes undertaken by the Council or its partners/agents, gipsy sites, land designated for disposal by the principal authority (wherever possible given that confidentiality and speed affect these issues).
8. Community Care Plans.
9. Emergency Services - provision of or changes to powers of the Fire Service and Emergency Centres.
10. Such other matters that may be added, at the agreement of all parties, from time to time.



## *CONSULTATIONS WITH PARISH AND TOWN COUNCILS ON PLANNING APPLICATIONS*

1. Although under the Town and Country Planning Act 1990 the Isle of Wight Council only needs to notify a Parish or Town Council of a planning application if requested to do so, our practice has been to assume that such a notice has been received and therefore all Parish and Town Council's are sent a copy of all applications and plans at the same time as the weekly press list is sent to them.
2. The Town and Country Planning (General Development Procedure) Order 1995 sets out the procedure for such notification and it is this legislation that provides for a 14 day consultation period (i.e. any comments from a Parish or Town Council must be with the Isle of Wight Council within 14 days of the notification of the application).
3. All applications and plans are sent to Parish and Town Councils before there has been any evaluation by the Planning Officers. This is because any comments received from the Parish/Town Council forms part of the evaluation and will help determine if the application can be decided within the delegated powers of the officers. Therefore it is important that Parish and Town Council's observe the 14 day deadline or notify the relevant officer (by telephone) if they require more time. Failure to follow this procedure will mean that there is a very real risk of the application being determined without the benefit of the comments of the Parish or Town Council.
4. Where a Parish or Town Council comment on an application and this is contrary to the view of the Case Officer, then the Local Member will be consulted and given an opportunity to request (in writing) that the matter be formally presented to the Development Control Sub-Committee for determination.
5. A copy of the decision notice will be sent to the Parish or Town Council in respect of applications which have been determined, in the same week that they are produced. If the application is determined contrary to the views of the Parish or Town Council a copy of the officer's report setting out the reasons why will be sent to the Parish/Town Council as soon as possible.
6. Policy documents and standard condition/reason for refusal books will be made available to Parish Councils to assist in their formulation of comments.
7. Whilst every effort will be made to provide Parish Councils with relevant information, planning histories cannot be sent out with the application/press list but will be made available for specific sites on request from the Parish Clerk.
8. Planning Officers' reports cannot be made available within the 14 day timescale for comments; they are unlikely to be prepared by the Case Officer until the views of consultees are received.
9. We will keep a copy of all Parish Council comments received on planning applications for a minimum of 5 years from the receipt date.
10. On major applications, Officers will be available to assist the Clerk in assessing technical details of proposals but will not advise the Parish Council on the nature of the comments or observations they may wish to put forward.

# *PROTOCOL ON THE COUNCIL'S DECISION MAKING PROCESS*

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

This document is a guide only and in the event of uncertainty on the part of any councillor or officer, reference should be made to the Council's Monitoring Officer who has responsibility for advising on the Council's constitution.

### **The Decision Making Process**

Decisions are made by the Council in many places and by a number of people.

The vast majority of the decisions made by the Council are undertaken under delegated powers by officers in accordance with the Council's scheme of delegations. This scheme is contained within this constitution.

Many other decisions are taken in committees of the Council, by the Cabinet or by the Full Council itself. Some decisions can be taken by individual members of the Cabinet who have been given a specific remit for an area of work.

To clarify the different types of decisions and how they are made, this protocol sets out the different categories of decisions, whether made by the Full Council, the Cabinet, the Regulatory committees or by officers either acting under their delegated powers or in conjunction with a specific member of the Council.

### **Principles of Decision Making**

In making decisions, the Council, its Members and its officers need to be able to demonstrate:

- (a) that relevant matters were taken into account;
- (b) that nothing irrelevant was considered;
- (c) that procedural rules and Financial Procedure Rules have been complied with;
- (d) that proper advice was taken and considered before the decision was reached;
- (e) that any interests are properly declared;
- (f) that the decision is properly recorded and published.
  
- (g) proportionality (i.e. the action must be proportionate to the desired outcome);
- (h) due consultation and the taking of professional advice from officers;
- (i) respect for human rights;
- (j) a presumption in favour of openness;
- (k) clarity of aims and desired outcomes;
- (l) due consideration of all available options; and

- (m) the protocols and procedures contained in the Protocol on Decision Making and the Parish Protocol contained in this Constitution.

### **Categories of decision making**

The Council uses a number of categories of decision making -

#### **Category A decisions : Decisions taken by the Full Council**

The Council meeting is the one occasion that the whole of the membership of the Council meets together to democratically approve ~~make key decisions on~~ the budget and strategic policies.

There are certain decisions that only the Council can take -

- To consider and agree the revenue and capital budgets
- To set the council tax for the following financial year and to issue a precept
- To approve the Policy Framework and any changes to it
- To agree amendments to the Council's constitution and the terms of reference of the Cabinet and committees
- To determine the allocation of seats to political groups
- To agree amendments to the scheme of delegations, Procedure Rules, Contracts Procedure Rules and Financial Procedure Rules.
- To receive reports from the Head of Paid Service, from the Monitoring Officer and the Council's section 151 officer
- To approve the making of bye-laws
- To consider recommendations from the Standards and/or Scrutiny Committee.

#### **Key requirements**

- The Full Council agenda will be published 5 working days in advance of the date of the meeting, or if a meeting is convened at less than 5 working days' notice as soon as it is convened.
- Decisions of the Council will be recorded in the minutes of the meeting of the Full Council and published within 10 working days
- Decisions of the Full Council will be effective immediately, unless the decision states otherwise.-

#### **Category B decisions : Decisions taken by the Cabinet**

By law the Cabinet is responsible for delivering (within the Budget and Policy framework set by Full Council) the great majority of Council services. The presumption is that only decisions with genuine Council or Island-wide significance will be taken collectively by the Cabinet. In particular, the Cabinet is responsible for -

- Leading the community planning process
- Developing the Council's Policy framework and making recommendations for change to the Council
- Proposing an annual budget including, capital plans, for submission to the Full Council
- Taking decisions on resources and priorities within the approved budget and the Policy Framework, consulting with other councillors and other stakeholders as necessary.
- Being the focus for developing partnerships with other agencies and the business and voluntary sectors to address local needs
- Address and resolve sensitive, controversial and other important issues

### **Key requirements**

- Agendas for all meetings of the Cabinet will be published 5 working days prior to the meeting.
- The record of Cabinet decisions will be published within 2 working days of the meeting
- Decisions of the Cabinet will be subject to a call in procedure and accordingly will not take effect for 9 working days following publication of the decision record.

### **Category C decisions : Decisions by the Regulatory Committee and Sub-Committees in accordance with their terms of reference**

Within the constitution, specific decision making authority has been delegated to the Regulatory Committees where the decisions are of a quasi judicial or other special character. There are three sub-committees:

The Regulatory (Development Control) Sub-Committee

The Regulatory (Licensing) Sub-Committee

The Regulatory (Human Resources and Miscellaneous) Sub-Committee

### **Key requirements**

- Each of these committees is regulated by a specific protocol and, in some cases, codes of practice. The procedure to be followed by each should be in accordance with any approved code of practice and so as to ensure that the rules of natural justice are adhered to and, where appropriate, statutory guidance and regulations.
- Decisions of these bodies are effective immediately and are not subject to the call in procedure. The processes of decision making are, however, subject to scrutiny.

### **Category D decisions : Decisions taken by a Cabinet**

There is a presumption that Cabinet Members will take those decisions which have a genuine strategic significance for those function for which they have responsibility. Cabinet Members are **is** authorised to take decisions which fall within his or her remit of responsibility.

Where the decision:

- (i) Can be implemented within existing budget allocations to service areas the Cabinet Member will take the decision.
- (ii) Requires transfer of budget between allocations to service areas the Cabinet Member will take the decision jointly with the Deputy Leader (or if unavailable with the Cabinet Member for Resources or the Leader of the Council).
- (iii) Is to dispose of property the decision will be taken by the Cabinet Member jointly with the Deputy Leader (or if unavailable the Cabinet Member for Resources or the Leader of the Council). A copy of any report proposing disposal of property will also be sent, in advance of the decision being taken, to the ~~Chair~~Chairman of the Scrutiny Committee.

### Key requirements

- Where a Cabinet Member wishes to take a decision under such delegated powers, a written report must first be prepared by the relevant officer together with, as appropriate, legal and financial advice. If there is any doubt about the authority to take the decision, then the advice of the Monitoring Officer must be taken in advance.
- The report must be made publicly available for a minimum of five days before the ~~Cabinet Member portfolio holder~~ Cabinet Member can take the decision.
- The Cabinet Member must consider, prior to taking a decision, whether consultation should take place with the Chairman of the Scrutiny Committee, with the local Member or with the relevant Policy Commissioner.
- A written record of the decision must be made on a form provided by the Committee Section. That written record must have attached to it the report indicating the advice the ~~Cabinet Member portfolio holder~~ Cabinet Member has received from the relevant officer and any legal or financial advice received. The form must identify when public notice was given of the intention to make the decision. The form should also require the Cabinet Member to declare if he or she has a registerable interest in the matter. The form must then be given to the Proper Officer as soon as it has been completed.
- Like decisions reached by the Cabinet, be subject to the call in procedure and accordingly will ~~not take effect until the Friday of the week after it is taken~~ be expressed as not taking effect until a period allowing for call-in to be effected has elapsed.
- On the agenda for each meeting of the Cabinet there shall be an opportunity for questions to be put to any Cabinet Member on any decisions that they have taken since the last meeting.

### Category E decisions : Decisions taken by an Officer in consultation with the relevant Cabinet Member

There are a number of items specifically contained within the Council's scheme of delegations which provide for the relevant officer to make a decision in consultation with the relevant Cabinet Member. The relevant officer in consultation with the Cabinet Member should consider whether these decisions should be taken following consultation also with the relevant Policy Commissioner, the ~~Chair~~Chairman of the Scrutiny Committee and/or local member(s).

### **Key requirements**

- A proper record, in a corporately agreed format, should always be made of any such decisions
- Decisions of this nature are effective from the moment they are made.
- Such decisions should be given proportionate publicity.

### **Category F decisions : Decisions taken by an Officer or by those authorised by the Officer**

This category includes a wide range of decisions made on a day to day basis by Strategic Directors, Heads of Service or by staff authorised by them to take such decisions. These decisions fall within the scheme of delegations to the Officers and concern the operational management of their areas of responsibility.

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

### **Key requirements**

- The relevant officer who takes the decision will need to ensure that appropriate legal and financial advice is taken.
- The relevant officer will have to consider the most appropriate form for recording the decision .
- The decision will have effect from when it is made.

### **Regulatory Committee & Sub-Committees**

Functions otherwise delegated to one of the regulatory sub-committees will usually be exercised by the parent committee when:

- The decision involves the adoption of a policy which one of the sub-committees will be responsible for applying to particular applications
- The decision is likely to be followed by a further application to be determined by another regulatory sub-committee (for example where a planning application is likely to be followed by an application for a liquor licence)
- Where the issue has Island wide effect or significance (for example, an application for a major festival)

### **Key requirements**

The report enabling the decision will identify the reason for the parent committee hearing the application.

### **The Role of the Scrutiny Committee**

The role of the Scrutiny Committee is to support service improvement by scrutinising [proposals and](#) decisions of the Cabinet and Cabinet Members. The Scrutiny Committee does not make decisions, [but makes recommendations to improve the quality and efficiency of council services.](#)

### **Advance notice of Key Decisions**

The Cabinet is required to publish a forward plan of Key Decisions that it intends to make within the following four months. This will enable the Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined by the Cabinet.

A Key Decision is one that is likely either -

- to result in the authority incurring additional expenditure or a reduction in expenditure exceeding £250,000 in any one year or any individual service or function to which that decision relates; or
- it is otherwise significant in terms of any individual service to the public.

The forward plan must identify all those items about which it is known that the Cabinet is to make a decision within the following 4 months. The forward plan will be updated on a monthly basis. Not all key decisions will be known 4 months in advance and so advance notice of decisions will be included as soon as they become known.

There is a mechanism for taking urgent decisions not on the forward plan. This is an exceptional process for use in genuinely urgent circumstances and when the report supporting the decision sets out why the decision did not appear on the forward plan [and](#) why the decision cannot wait until the next forward plan is published.

If an item which is a key decision arises which is not in the forward plan and has to be taken at short notice, the Strategic Director, Corporate Services will ensure that the Chairman of the Scrutiny Committee is notified - or in his or her absence, the Chairman of the Council - and that a minimum of three days notice has been given that the Cabinet intend to consider the item. Such an item can only be considered with less than three days notice where agreement has been obtained from the Chairman of the Scrutiny Committee or, in his or her absence, the [Vice Chairman of the Scrutiny Committee or if both are absent the](#) Chairman of the Council.

### **Holding the Cabinet to account: the case for challenge and how to operate it**

#### **Question time**

The Council's Standing Orders regulate the right of any member to ask questions of any Cabinet Member at each meeting of the Full Council. All written questions notified in advance of the meeting will be dealt with and there is in addition a maximum of 10 minutes to ask each [Cabinet Member](#) ~~portfolio holder~~ an oral question on any item within his or her remit.

There is a similar right at meetings of the Cabinet for any member of the Council to ask a question of any Cabinet Member either by giving notice of the question prior to the start of the meeting or by not giving notice.

Members of the public are invited to put questions at both Cabinet and Full Council meetings.

#### **The call-in procedure**

Call-in is a safety net to temporarily halt the implementation of a decision which proves unexpectedly controversial or counter productive effect.

The procedure only applies to decisions of the Cabinet or decisions taken by Cabinet Members under delegated powers (i.e. Category B and Category D decisions.) Unless there are specific reasons why a Cabinet decision has to be implemented immediately, the decision will remain subject to the call in procedure for 5 working days following the publication of the minutes of the meeting.

During this period, any four or more members of the Scrutiny Committee can sign a notice triggering the call-in mechanism and halting implementation of the decision for a period of 7 days. Upon receiving such a notice, the Proper Officer will make arrangements to convene such a meeting as quickly as possible and to arrange for the attendance at that meeting of the relevant officer (or a substitute) who prepared the original report. The Scrutiny Committee will receive advice from the Monitoring Officer or the Chief Finance Officer on whether the decision falls within the approved budget or the Policy Framework.

At the next meeting the Scrutiny Committee may:

- (i) Endorse the decision.
- (ii) Refer the decision back to the decision-maker with recommendations.
- (iii) Refer the decision to another body, with recommendations.
- (iv) Add an enquiry to its own work programme.
- (v) If advice has been received that the decision is outside of the Budget and Policy Framework refer the advice to Full Council with a recommendation that the Budget or Policy Framework be amended.

Only in (v) is implementation of the decision prevented after the meeting of the Committee has disposed of the call-in. [In all other cases implementation will be at the discretion of the decision maker.](#)



## ***PROTOCOL ON PUBLICITY AND THE MEDIA***

1. The Isle of Wight Council values the important role that the media has in disseminating information about the policies and services we provide to local residents. Wherever possible a positive approach will be taken to providing information to the media through press releases, press briefings, statements, and interviews by a senior officer or councillors.
2. The Corporate Communications Unit (CCU), of which the Media and Public Relations Office (MPRO) forms part, has responsibility for promoting the Council's media and publicity profile and consultation initiatives. In compliance with the Government's Code of Practice Council, publicity material and communications generally will not support or promote a political party's point of view.
3. Wherever possible no Council department should issue press releases or statements directly to the media. This should be done through the MPRO. Similarly, where possible, Council departments should contact the MPRO when contacted by the media. The MPRO would not wish to cause delays and recognises that some flexibility should be given, depending on the nature of the enquiry (See point 14). The Head of Communications has prepared further guidance on this, which has been distributed to all Strategic Directors and senior managers and which is available from the MPRO. The Fire and Rescue Service will directly deal with media enquiries concerning their day to day operations. Similarly, Isle of Wight Tourism will directly deal with most tourism issues, especially in support of marketing activity. The MPRO will become involved where tourism issues relate to other council directorates or when there is an emergency.
4. Journalists will continue to be encouraged to attend Full Council, and Cabinet, the Scrutiny Committee and other council meetings, to enable them to report accurately on the proceedings, and further briefings will be arranged where appropriate. The MPRO will co-ordinate and monitor media responses. All agendas, reports and minutes (unless confidential) are issued in advance to the registered media by committee services or made available at the meetings.

### **Full Council, Cabinet meetings and other decision-making bodies**

5. Where appropriate, the MPRO will issue press releases in advance of meetings, highlighting key items as agreed with, and approved by:

In the case of the Full Council:

- (a) The Chief Executive, or a Strategic Director, and the Leader of the Council, and quoting the Leader of the Council, the appropriate Cabinet member or senior officer or as appropriate, Chairman of the Scrutiny Committee or Policy Commissioner to explain and publicise council policies and services

In the case of the Cabinet or other decision-making bodies:

- (b) Issues will be identified at the pre-agenda briefing meetings in advance, and agreed with the Leader of the Council and Chief Executive. If requested by the Chief Executive or the Leader of the Council, the MPRO will issue a press release following the meeting, describing the decision and quoting the Leader of the Council, appropriate Cabinet member or senior officer.

6. Motions and questions from individual councillors shown on the agenda will not be publicised through press releases.
7. The MPRO will respond to press enquiries before and following the meeting by providing an explanation at officer level or referring to the Leader of the Council or the appropriate Cabinet member, and organise interviews and photo opportunities.
8. Where a reporter wishes to find out what was said by individual councillors during a debate the reporter will be referred to the councillors concerned.
9. The Chairman of the Council shall issue press releases through the MPRO on any issue relating to his or her civic role.

### **Scrutiny Committee and Policy Commissions**

10. The MPRO will respond to any press enquiries before and following the meeting by providing a factual explanation at officer level. Where a matter of policy is in question, the MPRO should consult the appropriate Cabinet member and/or the Chief Officer.
11. If requested by the Chairman, the MPRO will issue a press release following the meeting, in line with the information item, factually describing the outcome, and listing the Policy Commissioner/Chairman of the Committee and Lead Officer as contact points. Where a matter of policy is in question, the MPRO will consult the appropriate Cabinet member and/or Head of Service/Strategic Director. ~~As the role of scrutiny develops further within the council, protocols for pre-publicity may be reviewed.~~
12. Where a reporter wishes to find out what was said by individual councillors during a debate, the MPRO should refer the reporter to the individual councillor.

### **General media enquiries**

13. The MPRO will liaise with the appropriate officers to provide information as requested by the media.
14. Where officers are approached by the media they should, where possible, contact the MPRO, to decide the appropriate response on the matter. Where the enquiry is purely factual and deadlines are tight, then officers can provide the information direct (and inform the MPRO afterwards). Where the enquiry is of a potentially sensitive or controversial nature, then the MPRO must be consulted before officers respond. Similarly, the MPRO need to be informed of all enquiries from the national media and responses given. This includes positive as well as negative coverage.

As mentioned in point 3, the Head of Communications has prepared further guidance on this which defines factual and controversial/sensitive information. This has been distributed to all Strategic Directors and senior managers and which is available from the MPRO.

### **Corporate communications**

15. The CCU will provide the Chief Executive and Senior Officers or other senior managers with advice on any matter of a communications nature which relates to the reputation of the council as a whole and its policies and services.
16. The CCU will promote agreed corporate initiatives in liaison with the Leader of the Council and/or the Chief Executive, including press releases, briefings, conferences and events.

17. The CCU will promote agreed Cabinet initiatives in liaison with Strategic Directors or other seniors managers, and with Cabinet members.
18. The CCU will promote agreed service initiatives as requested by senior managers in liaison, where appropriate, with Cabinet members, Policy Commissioners or ~~Chair~~[Chairman](#) of The Scrutiny Committee.
19. The CCU will promote the role of scrutiny and Policy development within the overall democratic process, as the opportunity arises, in liaison with the Leader of the Council and the Chief Executive.

### **Individual councillors**

20. Councillors are encouraged to liase with the MPRO over media enquiries to ensure a co-ordinated and positive profile for council activities. The MPRO will provide professional non party-political communications advice to members on request.
21. The MPRO will encourage councillors and officers to participate in the council's Media Training Courses.
22. It is the prerogative of individual councillors to make their own statements. They are invited to work closely with the appropriate Cabinet member or other councillor empowered to represent the council on the subject, particularly where they are intending to comment on a matter of council policy, but are not obliged to do so.
23. Nothing in this protocol precludes any political group from issuing its own media information. However this cannot be done through the MPRO or by using council resources.

### **Elections, referendums and petitions**

24. The period between the notice of an election and the election itself precludes proactive publicity of candidates and other politicians who are directly involved. It is, however, acceptable for the MPRO to respond to events and service enquiries, provided the answers are factual and not party political, and for key political or civic members to comment in an emergency or important event outside the council's control.
25. The CCU will not publish, or assist in the publication of, anything designed to influence local people in deciding whether or not to sign a petition requesting a referendum for an elected mayor. Publicity will be restricted to details about the proposals and to explain existing arrangements.
26. Any publicity about a referendum, prior to or during the referendum period, will not seek to influence public opinion on the outcome.

### **Wight Insight**

27. Wight Insight will be produced seven times a year to promote council policies, services and initiatives to Isle of Wight residents.
28. The Head of [Corporate Policy and](#) Communications will act as editor. Wight Insight is a non-political publication, and will not ordinarily feature individual councillors or ventures of officers.

## **MEMBERS' ALLOWANCES SCHEME**

***This scheme was adopted following recommendations by an independent remuneration panel in relation to the governance arrangements adopted by the last Council. A new panel will be convened in the summer of 2005 and a new scheme adopted. In the meantime the payments set out below will be made to the nearest equivalent potholders within the emerging governance structures.***

The Council's current scheme for paying allowances to Members was established under the Local Authorities (Members' Allowances) Regulations, 1991.

The present scheme, as amended by the 1995 Amendment Regulations, is set out in the following pages

1. This scheme may be cited as the Isle of Wight Council Members' Allowances Scheme.

2. In this scheme,

"councillor" means a member of the Isle of Wight Council who is a councillor;

"year" means the 12 months ending with 31 March.

### **3. Basic Allowance**

Subject to paragraph (6), for each year a basic allowance shall be paid to each councillor. The amount of the allowance will be reviewed in accordance with paragraph (10). For the year 2003/2004 the allowance is £5,808.

### **4. Special Responsibility Allowances**

(a) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme.

(b) Subject to paragraph (6), the amount of each such allowance for 2003/2004 shall be the amount specified against that special responsibility in that schedule. The allowances will be reviewed in accordance with paragraph (10).

### **5. Renunciation**

A councillor may by notice in writing given to the Chief Financial Officer elect to forego any part of his entitlement to an allowance under this scheme.

### **6. Part-year Entitlements**

(a) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

(b) 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, then in relation to each of the periods

- (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, and
- (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.

- (c) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (n) here this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that subparagraph) as bears to the whole the same proportion as the number of days during which his term of office as a councillor subsists bears to the number of days in that period.
- (o) Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (p) Where this scheme is amended as mentioned in sub-paragraph (b), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **7. Payment of Allowances**

- (a) Payments shall be made
  - (i) in respect of basic and special responsibility allowances, subject to sub-paragraph (b), in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;
  - (ii) in respect of claims for travelling and subsistence, on the last working day of each month in respect of claims received up to the day 14 days before that date. Claims shall be made on the prescribed forms obtainable from the Strategic Director for Finance & Information through the Payment Services Manager. The maximum amounts reimbursable are prescribed by the Secretary of State for the

Environment; the rates for 2002/2003 are set out in paragraphs (8) and (9) below. The approved duties for which these allowances may be claimed are set out in Schedule II.

- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph (6), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## 8. Motor Mileage Allowances

### (a) Motorcycles

Up to 150cc	8.5p per mile
151cc to 500cc	12.3p per mile
Over 500cc	16.5p per mile

### (b) Motorcars

All vehicles	40p per mile
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## 9. Subsistence Rates

- (a) Breakfast allowance of up to £5.05 for absence from normal place of residence of more than four hours before 11.00 am
- (b) Lunch allowance of up to £6.95 for more than four hours absence, including the period between 12 noon and 2.00 pm.
- (c) Tea allowance of up to £2.74 for more than four hours absence, including the period 3.00 pm to 6.00 pm.
- (d) Evening meal allowance of up to £8.60 for more than 4 hours absence ending after 7.00 pm.
- (e) Overnight subsistence (i.e. absence overnight from the usual place of residence £81.90 and, for certain specified approved conferences and for a stay in inner London, £93.41) plus up to an additional £20 for meals in excess of these rates on production of receipts.

## 10. Annual Review

The Chief Financial Officer will review the amounts set out in this scheme by way of basic allowance and special responsibility allowances in accordance with the annual percentage movement in the all occupations average gross daily pay for the South east of England subject to any overriding statutory limitation.

Motor Mileage Allowances and Subsistence Rates are reviewed by the Secretary of State, normally on an annual basis.

**At its meeting on 26 November 2003 the following were also adopted as part of the allowances scheme:**

**1. Pensions**

That all Members who are eligible to join the Local Government Pension Scheme, be able to do so and that it should apply to both Basic Allowance and Special Responsibility Allowance.

**2. Dependant Carer's Allowance**

That a Dependant Carer Allowance be introduced along the lines of that suggested by the Panel, with the necessary detail to be brought before members for approval.

**3. Travel Allowances – In Authority**

For in authority travel on approved duties, that members mileage rates be based on the approved Inland Revenue (AMAP) rates.

**4. Subsistence – In Authority**

That the current allowances as specified under Section 174 of the Local Government Act 1972 for attending approved duties be continued, indexed to the retail price index (RPI) and increased in April each year commencing April 2004.

**5. Travel Allowance – Out of Authority**

That the following rates should apply:

- car and van                      40p per mile (Inland Revenue Rate and indexed to such) for a four year period, with an additional 5p per mile for the carrying of one or more passengers.
- rail, train, air, taxi      current rates and receipted fares  
and hire car
- ferry                              economy class or reduced rate.

**6. Accommodation and Subsistence – Out of Authority**

- a) That wherever possible Members organise their meals and accommodation through the Council which pre books and makes payment.
- b) Current rates of allowance be continued, indexed to the RPI and increased in April each year commencing April 2004.
- c) For meals that cannot be pre booked and that are in excess of current rates, that reasonable costs are reimbursed on production of receipts up to a limit of £20 per day.

**7. Public Transport**

That where members use public transport for approved duties, that costs be claimed at standard rates, and with receipts for all journeys costing £5 or more.

**8. Co-optees Allowances**

That the following allowances be introduced:

Standards Committee Members	£250 per annum
Children's Services Select Committee	£400 per annum

9. **Implementation and Indexation**

- that the above allowances be indexed for a four year period to the annual percentage increase in salary applicable to local authority administrative staff and that this method of indexation be reviewed at the end of that period.
- that travel and subsistence costs be indexed to the Inland Revenue mileage rates, the retail price index and actual costs of disbursement as detailed.

10. **Suspension of Allowances**

That when a Member is suspended from acting as a Councillor by the Standards Committee or Adjudication Panel then the Standards Committee be empowered to suspend in whole or part the allowances payable to that member, for the period of the suspension