

Part 5 – Section 1

Members' Code of Conduct

Note: The Council agreed to exercise the option of including “any unpaid directorship” in the description of “Disclosable Pecuniary Interests” in Table 1 of this Code of Conduct.

1. Joint Statement

- 1.1. The role of Councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as Councillors we can be held accountable, and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual Councillor affects the reputation of all Councillors. We want the role of Councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become Councillors.
- 1.2. As Councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 1.3. Importantly, we should be able to undertake our role as a Councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.
- 1.4. This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

2. Introduction

- 2.1. The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for Councils to adopt in whole and/or with local amendments.
- 2.2. All Councils are required to have a local Councillor Code of Conduct.
- 2.3. The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to Councils and Councillors on the application of the Code and the National Association of Local Councils (NALC), and the county associations of local Councils can offer advice and support to town and parish Councils.

3. Definitions

- 3.1. For the purposes of this Code of Conduct, a "Councillor" means a Member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is

defined in the Localism Act 2011 Section 27(4) as “a person who is not a Member of the Authority but who:

i) is a member of any Committee or sub-Committee of the authority; or

ii) is a member of, and represents the authority on, any joint Committee or joint sub-Committee of the authority; and

iii) who is entitled to vote on any question that falls to be decided at any meeting of that Committee or sub-Committee.

3.2. For the purposes of this Code of Conduct, “local authority” includes County Councils, district Councils, London Borough Councils, Parish Councils, Town Councils, Fire and Rescue authorities, Police authorities, joint authorities, Economic Prosperity Boards, combined authorities and National Park authorities.

4. Purpose of the Code of Conduct

4.1. The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Local Authority Officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and Local Government.

5. General principles of Councillor conduct

5.1. Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority Officers; should uphold The Seven Principles of Public Life (details can be found at www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2) also known as the Nolan Principles.

5.2. Building on these principles, the following general principles have been developed specifically for the role of Councillor.

5.3. In accordance with the public trust placed in me, on all occasions:

i) I act with integrity and honesty;

ii) I act lawfully;

iii) I treat all persons fairly and with respect; and

iv) I lead by example and act in a way that secures public confidence in the role of Councillor.

5.4. In undertaking my role:

i) I impartially exercise my responsibilities in the interests of the local community;

ii) I do not improperly seek to confer an advantage, or disadvantage, on any person;

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- iii) I avoid conflicts of interest;

 - iv) I exercise reasonable care and diligence; and

 - v) I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.
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6. Application of the Code of Conduct

- 6.1. This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.
- 6.2. This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:
- i) you misuse your position as a Councillor; or

 - ii) your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor.
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- 6.3. The Code applies to all forms of communication and interaction, including:
- i) at face-to-face meetings;

 - ii) at online or telephone meetings;

 - iii) in written communication;

 - iv) in verbal communication;

 - v) in non-verbal communication; and

 - vi) in electronic and social media communication, posts, statements and comments.
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- 6.4. You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.
- 6.5. Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

7. Standards of Councillor Conduct

- 7.1. This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 7.2. Guidance is included to help explain the reasons for the obligations and how they should be followed.

8. Respect

8.1. As a Councillor

- i) I treat other Councillors and members of the public with respect.
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ii) I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

- 8.2. Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.
- 8.3. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.
- 8.4. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and Local Authority employees, where concerns should be raised in line with the local authority's Councillor-Officer protocol.

9. Bullying, harassment and discrimination

9.1. As a Councillor:

i) I do not bully any person

ii) I do not harass any person

iii) I promote equalities and do not discriminate unlawfully against any person

- 9.2. The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.
- 9.3. The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.
- 9.4. Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's
- 9.5. identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.6. The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's

performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

10. Impartiality of Officers of the Council

10.1. As a Councillor:

i) I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority

10.2. Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question Officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

11. Confidentiality and access to information

11.1. As a Councillor:

i) I do not disclose information:

a. given to me in confidence by anyone

b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless

1. I have received the consent of a person authorised to give it;

2. I am required by law to do so;

3. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

4. the disclosure is:

a. reasonable and in the public interest; and

b. made in good faith and in compliance with the reasonable requirements of the local authority; and

c. I have consulted the Monitoring Officer prior to its release

ii) I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

iii) I do not prevent anyone from getting information that they are entitled to by law.

11.2. Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

12. Disrepute

12.1. As a Councillor

i) I do not bring my role or local authority into disrepute.

12.2. As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

12.3. You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

13. Use of Position

13.1. As a Councillor:

i) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

13.2. Your position as a Member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

14. Use of local authority resources and facilities

14.1. As a Councillor:

i) I do not misuse Council resources.

ii) I will, when using the resources of the local or authorising their use by others:

a. act in accordance with the local authority's requirements; and

b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

14.2. You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

14.3. Examples include:

i) Office support

ii) Stationery

iii) Equipment such as phones, and computers

iv) Transport

v) Access and use of local authority buildings and rooms

- 14.4. These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

15. Complying with the Code of Conduct

15.1. As a Councillor:

- i) I undertake Code of Conduct training provided by my local authority.
- ii) I cooperate with any Code of Conduct investigation and/or determination.
- iii) I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- iv) I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

- 15.2. It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

15.3. Protecting your reputation and the reputation of the local authority

16. Interests

16.1. As a Councillor:

- i) I register and disclose my interests.

- 16.2. Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the authority.

- 16.3. You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

- 16.4. You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1 of Appendix 4**, is a criminal offence under the Localism Act 2011.

- 16.5. Appendix 4 sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

17. Gifts and hospitality

17.1. As a Councillor:

- i) I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

- ii) I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

- iii) I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

17.2. In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, contact your Monitoring Officer for guidance.

Part 5 – Section 2

Standards Protocols

1. Standards Protocols

1.1. On 8 April 2021, the Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Code of Conduct, as adopted by the Council. A breach of a Standards Protocol could constitute a breach of the Model Code.

1.2. Council has formally adopted two Standards Protocols:

- i) Protocol for Complaints Submitted by Members
 - ii) Protocol for Members' Access to Confidential Information of Council-Owned Companies
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MEMBERS' CODE OF CONDUCT

Protocol for Complaints submitted by Members

1. Introduction

- 1.1 The Council has adopted a Members' Code of Conduct that sets out the standards of behaviour expected of Members.
- 1.2 The Council has also adopted 'Arrangements for dealing with Standards Allegations under the Localism Act 2011' (Arrangements).
- 1.3 This Protocol applies to complaints submitted, under the Members' Code of Conduct, by a Member against another Member.

2. Confidentiality

- 2.1 Member complaints against another Member shall be confidential to:
 - (i) the two Members concerned (i.e. the Member submitting the complaint and the Member who is the subject of the complaint);
 - (ii) the Monitoring Officer, and
 - (iii) the persons notified of the complaint by the Monitoring Officer in accordance with the Arrangements.

3. Breach of Protocol

- 3.1 On 8 April 2021, Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Members' Code of Conduct.
- 3.2 Failure to comply with this Protocol could constitute a breach of the Members' Code of Conduct.

Adopted by the Council on 4 April 2019

Amended May 2021 (reference made to the Local Government Association's Model Members' Code of Conduct).

MEMBERS' CODE OF CONDUCT

Protocol for Members' access to confidential information of Council-owned companies

1. Introduction

- 1.1 The Council has adopted a Members' Code of Conduct that sets out the standards of behaviour expected of Members.
- 1.2 The Council has also adopted 'Arrangements for Dealing with Standards Allegations under the Localism Act 2011' (Arrangements).
- 1.3 This Protocol applies to Members' access to the confidential information of Council-owned companies. Such information includes, but is not limited to, confidential Board papers and confidential information imparted at Board meetings.

2. Confidential Information of Council-Owned Companies

- 2.1 The Members' Code of Conduct imposes obligations on Members in respect of confidential information. In particular, 11.1 of the Members' Code of Conduct provides:
- 2.2 The provisions of 11.1 of the Members' Code of Conduct shall apply to confidential information of Council-owned companies (note: 'Council-owned company' shall be substituted for "local authority" in paragraph 11.1b.iv.2).

3. Breach of Protocol

- 3.1 On 8 April 2021, Council resolved that compliance with Standards Protocols shall be deemed to be a requirement of the Local Government Association's Model Members' Code of Conduct.
- 3.2 Failure to comply with this Protocol could constitute a breach of the Members' Code of Conduct.

Adopted by the Council on 30 July 2020.

Amended May 2021 (reference made to the Local Government Association's Model Members' Code of Conduct).

Part 5 – Section 3

**Arrangements for
dealing with Allegations
of Misconduct by
Councillors under the
Localism Act 2011**

1. Context

- 1.1. It is expected that elected Councillors of Woking Borough Council (the Council) uphold the highest standards of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2. These arrangements describe how the public can make a complaint that a Member of the Council has failed to comply with the Council's Member Code of Conduct and sets out how the Council will deal with allegations of a failure to comply with the Code of Conduct.
- 1.3. Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have 'Arrangements' under which allegations that a Member, or co-opted Member, has failed to comply with the Council's Code of Conduct can be investigated, and decisions made on such allegations. Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated. The Independent Person's views can also be sought by the Council at any other stage, or by a Member against whom an allegation has been made.
- 1.4. The terms capitalised in these arrangements are as defined within the text or at 2. Interpretation, below.

2. Interpretation

- 2.1. 'Code of Conduct' means the Code of Conduct for Councillors and co-opted members adopted by the Council.
- 2.2. 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.3. 'Subject Member' means an elected or co-opted member of the Council against whom a complaint has been made alleging a breach of the Code of Conduct.
- 2.4. 'Independent Person' means a person or persons appointed by the Council under section 28(7) of the Localism Act 2011 who has the functions set out in section 28(7) of the Localism Act 2011.
- 2.5. 'Independent Member' means a co-opted person who is neither a Councillor nor Officer of the Council and who sits on the Standards Panel in an advisory capacity but who is not entitled to vote.
- 2.6. 'Informal Resolution' means the procedure described in these Arrangements at point 7.
- 2.7. 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of

Conduct by a Subject Member. The Investigating Officer may be another senior Officer of the Council, an Officer of another authority, or an external investigator.

- 2.8. 'Monitoring Officer' means a statutory Officer appointed by the Council under the Local Government and Housing Act 1989 Sections 5 and 5A who has a role in the assessment of complaints and the promotion and maintenance of high standards of conduct within local authorities and their deputy or representative.
- 2.9. The Standards Panel is a sub-Committee of the Council's Standards and Audit Committee. The Independent Person is invited to attend all meetings of the Standards Panel and their views are sought and taken into consideration before the Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

3. The Code of Conduct

- 3.1. The Council has adopted a Code of Conduct for Members. This is available for inspection on the Council's website (www.woking.gov.uk) and on request from the Council's Monitoring Officer.

4. Making a Complaint

- 4.1. All complaints must be made in writing and on the official complaint form. Completion of the complaint form will enable the Council to process the complaint efficiently and transparently. A copy of the complaint form may be found at Appendix 5. The complaint form can be posted or e-mailed to the Council's Monitoring Officer whose contact details are:

The Monitoring Officer,
Woking Borough Council,
Civic Offices,
Gloucester Square,
Woking,
Surrey,
GU21 6YL
Monitoring.Officer@woking.gov.uk

- 4.2. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) shall be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer.

5. Anonymous Complaints

- 5.1. Anonymous complaints will not normally be investigated and shall only be accepted in exceptional circumstances where the Monitoring Officer, in consultation with the Independent Person, concludes that the balance of the public interest lies in doing so, and the fairness of the procedure is maintained.
- 5.2. As a matter of fairness and natural justice and in order to preserve the probative value of any evidence given, the Subject Member will usually be told who has complained

about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the identity of a Complainant or witness where the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they, or any witness relevant to the complaint, may be at risk of serious harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

- 5.3. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, the Complainant will be notified of the Monitoring Officer's decision with reasons. At this stage the Complainant will be given the option to withdraw the complaint.
- 5.4. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.
- 5.5. If the Complainant's request for confidentiality is upheld, the Monitoring Officer will inform the Complainant that confidentiality may be retained but will be subject to review by the Monitoring Officer as the matter progresses.
- 5.6. The Monitoring Officer will acknowledge receipt of a complaint within five working days of receiving it and will keep the Complainant informed of the progress of their complaint.
- 5.7. The Monitoring Officer may, within five working days of receipt, advise the Subject Member that a complaint has been received (together with the name and address of the complainant and brief details of the complaint unless it is subject to confidentiality). The Member shall not make any representations to the Monitoring Officer at this stage of the process.
- 5.8. The Monitoring Officer will, within the same timescale, normally advise the Leader of the Council, the Member's Group Leader and the Chief Executive of the receipt of the complaint (together with the name and address of the complainant and brief details of the complaint unless it is subject to confidentiality). The Leader of the Council, the Member's Group Leader and Chief Executive shall not make any representations to the Monitoring Officer at any stage of the process.
- 5.9. The Monitoring Officer may decide not to advise the Subject Member, Leader of the Council, Member's Group Leader or Chief Executive of the receipt of the complaint if this might prejudice a subsequent investigation. The Monitoring Officer shall have the discretion to notify other persons of the receipt of the complaint as they consider appropriate. The Monitoring Officer shall inform the Complainant and Subject Member should they exercise discretion.

6. Assessment of Complaint

- 6.1. The Monitoring Officer will assess every complaint received and, after consultation with the Independent Person, make a decision as to the most appropriate action to be taken in relations to the complaint. This decision will normally be taken within ten

working days of receipt of the complaint. Details of how the Monitoring Officer will assess the complaint can be found at Appendix 7.

6.2. Where the Monitoring Officer requires additional information in order to come to a decision, they may refer back to the Complainant for such information and may also request information from the Subject Member.

6.3. The following decisions can be taken by the Monitoring Officer in consultation with the Independent Person:

- i) no further action;
- ii) attempt Informal Resolution;
- iii) recommend Formal Investigation; or
- iv) referral to the Police or other regulatory agency if the complaint identifies criminal conduct or breach of other regulation.

6.4. Where the Monitoring Officer has taken a decision, they will inform the Complainant, the Independent Person, the Subject Member, and where appropriate the Chair of the Standards and Audit Committee, all Group Leaders, the Chief Executive, of their decision and the reasons for that decision. The Monitoring Officer shall have the discretion to notify other persons of their decision (and the reasons for that decision) as they consider appropriate.

7. Informal Resolution

7.1. In appropriate cases, the Monitoring Officer may seek to resolve the complaint without the need for a formal investigation by way of Informal Resolution, which may be appropriate for example:

- i) where it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error, was not actuated by any malicious intent, and the matter would not warrant a more serious sanction;
- ii) where training or conciliation would be a more appropriate response.

7.2. Types of Informal Resolution might include:

- i) an explanation by the Subject Member of the circumstances surrounding the complaint;
- ii) an apology from the Subject Member;
- iii) an agreement from the Subject Member to attend relevant training or to take part in a mentoring process;
- iv) offering to engage in a process of mediation or conciliation between the Subject Member and the Complainant; or
- v) any other action capable of resolving the complaint.

- 7.3. Where the Monitoring Officer seeks to resolve the complaint informally, they will provide the Subject Member with recommendation together with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 20 working days following a decision to seek informal resolution) or to engage in a process of informal resolution organised by the Monitoring Officer.
- 7.4. Before deciding upon a course of action, the Subject Member may seek guidance from the Leader of their political group, the Independent Person, and/or the Monitoring Officer. The Monitoring Officer may also seek the Complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.
- 7.5. At the end of the 20-working day period the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the Subject Member has resolved the complaint to the Complainant's satisfaction.
- 7.6. Where it has been possible to agree a form of resolution between the Subject Member and the Complainant, there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the Complainant and the Subject Member of this decision.
- 7.7. Where it has not been possible to agree a form of resolution between the Subject Member and the Complainant, the Monitoring Officer will decide if the complaint merits formal investigation.
- 7.8. Where the Subject Member makes a reasonable offer of Informal Resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in their decision and may impose the Informal Resolution.
- 7.9. Where Informal Resolution is proposed, the Monitoring Officer may direct that the Subject Member maintains confidentiality as to the matters discussed, and parties involved.

8. Formal Investigation

- 8.1. If the Monitoring Officer decides that a complaint merits formal investigation, they will appoint an Investigating Officer.
- 8.2. The Investigating Officer will decide whether they need to meet or speak to the Complainant to understand the nature of the complaint, and so that they can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.
- 8.3. The Investigating Officer will normally write to the Subject Member and provide them with a copy of the complaint and ask the Subject Member to provide their explanation of events, and to identify what documents they need to see and who they need to interview. In exceptional cases, where it is appropriate to keep the Complainant's identity confidential or disclosure of details of the complaint to the Subject Member might prejudice the investigation, the Monitoring Officer can delete the Complainant's

name and address from the papers given to the Subject Member, or delay notifying the Subject Member until the investigation has progressed sufficiently.

- 8.4. At the end of the investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Complainant and to the Subject Member concerned, to give both an opportunity to identify any factual matter in the draft report which is disputed or requires further investigation. A copy of the draft report will also be sent to the Monitoring Officer.
- 8.5. Having received and taken account of any comments that may be made on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.
- 8.6. The Monitoring Officer will, within ten working days of the receipt of the Investigating Officer's report, review the report.
- 8.7. The Monitoring Officer will, in consultation with the Independent Person, determine whether:
 - i) the report is complete, or (where incomplete) should be referred back to the Investigating Officer or a newly appointed Investigating Officer;
 - ii) no further action is required, because the report finds no breach of the Code of Conduct;
 - iii) the matter may be reasonably resolved by way of Informal Resolution; or
 - iv) the matter should proceed to the Standards Panel.
- 8.8. A copy of the final report shall be sent to the Complainant and Subject Member. At the discretion of the Monitoring Officer, where appropriate, a copy may also be sent to the Leader, the Members Group Leader, Chair of the Standards and Audit Committee and the Chief Executive.

9. Standards Panel

- 9.1. If the Monitoring Officer considers that Informal Resolution is not appropriate, or the Subject Member concerned is not prepared to undertake any proposed remedial action, the Monitoring Officer will report the Investigating Officer's report to the Standards Panel before deciding whether the Subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
- 9.2. The Standards Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Standards Panel concludes that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Standards Panel will then consider what action, if any, it should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Standards Panel will give the Subject Member an opportunity to make representations to it and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter. Separate guidance of this procedure can be found at Appendix 8.

10. Sanctions

10.1 The Standards and Audit Committee has delegated to the Standards Panel power to take action in respect of individual Members who have breached the Code of Conduct. Accordingly, the Standards Panel may:

- i) publish its findings in respect of the Member's conduct. This might comprise issuing a press release and/or inserting a public notice in the local newspaper(s);

- ii)

- iii) report its findings to Council for information;

- iv) censure or reprimand the Member;

- v) recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for such period as the Standards Panel considers appropriate;

- vi) recommend to the Leader of the Council that the Member be removed from the Executive, or removed from particular Portfolio responsibilities for such period as the Standards Panel considers appropriate;

- vii) instruct the Monitoring Officer to arrange training for the Member;

- viii) recommend to the Council that the Member be removed from all outside appointments to which they have been appointed or nominated by the Council for such period as the Standards Panel considers appropriate;

- ix) withdraw facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access for such period as the Standards Panel considers appropriate; and / or

- x) exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as are necessary for attending Council, Committee and Sub-Committee meetings for such period as the Standards Panel considers appropriate.

10.2 The Standards Panel has no power to suspend or disqualify the Member or to withdraw Members' allowances.

11. Notification of Decision

11.1. At the end of the Standards Panel, the Chair will state the decision of the Standards Panel as to whether the Subject Member failed to comply with the Code of Conduct and as to any actions which it resolves to take.

11.2. Following consultation with the Chair of the Standards Panel and Independent Person the Monitoring Officer shall issue the formal written decision notice to the Subject Member and send a copy to the Complainant. The decision notice shall include reasons for the decision. The Monitoring Officer will also make the summary of the decision notice available for public inspection and report the decision to the next ordinary meeting of the Standards and Audit Committee.

12. Appeals

- 12.1. There is no right of appeal for the Complainant or Subject Member against a decision of the Monitoring Officer or the Standards Panel.
- 12.2. There is a right of complaint to the Local Government and Social Care Ombudsman.

13. Discontinuance of Complaints by Monitoring Officer

13.1 The Monitoring Officer has a discretion to discontinue a complaint or terminate an investigation if they consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint, where the Subject Member:

- i) ceases to be a Member of the Council;
- ii) has a long term or serious illness and is unable to participate in the procedure; or
- iii) dies.

13.2 Where a complaint is discontinued, the Monitoring Officer will write to the Complainant and the Subject Member setting out the reasons for their decision. (Should a Subject Member become seriously ill or die, the Monitoring Officer shall exercise discretion in regard to contacting the Subject Member and/or their next of kin).

14. Confidentiality

14.1 Unless otherwise permitted under these arrangements or required by legislation, a complaint (and all associated information and documents) that a Member has breached the Code of Conduct shall remain confidential until such time that the Monitoring Officer or Standards Panel consider it appropriate (if at all) to disclose the complaint (and all associated information and documents).

14.2 Unless, otherwise determined, the findings of the Standards Panel shall be made public in accordance with the guidance set at Appendix 8.

15 Timescales

15.1 The investigation shall be carried out promptly, with the expectation that all investigations and resolutions of the Standards Panel will be completed within a maximum period of four months. All those involved in the complaint should do their utmost to ensure that this can happen.

15.2 Key dates in relation to the administration of the arrangements are set out in the body of the arrangements and shall act as targets to facilitate the swift administration of the arrangements but which, if missed, will not invalidate the procedure comprised herein.

15.3 The Complainant and the Subject Member will be informed should there be a delay in completing any stage of the process.

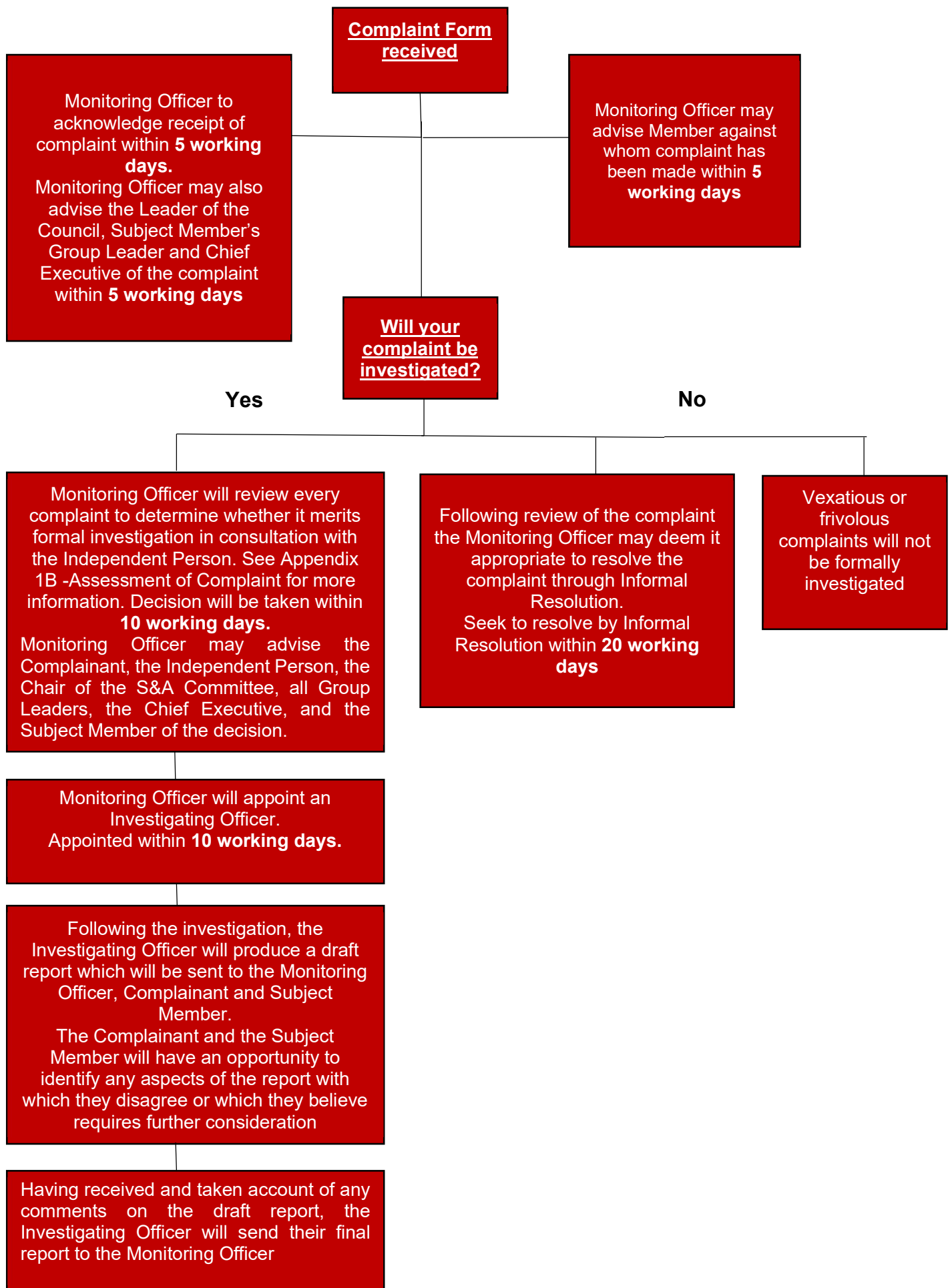
16 Complaint Support

16.1 Assistance and support shall be provided to the Complainant and Subject Member throughout this process by the Deputy Monitoring Officer or Head of Human Resources as appropriate.

17 Annual Report

17.1 The Monitoring Officer shall submit an annual report to the Standards and Audit Committee. The report should include appropriate details of all complaints received (including those where no breach was found).

Adopted by Woking Borough Council on 31 March 2022.



Outcome of Complaint

Investigating Officer concludes there is no evidence of failure to comply with Code of Conduct

Investigating Officer concludes there is evidence of failure to comply with Code of Conduct

Monitoring Officer will review the Investigating Officer's report within **10 working days** and, if satisfied (after consulting the Independent Person) that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the Complainant and to the Subject Member concerned to provide them with a final copy of the report and to notify them that they are satisfied that **no further action is required**

The Monitoring Officer shall send a copy of the final report to the Complainant, Subject Member, the Leader, Members Group Leader, Chair of the Standards and Audit Committee and the Chief Executive

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report

Monitoring Officer will review the Investigating Officer's report within **10 working days** and will then either send the matter before the Standards Panel or, after consulting the Independent Person, seek **informal resolution**

Informal Resolution
Monitoring Officer will consult Independent Person and Complainant to agree what they consider a fair resolution. If Subject Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and Audit Committee for information, but will otherwise take no further action

Within 20 working days

Standards Panel

Monitoring Officer will conduct the Standards Panel process. See Appendix 1C. The Investigating Officer and Subject Member will make representations to the Standards Panel and if the Panel finds the Subject Member failed to comply with the Code of Conduct the Chair will inform the Member of this finding and the Standards Panel will then consider what action, if any, it should take as a result of the Member's failure to comply with the Code of Conduct

Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Standards Panel.

Within 10 working days

The decision notice will set out the reason for the decision and be sent to the Complainant and to the Member

Part 5 – Section 4

**Member's Allowances
Scheme**

1. Introduction

- 1.1 This is a scheme for members' allowances made by the Council pursuant to the Local Authorities (Members' Allowances) (England) Regulations 2003 having regard to the recommendations of the Independent Remuneration Panel established for the purpose. The 2003 Regulations put in place a consolidated and simplified regime for allowances and all references in this scheme to regulations should be construed as references to the 2003 Regulations unless otherwise specified.
- 1.2 This scheme was initially approved by the Council on 17 July 2003 and is reviewed by Council from time to time.

2. Basic Allowance

- 2.1 The Basic Allowance is an amount paid to all Councillors in respect of the year to which it relates (defined in the Regulations as being a period ending on 31 March in each year). The amount of the allowance is the same for all members.
- 2.2 The amount of entitlement to Basic Allowance for each member in respect of the 2022/23 Municipal Year is £7,380.
- 2.3 Where the term of office of a member begins or ends otherwise than at the beginning or end of a year, their entitlement shall be to payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during their term of office as member subsists bears to the number of days in that year.
- 2.4 Where a member is suspended or partially suspended from their responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of Basic Allowance payable to them in respect of the period for which they are suspended or partially suspended may be withheld by the Council.

3. Special Responsibility Allowance

- 3.1 This is an allowance that may be paid to such members as have special responsibilities in relation to their Council duties.
- 3.2 Special Responsibility Allowances for 2022/23 and future years to be prorated to the Leader Special Responsibility Allowance. The Leader Special Responsibility Allowance (SRA) for the 2022/23 Municipal Year is £12,000. Special Responsibility Allowances to be prorated as follows:

Deputy Leader of the Council	30% of Leader SRA (£3,600)
Leader of the Opposition	10% of Leader SRA (£1,200)
other Executive Members/Portfolio Holders	20% of Leader SRA (£2,400)
Planning Committee Chair	20% of Leader SRA (£2,400)
Overview and Scrutiny Committee Chair	10% of Leader SRA (£1,200)
Licensing Committee Chair	5% of Leader SRA (£600)
Group Leader	5% of Leader SRA (£600)

4. Loss Allowance

- 4.1 A Member is eligible to apply for a Loss Allowance where they have been appointed by the Council or a Committee to attend a Conference or Seminar or any other approved

duty necessitating absence from the Members normal employment. An allowance of £100 (one hundred pounds) per 24 hour period will be payable provided, upon the submission of necessary documentary evidence, to take unpaid leave, or use paid leave entitlement. In cases where the Member's employer permits "public service days" the Member will need to provide evidence that the days allowed by their employer have been utilised before claiming Loss Allowance.

5. Travelling and Subsistence

- 5.1 Allowances and amounts as set out below shall be paid to members in respect of travelling and subsistence, including an allowance in respect of travelling by bicycle, undertaken in connection with such duties as may fall within the categories prescribed in Regulation 8(1). Receipts in respect of actual expenditure shall be produced where appropriate.

Travelling Expenses

Payable for approved duties inside or outside the Borough:

1. Public Transport (reimbursement of cost)
2. Members' own private vehicles
Motor car (or tricar) - 45.0p per mile

These rates shall be increased:
 - (a) for each passenger carried (not exceeding 4) who would otherwise have been paid a travelling allowance:
5.0p per mile where any other rate is payable;
 - (b) by the amount of any expenditure on tolls or parking fees.
3. Bicycle – 20.0p per mile
4. Taxis - the rate of travel by taxicab or cab shall not exceed:
 - (a) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
 - (b) in any other case, the amount of the fare for travel by appropriate public transport.
5. As a general rule, for journeys outside the Borough, where public transport is a reasonable alternative to the use of a car.
6. Expenses can be claimed for travelling to enable the undertaking of any approved duty from anywhere in the United Kingdom on the basis that the first 10,000 miles will be paid at the 45.0p per mile and all subsequent miles at the rate of 25.0p per mile.

Subsistence Expenses

- 5.2 Payable on production of receipts and in respect of actual expenditure incurred for approved duties.

The rate of subsistence allowance shall not exceed:

- (a) in the case of an absence, not involving an absence overnight, from the usual place of residence;
 - (i) of more than four hours, before 11am, (breakfast allowance), £6.14;
 - (ii) of more than four hours, including the period between 12 noon and 2 pm, (lunch allowance), £8.39;
 - (iii) of more than four hours, including the period 3 pm to 6 pm, (tea allowance), £3.35; and
 - (iv) of more than four hours, ending after 7 pm, (evening meal allowance), £10.48.
- (b) in the case of an absence overnight from the usual place of residence £84.42 and for such an absence overnight in London, or for the purposes of attendance at an annual conference (including or not including an annual meeting) of the Local Government Association or such other association or bodies as the Secretaries of State may for the time being approve of the purpose, £96.28.

5.3 For the purposes of paragraph 5.4 (b), London means the City of London and the London boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and Westminster.

5.4 Any rate determined under paragraph 1 (b) above shall be deemed to cover a continuous period of absence of 24 hours.

5.5 The rates specified above shall be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

5.6 The attention of members is drawn to declaration (b) on the claim form, to the effect that entitlement to subsistence allowance can only arise to the extent that actual expenditure has been incurred, and that the sums shown on the previous page are maxima - i.e. only actual expenditure incurred can be reclaimed and any expenses in excess of those shown on the previous page cannot be reclaimed.

Members Surgeries

5.7 Members are entitled to claim reimbursement for surgery accommodation to enable them to perform approved duties as a Member of Woking Borough Council.

Meals on Trains

5.8 Where main meals (i.e. breakfast, lunch or dinner) are taken on trains during a period for which there is an entitlement to a day subsistence allowance, the reasonable cost of the meals (including VAT), may be reimbursed in full on production of the appropriate receipt, within the limits specified below. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

5.9 The limitations on reimbursement are:

- i) for breakfast, an absence of more than four hours, or where the authority permits, a lesser period, before 11am;
- ii) for lunch, an absence of more than four hours, or where the authority permits, a lesser period, including the period between 12 noon and 2pm;
- iii) for dinner, an absence of more than four hours, or where the authority permits, a lesser period, ending after 7 pm.

6. Dependants' Carers' Allowance

- 6.1 The scheme may provide for the payment to members of an allowance in respect of the expenses of arranging for the care of children or dependants as necessarily incurred in attending meetings or carrying out official duties, within the categories set out in Regulation 7(1).
- 6.2 Payment of the allowance will normally be made at a rate of up to £8.91 per hour. However, in special circumstances, e.g. where specialist nursing skills are required, consideration may be given to the payment of a higher rate, subject to presentation of proof of expense.
- 6.3 For members with sole responsibility for children or a dependant relative, payments will be made up to a level of £802 per annum (i.e. the equivalent of 30 x 3-hour meetings, allowing for travelling time). However, where responsibility is shared with a spouse or other adult member of the household, or where there are children in the household aged over 16 years, it would be expected that the need to pay for cover would be reduced. In these circumstances, members will be allowed to claim up to a total of £401 per annum.

7 Co-optees

- 8.1 The Council may pay co-optees' allowances in respect of their attendance at conferences and meetings. 'Co-optees' for these purposes are persons who are not members of the authority but are members of a committee or sub-Committee of the authority. The person who qualifies at the present time as a co-optee is the co-opted (independent) member who sits on the Standards and Audit Committee.
- 8.2 The amount of entitlement to co-optees' allowance for a co-optee in respect of the Municipal Year 2022/23 is a sum equal to 5% of the Basic Allowance (£369 in 2022/23).
- 8.3 Where the term of office of a co-optee does not begin or end to constitute a full year, their payment shall be a proportional amount of the co-optee's yearly entitlement. The amount shall be equivalent to the period served during that year by days.
- 8.4 Where a co-optee is suspended or partially suspended from their responsibilities or duties as a member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of co-optees' allowance payable to them in respect of the period for which they are suspended or partially suspended may be withheld by the Council.

9. Pensions

- 9.1 With effect from 1 April 2014 a Councillor's eligibility for membership of the Local Government Pension Scheme within the Surrey Pension Fund (administered by Surrey County Council) was ended (Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014). A Councillor who was a

member of the Pension Scheme on 31 March 2014 will continue to accrue rights until the end of the term of office which that Councillor was serving on 1 April 2014.

10. Indexing

- 10.1 Regulation 10(4) permits a scheme to make provision for an annual adjustment of allowances by reference to an index. The Council may not rely on that index for longer than four years before seeking a further recommendation from the Independent Remuneration Panel. Annual adjustments to allowances by reference to the index do not count as amendments to the scheme, although Regulation 16(2) requires advertisement in a local newspaper of the main features of the scheme every twelve months, whether amended or not.
- 10.2 The level of Basic Allowance shall be adjusted annually by reference to an index. The scheme shall identify that index as the annual cost of living salary increase for Officers. The Basic Allowance shall be so indexed for a period of up to four years, after which it shall no longer be used without the further recommendation of the Independent Remuneration Panel.
- 10.3 On 11 February 2016, the Council resolved that the Basic Allowance and the Child Care and Dependant Carers' Allowances should be increased annually by the Chief Executive in line with the agreed pay award for the Council's staff.
- 10.4 On 11 February 2016, the Council resolved that the Chief Executive be authorised to determine Members' Allowances and Special Responsibility Allowances annually in consultation with the Independent Remuneration Panel and in accordance with an aggregate Member Allowances budget set annually by the Council. The Special Responsibility Allowances for future years should be increased in line with the balance of uplift in the total budget for Members' Allowances after deducting the uplift in Basic Allowance from the set basis in the 2016/17 Municipal Year.
- 10.5 On 22 May 2019 the Chief Executive, under delegated authority, determined that the framework for the overall budget for Members Allowances increase over the next three years by the percentage increase in the total Employee Budget.
- 10.6 On 22 May 2019 the Chief Executive, under delegated authority, determined that the Subsistence Allowance be linked to employee indexation.
- 10.7 On 22 May 2019 the Chief Executive, under delegated authority, determined that the Dependents' Carers' Allowance be linked to the National Living Wage.

11. General provisions

Elections to Forgo Allowances

- 11.1 A person may, by notice in writing to the Chief Executive of the Council, elect to forgo their entitlement to the whole or part of any allowance.

Time-limits

- 11.2 Claims for payment for dependants' carers' allowance, travelling and subsistence allowance, and co-optees' allowance must be made within six months from the date on which entitlement arises, although the Council may make payment where the allowance has not been claimed within the specified period.

Membership of other relevant authorities

- 11.3 A member of the Council who is also a member of another relevant authority (as defined in Regulation 3) shall not be paid an allowance from more than one authority in respect of the same duties.

Amendments to Scheme

- 11.4 Where an amendment is made which affects an allowance payable for the year in which the amendment is made, the entitlement to the allowance as amended will apply with effect from the beginning of the year in which the amendment is made.

Repayments

- 11.5 Where a member is suspended or partially suspended from responsibilities or duties as a member in accordance with Part III of the Local Government Act 2000 or regulations made thereunder, or ceases to be a member of the Council, or is any other way not entitled to receive an allowance, the Council may require that such part of an allowance paid in respect of a period of non-entitlement shall be repaid to the Council.

Taxation

- 11.6 Allowances, other than travelling and subsistence, are subject to Income Tax and National Insurance contributions (where applicable). Deduction at the appropriate rate shall be made at source.

Claims

- 11.7 Allowances shall be paid automatically. Claims for expenses should be made on the Members' Expenses Application Form. Claims will be processed monthly and, if received by the first working day of the month, will be paid on the 15th day of that month (if the 15th falls on a weekend, then it will be paid on the Friday before), or at longer intervals, if the member wishes.

12. Records and publicity

Records of Allowances

- 12.1 The Council shall keep a record of the payments made by it in accordance with this scheme. The record shall:
- i) specify the name of the recipient of the payment and the amount and nature of each payment;
 - ii) be available, at all reasonable times, for inspection and at no charge by any local government elector for the area of the Council; and
 - iii) be supplied, in copy, to any person who requests such a copy and on payment of a reasonable fee.

Publication of total sums paid

- 12.2 As soon as reasonably practicable after the end of a year to which the scheme relates, the Council shall make arrangements for the publication of the total sum paid by it in the year to each recipient in respect of each of the following:

- i) basic allowance

- ii) special responsibility allowance

- iii) dependants' carers' allowance

- iv) travelling and subsistence allowance; and

- v) co-optees' allowance

Publicising the scheme

- 12.3 As soon as reasonably practicable after making or amending a scheme, the Council shall make arrangements for its publication by:
- i) ensuring that copies of the scheme are available for inspection by members of the public at the Council's principal office at all reasonable hours; and

 - ii) publishing in a local newspaper a notice advertising the scheme and providing the information required by Regulation 16(1)(b).

12.4 The newspaper notice referred to above shall be published in a local newspaper as soon as possible after the expiration of twelve months after its previous publication, irrespective of whether the scheme has been amended during that twelve-month period.

12.5 The Council shall provide a copy of this scheme to any person who requests a copy and on payment of a reasonable fee.

Publicity for Independent Remuneration Panel Reports

- 12.6 As soon as reasonably practicable after receiving the report of its Independent Remuneration Panel, the Council shall:
- i) ensure that copies of the report are available for inspection by members of the public at the Council's principal office at all reasonable hours; and

 - ii) publish in a local newspaper a notice advertising the report and providing the information required by Regulation 22(1)(b).

12.7 The Council shall provide a copy of the report of the Independent Remuneration Panel to any person who requests a copy and on payment of a reasonable fee.

Part 5 – Section 5

Financial Regulations

1. Financial Administration

- 1.1. For the purposes of Section 151 of the local government act 1972 the Council shall designate an Officer who shall be responsible for the administration of the council's financial affairs and for the purpose of these financial regulations this Officer shall be referred to as the Chief Finance Officer or person authorised by them to act on their behalf.
- 1.2. The Chief Finance Officer shall be responsible for compliance with the requirements of the current accounts and audit regulations.
- 1.3. The Corporate Leadership Team comprises the Chief Executive and Directors or Strategic Directors or such other composition as the Chief Executive may from time to time determine. For the purpose of these financial regulations, the Chief Executive shall be regarded as a Director or strategic director.
- 1.4. Each business manager shall, in consultation with the Chief Finance Officer, prepare instructions detailing the action to be taken within their business areas to ensure compliance with standing orders and financial regulations, and to implement procedures contained in accounting manuals.
- 1.5. It shall be the responsibility of each business manager to ensure that all staff within their service areas comply with the requirements of financial regulations.
- 1.6. Each business manager shall consult the Chief Finance Officer with respect to any change in circumstances within their responsibility which is likely to affect the finances of the Council before a commitment is made.
- 1.7. No report having financial, or value added tax implications shall be submitted to the Executive without prior consultation with the Chief Finance Officer on the financial or value added tax implications.
- 1.8. The provision of these regulations shall also apply to services carried out under agency arrangements for any other authority or organisation, except where it is otherwise required by that authority or the Chief Finance Officer.
- 1.9. These financial regulations shall be read in conjunction with contract standing orders.

2. Internal Audit

- 2.1. A continuous internal audit shall be maintained under the independent control and direction of the Chief Finance Officer, for the examination of accounting, financial and other operations of the Council to include examination of internal control and checks and the achievement of economy, efficiency and effectiveness.
- 2.2. The Chief Finance Officer shall have authority to:
 - i) enter all establishments of the Council;
 - ii) have access to all records, documents and correspondence relating to any financial and other transactions of the Council;

iii) require and receive such explanations as they consider necessary for any matter under consideration; and

iv) require any employee of the Council to produce cash, stores, or any other Council property under their control.

2.3. Immediately, if a Strategic Director or Budget Manager becomes aware of any possible irregularity affecting income, expenditure, cash, stores, or any of the resources of the Council, the Chief Finance Officer shall be informed in order that an independent investigation of the alleged irregularity may be undertaken. Such independent investigation will be undertaken by the Chief Finance Officer, who will have the authority to issue instructions in order to bring the investigation to a conclusion.

2.4. Where a fraud, theft or major irregularity is suspected the Director of Finance:

i) may remove and provide safe custody of books, records, vouchers or any other material where they may be used as evidence in an investigation; and

ii) shall be entitled to require the exclusion of staff from their normal place of work for a limited period.

2.5. Where, upon investigation, the Chief Finance Officer believes that reasonable grounds exist for suspecting that a loss may have occurred as a result of misappropriation, irregular expenditure or fraud, the Chief Finance Officer shall in consultation with the monitoring Officer consider whether the circumstances require further investigation by the police.

2.6. Where, upon investigation, the Chief Finance Officer believes that a loss may have occurred as a result of waste, extravagance or maladministration, the Chief Finance Officer shall report the matter to the Corporate Leadership Team.

2.7. In all cases, following a report on an investigation, the Chief Finance Officer, together with the Corporate Leadership Team shall consider the matter so that any possible breach of internal discipline may be dealt with according to the agreed procedure.

2.8. The Chief Finance Officer shall report twice a year to the standards and audit Committee on the work undertaken by internal audit.

3. Accounting

3.1. The Chief Finance Officer shall prepare the council's annual financial statements and accounts for publication in accordance with statutory requirements.

3.2. The Chief Finance Officer shall be responsible for the timely submission of all grant claims for sums due to the council.

3.3. All accounting procedures and records of the Council and its Officers shall be subject to the approval and control of the Chief Finance Officer and shall be periodically reviewed. The Chief Finance Officer shall, in consultation with the Corporate Leadership Team, prepare accounting manuals to document all accounting procedures.

- 3.4. No change shall be made in existing accounting procedures without the approval of the Chief Finance Officer.
 - 3.5. As soon as practicable after the end of each financial year the Chief Finance Officer shall report to the Executive on the annual accounts.
 - 3.6. The following principles shall be observed in the allocation of accounting duties:
 - i) the duty of providing information regarding sums due to or from the council, and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them; and
 - ii) Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
-

4. Investment Programme

- 4.1. The Corporate Leadership Team, in liaison with the relevant business managers, shall prepare and annually review a five-year investment programme, to include all projects or service development proposals irrespective of the method of finance, and report thereon to the Executive.
- 4.2. Any scheme proposed to be included in an investment programme which was not contained in the preceding approved investment programme, shall be the subject of a business case which should be submitted to the Executive for approval. Approval of the business case will enable a full appraisal to be carried out prior to the release of funding.
- 4.3. Before tenders or quotes are invited for any work, the relevant business manager shall prepare an estimate of the cost of the work and submit it to the Chief Finance Officer advising whether or not it is within the approved budgetary provision for the works, or if not, from where the additional cost is to be financed. The Chief Finance Officer shall assess whether the new estimate and proposed financing is within the available budgetary provisions to enable the project to proceed to the invitation of quotations or tenders or whether it needs to be referred to Corporate Leadership Team and where appropriate to the Executive for approval.
- 4.4. The Chief Finance Officer shall report on the proposed financing of the investment programme to the Executive.

5. Revenue Estimates

- 5.1. The Chief Finance Officer shall prepare the annual revenue estimates in consultation with budget managers, business managers and the Corporate Leadership Team to be submitted to the Executive in accordance with any guidelines set by the council.
- 5.2. Scales of charges for goods and services shall be kept under review by the appropriate business manager and agreed with the Corporate Leadership Team before submission to the Executive for consideration and approval. Such charges shall be reviewed not less frequently than once a year.

5.3. Virement up to £10,000 of a budgeted item of expenditure shall be delegated to the relevant budget manager in consultation with their business manager, with notification to the Chief Finance Officer, provided that:

i) the proposed reduction to the appropriate estimate expenditure head has not been caused by abandonment or reduction in the level of a service/item following a change in Council or national policy;

ii) no net increase in total expenditure will arise in the initial or any subsequent years directly from the virement;

iii) the nature of any transfer shall be consistent with current accounting practice;

iv) virement from budget heads for staffing costs may only be made with the prior agreement of the Corporate Leadership Team;

v) the total fund (i.e. General fund or housing revenue account) budget, within which the transfer will be made, is and will remain, within the total budgetary provision for that fund.

5.4. Virement other than in accordance with the above shall be subject to the approval of the Executive following a report by the relevant business manager.

5.5. Expenditure shall not be incurred, nor a reduction of income authorised unless it is covered by special financial provisions or by the annual estimates.

6. Budgetary Control

6.1. Each business manager subject to the approval of the Chief Finance Officer and the Corporate Leadership Team shall nominate budget managers and one or more support Officers to deputise or provide management support on the budget manager's behalf for all services/functions under their control which incur expenditure and/or receive income.

6.2. Budget managers shall monitor and control those budgets for which they have been given responsibility.

6.3. Approval by the Council of a revised estimate shall have the effect of substituting that revised estimate for the original estimate.

6.4. The Chief Finance Officer shall make available to each budget manager information relating to expenditure and income within the relevant cost centres to enable comparison with the provisions included in the annual estimates.

6.5. Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of approved income may not be reached, by the greater of £10,000 or 5% of the budget provision it shall be the responsibility of the business manager concerned, after consultation with the Chief Finance Officer, to report the matter to the Corporate Leadership Team and the Executive giving explanation for and the means of financing of the variation.

7. Orders for work, goods and services

- 7.1. Official orders shall be in a form approved by the Chief Finance Officer and are to be authorised only by the nominated Officers. The names of Officers nominated to authorise such records shall be notified to the Chief Finance Officer by each business manager and shall be amended on the occasion of any change. Official orders generated via a computerised system shall be subject to procedures approved in advance by the Chief Finance Officer.
- 7.2. Official orders shall be promptly issued, or written contracts made, for all work, goods or services to be supplied to the Council except for supplies for public utility services, for periodical payments such as rent or rates, ad-hoc purchases using the council's procurement card, for petty cash purchases or such other exceptions as the Chief Finance Officer may approve.
- 7.3. Each order shall comply with the standing orders of the council, and in particular those relating to contracts.
- 7.4. Official orders shall not be issued for works, goods or services unless the cost is covered by an approved annual estimate or by special financial provision.
- 7.5. Official orders shall indicate clearly the nature and quantity of the work or services required, a contractual, quoted or estimated price, and, where material, the time for completion of the order.
- 7.6. Telephoned or verbal orders shall be confirmed on the same day by official orders, such orders indicating that they are to confirm instructions previously issued.
- 7.7. Where a general authority, which must be in writing or in an electronic form approved in advance by the Chief Finance Officer, has been given by the Council to perform specified works or services of an emergency nature in the absence of an official order from the council, an official order shall be issued, within one working day of receipt of notification that action has been required under that authority, confirming the action.
- 7.8. Official orders or the council's procurement card may not be used for the procurement of goods, materials or services for the personal use of an employee. An order once authorised should be despatched direct to the supplier and not returned or made available to the Officer originating the order.
- 7.9. On receipt of the goods, the authorising Officer shall ensure that, without delay, appropriate entries are made against the relevant order and in inventories, stores records or stock books as required and that the Chief Finance Officer is informed, where relevant, for insurance purposes.

8. Payment of Accounts

- 8.1. The Chief Finance Officer shall make proper arrangements for the payment of accounts as duly authorised.
- 8.2. The methods of payment of money due from the Council shall only be as agreed by the Chief Finance Officer.
- 8.3. An invoice received electronically in accordance with the procedures approved by the Chief Finance Officer shall be paid without further reference back to the budget manager responsible for issuing the relevant order provided the receipt of the goods or services has been recorded electronically against the order, and the invoice matches the order.

- 8.4. Paper invoices, electronic invoices that do not match the relevant order, and electronic invoices not subject to an official order, shall be examined, verified and certified for payment by the Officer who authorised the order. Any other payments, vouchers or accounts arising within the Officer's responsibility shall be similarly examined, verified and certified before payment is made.
- 8.5. Before certifying an account (where manual certification is required) the certifying Officer shall, save to the extent that the Chief Finance Officer may otherwise determine, have satisfied themselves that:
- i) it conforms with the order;

 - ii) the work, goods or services to which the account relates have been received, carried out, examined and approved;

 - iii) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;

 - iv) the relevant expenditure has been properly incurred, is within the relevant estimate provision, and is in accordance with the council's standing orders and financial regulations; and

 - v) the account has not been previously passed for payment and is a proper liability of the council.
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- 8.6. Where manual certification of accounts for payment is required, certification shall be carried out as soon as possible after receipt and processed under arrangements specified by the Chief Finance Officer.
- 8.7. Statements shall not be paid.
- 8.8. Business Managers shall ensure that proper arrangements are in place in their service areas for the certification of invoices. The Chief Finance Officer is responsible for making safe and efficient arrangements for payment.
- 8.9. Accounts for payment in respect of purchases of land or property must be supported by particulars of the land or property, the location, the name of the vendor and the amount of the purchase money and expenses.
- 8.10. The Chief Finance Officer shall be supplied by business managers with all documents for noting particulars of all monies payable by the Council under contracts, leases or other agreements and shall register such particulars in the council's financial records.
- 8.11. Each budget manager shall, as required and as soon as possible after 31 March in each year, give to the Chief Finance Officer schedules of all accounts within their responsibility that require manual certification and are outstanding for the previous financial year. When such accounts are subsequently certified for payment, budget managers shall identify them accordingly as directed. Outstanding electronic invoices shall be accrued into the previous financial year by the Chief Finance Officer provided goods received notes have been recorded electronically against the relevant orders.

9. Advance accounts and petty cash payments

- 9.1. The Chief Finance Officer shall provide such advance accounts, as they consider appropriate, for such Officers of the Council as may need them for the purpose of defraying petty cash and other expenses. Such accounts shall be maintained on the imprest system.
- 9.2. No income received on behalf of the Council may be paid into an advance account but must be banked or paid into the Council as provided elsewhere in these regulations.
- 9.3. Payments from petty cash accounts shall be limited to minor items of expenditure and, except with the prior approval of the Chief Finance Officer no single item shall exceed £30 in amount. Payments shall not include sums due to any tradesman, for goods etc supplied, with whom the Council has a current account or contract and must be supported where possible by a receipt and certified by the appropriate budget manager.
- 9.4. All items of expenditure from petty cash shall be entered on the appropriate claim form when reimbursement is required and at least at the end of each month the imprest account shall be reconciled and the actual cash in hand agreed with the balance shown on the account. The total petty cash expenditure for reimbursement shall be certified by the designated responsible Officer as properly due and receipted and passed to the Chief Finance Officer for reimbursement.
- 9.5. The Chief Finance Officer shall ensure that safe and efficient arrangements are operated in respect of all petty cash, postage, floats or other cash in hand and the advance accounts shall be open to inspection and verification by internal audit.
- 9.6. An Officer responsible for an advance account shall, when so requested, give the Chief Finance Officer a certificate as to the state of their imprest advance. On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, an Officer shall account to the Chief Finance Officer for the amount advanced to them.

10. Management of Contracts under seal

- 10.1. For the purpose of this section of financial regulations, the term 'contract' shall refer to 'any arrangement for the provision of services, execution of works of maintenance, repair or construction or for the engagement of the services of any architect, engineer, surveyor, or other consultant in connection with any contract as defined above for which the sum exceeds the higher amount quoted in Contract Standing Order 5.1.'
- 10.2. All contracts on behalf of the Council shall be subject to the Council's Standing Orders.
- 10.3. No contract shall be entered into unless the relevant business manager has satisfied themselves, in consultation with other service heads as appropriate, as to the tenderer's ability to satisfactorily fulfil the contract. Enquiries as to the financial status of tenderers shall be made by the Chief Finance Officer as requested to do so. Financial and technical appraisals and the take-up of previous client references to be undertaken for all contractors.
- 10.4. The Chief Finance Officer shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the council.
- 10.5. Where contracts provide for payments to be made by instalments the relevant business manager shall arrange for the keeping of a contract register to show the

state of account on each contract between the Council and the contractor, together with any other payments and related professional fees. The form of contract registers shall be determined by the Chief Finance Officer.

- 10.6. Payment to contractors on account of contracts shall be authorised only on a certificate signed by the business manager or other duly authorised Officer of the appropriate department, showing in addition to the normal certification, the Committee reference authorising the project, the total amount of the contract, the value of work executed to date, value added tax and other taxes, fluctuations, retention money, amount paid to date and the amount now certified. Documents in support of each payment shall be forwarded to the payments section with the payment request, as soon as they can be obtained. The payment of electronic invoices and the use of electronic contract certificates shall be in accordance with procedures approved in advance by the Chief Finance Officer.
- 10.7. Every variation on a contract for building, engineering, or other constructional works shall be authorised in writing, or electronically in accordance with arrangements approved by the Chief Finance Officer, before works commence, unless in an emergency.
- 10.8. Any variation or addition to the original specification, the estimated cost of which exceeds the greater of either £10,000 or 5% of the total budget provision, will require a report to the Corporate Leadership Team and the Executive on reasons, and proposals, for financing the variations and seeking approval for additional expenditure and the financing thereof.
- 10.9. Quotations shall be obtained, in the same manner as is laid down in the council's standing orders with respect to contracts, in respect of prime cost items and provisional sums.
- 10.10. The Chief Finance Officer shall be consulted as to the extent of insurance cover required to be provided by contractors to the council.
- 10.11. The final certificate on a contract or accepted estimate shall not be issued by the appropriate business manager, or other duly authorised Officer of the appropriate service area, until they have produced a detailed statement of account together with such vouchers and documents as the Chief Finance Officer may require relating to prime cost items and particulars of additions and omissions, and the Chief Finance Officer shall have approved the amount to be certified or sought the instructions of the Executive.
- 10.12. In the case of contracts for works entered into by the Council and supervised and managed by architects or persons other than the council's own Officers, the agreement with those persons must provide that they shall furnish to the Council for inspection by the Officers all vouchers and documents, including those relating to prime cost and provisional sums, and that the final certificate shall not be issued nor the balance under such contract paid until:
 - i) the Chief Finance Officer (with the assistance of any other Officer necessary) has examined the accounts, vouchers and documents; and
 - ii) if any question of propriety of payment arises, the Council has directed payment.

- 10.13. Provision shall be made, if possible, in such agreements as are mentioned in the foregoing regulations, that the Council shall be entitled to retain all accounts, vouchers and documents relating to the contract until after the accounts of the Council have been audited by the council's auditors.
- 10.14. Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Chief Finance Officer and the monitoring Officer for consideration of the council's legal and financial liabilities before a settlement is reached.
- 10.15. Where completion of a contract is delayed such as to give rise to a claim for liquidated damages on behalf of the council, it shall be the duty of the Officer concerned to take the appropriate action in respect of such a claim and to report thereon to the Corporate Leadership Team.
- 10.16. After the final account has been agreed by the Chief Finance Officer the relevant business manager, or other duly authorised Officer of the appropriate business area, shall report completion of the contract:
- i) as a matter for information in those circumstances where the final cost is within the contract sum plus any approved variations; or
 - ii) to the Corporate Leadership Team in those circumstances where the final cost exceeds the original sum plus approved variations detailing in full the final cost and the reason for variations from those approved.
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11. Salaries and Wages

- 11.1. Business managers shall notify the Chief Finance Officer and the Chief Executive as early as possible of all appointments, dismissals, resignations, absences from duty other than annual leave, transfers and changes in remuneration of Officers.
- 11.2. The Chief Finance Officer shall be provided by the business manager concerned with all information necessary to maintain records of service, superannuation, Income Tax and National Insurance liability, and, in the case of Officers leaving the council's employment, total leave granted during the year.
- 11.3. Timesheets shall be certified by a business manager or other duly authorised Officer of the appropriate business area and passed to the Chief Finance Officer for preparation of the payroll. Timesheets generated by computer systems shall be subject to procedures approved in advance by the Chief Finance Officer. The names of Officers authorised to certify salaries and wages shall be supplied to the Chief Finance Officer and amended on the occasion of any change. Certifying Officers must not sign their own claims; subordinate Officers must not sign claims of senior Officers except that any Executive director may sign claims submitted by the Chief Executive.
- 11.4. The payment of all salaries, wages, pensions, compensation or other emoluments to employees or former employees shall be made under the control of the Chief Finance Officer. Unclaimed wages shall be retained by the Chief Finance Officer for seven days and then paid into the council's account at the bank.
- 11.5. The maintenance and control of National Insurance records shall be the responsibility of the Chief Finance Officer.

- 11.6. Any variation from national, provincial, or local agreements, awards and rates of pay shall be submitted to the Executive for approval.

12. Income - Collection and Banking

- 12.1. The collection of, and issue of receipts for, all accounts and monies due to or received by the Council shall be under the direction of the Chief Finance Officer.
- 12.2. The records of each department with regard to items of income shall be in the form approved by the Chief Finance Officer.
- 12.3. Each business manager shall promptly furnish the Chief Finance Officer with such particulars in connection with work done, goods supplied, or services rendered and all other amounts due to the Council to ensure prompt rendering of accounts for the recovery of income due.
- 12.4. The Chief Finance Officer shall, as early as possible, be supplied by each business manager with particulars of all monies due to the Council under contracts, leases, tenancy agreements, conveyances, transfers of property and any other agreements entered into which involve the receipt of money by the Council and shall register such particulars in the records of their department.
- 12.5. All monies received on behalf of the Council shall, without delay, either be paid to the Chief Finance Officer or, subject to their instructions, be banked in the council's name. No deduction may be made from such money except by specific authorisation of the Chief Finance Officer.
- 12.6. Each Officer of the Council who receives money on behalf of the Council shall be accountable for that money and shall keep such records in connection therewith as are approved by the Chief Finance Officer including an accurate and chronological account of all receipts and deposits either with the Chief Finance Officer or the council's bankers.
- 12.7. Each Officer who banks money shall ensure that the paying-in slip contains in respect of each transaction a reference to the related debt or source of money or otherwise indicates the origins of any cheques.
- 12.8. Arrangements for the control, issue and custody of all official receipt forms, books, tickets and other documents representing money or monetary value shall be subject to approval by the Chief Finance Officer. A register shall be kept of all receipts and issues of such documents and each issue shall be acknowledged by the signature of the Officer to whom the issue is made, the quantity issued to be governed by ascertained needs.
- 12.9. All cheques and payable orders shall be crossed to the account of the Council immediately on receipt in the department receiving them.
- 12.10. Cheques shall not be cashed out of money held on behalf of the council.
- 12.11. If any discrepancy is revealed between the amount deposited and the amount shown as received by a collector, it shall be recorded and investigated. If in excess of £10, internal audit shall be immediately notified. If not corrected any deficiency shall be made good at a subsequent deposit subject to the discretion of the Chief Finance Officer who shall report to the Corporate Leadership Team on any deficiency of £1,000 or greater which has not been corrected.

- 12.12. Every transfer of official money from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving Officer.
- 12.13. Any proposal involving new sources of income or amendments to existing sources of income (unless part of a series of transactions comprised within a previous report to the Executive) shall be considered by the Executive, the Executive having received a report from the appropriate Officer on the financial aspects of the proposal.
- 12.14. Any debt due to the Council may only be written-off with the authorisation of the Executive except, insofar as an individual debt does not exceed £10,000, the initial authority may be given by the Chief Finance Officer who shall be required to publish periodically reports of the debts that have been written off in accordance with the delegated authority.

13. Banking arrangements and cheques

- 13.1. All arrangements with the council's bankers concerning the council's banking accounts and the issue of cheques shall be made through the Chief Finance Officer. All bank accounts shall be in the name of the council.
- 13.2. The Chief Finance Officer shall be authorised to operate such subsidiary banking accounts, including national giro, as they consider necessary, except that applications made to banks to open new accounts shall be countersigned by the Chief Executive.
- 13.3. All cheques, including national giro payment forms, shall be ordered only on the authority of the Chief Finance Officer, who shall make proper arrangements for their safe custody.
- 13.4. All cheques drawn on behalf of the Council shall bear the facsimile signature of the Chief Finance Officer or be signed by the Chief Finance Officer or other authorised signatory. Cheques for values over £10,000 shall be countersigned by an authorised signatory.
- 13.5. Payments made from the council's bank account other than by cheque shall be subject to arrangements approved in advance by the Chief Finance Officer. Payments other than by cheque for values over £50,000 shall require authorisation by an authorised signatory.
- 13.6. The Chief Finance Officer shall maintain a list of authorised signatories, which may differentiate between different types of financial instruments and payment values and shall report all changes in the monthly business briefing.

14. Borrowing, Investments, Leasing and Property

- 14.1. All borrowing and leasing shall be effected in the name of the council.
- 14.2. the Chief Finance Officer shall arrange all borrowing and leasing to meet the council's requirements within statutory controls, shall maintain records of all borrowing, leasing and lending of money by the council, and shall publish details thereof monthly.
- 14.3. All investment of monies under the control of the Council shall be made by the Chief Finance Officer who shall publish details thereof monthly.

- 14.4. The Assistant Director - Property shall maintain a register of all properties owned by the council, recording the statutory or other purpose for which they are held, their location and extent, and particulars and nature of any interest or tenancies granted.
- 14.5. The decision and authority to opt to tax on Council property, for the purposes of vat, shall be made by any one of the following Officers:
- Chief Finance Officer
 - financial services manager
 - Assistant Director – Property
- 14.6. All securities the property of or in the name of the Council or its nominees, and the title deeds of all property in its ownership shall be held in the custody of the Assistant Director – Property.
- 14.7. See Appendix 9 for an extract from the CIPFA Code of Practice for Treasury Management in Local Authorities which has been adopted by the Council.

15. Stocks and stores

- 15.1. Each business manager shall be responsible for the care and custody of stocks and stores in their business area.
- 15.2. Stocks shall not be held in excess of agreed maximum requirements.
- 15.3. Stocks and stores records shall be kept in a form to be approved by the Chief Finance Officer.
- 15.4. Business managers shall arrange for periodical test examination of stocks by persons other than those directly controlling the stocks and shall ensure that all stocks are checked at least once in every year.
- 15.5. The Chief Finance Officer shall be entitled to check stocks and stores and be supplied with such information relating thereto as may be required for the accounting, costing and financial records of the Council and shall be entitled to attend stocktakes. This is in addition to, and not substitution for, the business managers' responsibilities in 15.4.
- 15.6. Adjustments to write-off deficiencies, or to bring surpluses into charge, shall be authorised by the Chief Finance Officer, except that in the case of adjustments exceeding £10,000, the relevant business manager shall report to the Corporate Leadership Team who shall seek the approval of the Executive.
- 15.7. business managers shall be responsible for maintaining records of all vehicles and mobile equipment which are under their control and the Chief Finance Officer shall be entitled to examine such records.
- 15.8. Surplus materials, stores or equipment shall be subject to disposal by competitive tender, public auction or in such other reasonable manner at the discretion of the Chief Finance Officer.

16. Insurances

- 16.1. each business manager shall give prompt notification to the Chief Finance Officer of all new risks or properties which require to be insured and of any alterations affecting existing risks or insurances.
- 16.2. The Chief Finance Officer shall ensure that adequate insurance cover is effected in respect of all mortgaged properties, including those where the mortgagor has exercised the option to provide such cover with a company other than the council's own insurers.
- 16.3. The Chief Finance Officer shall notify appropriate Officers of the requirements of the insurer as to security precautions and other relevant conditions of policies. These Officers shall be responsible for ensuring compliance with all such requirements. Before any contract is made, the Chief Finance Officer shall examine the insurance cover to be furnished by the contractor in respect of any act or default and be satisfied as to the insurance company and extent and nature of coverage before approving it.
- 16.4. Where any council-owned land/property is let for use by private parties for any function whatsoever, the business manager shall inform the hirer that they are responsible for insuring such functions in respect of third-party claims. Evidence of such insurance must be produced for inspection by the Chief Finance Officer. The sum insured to be such sum as may from time to time be approved by the Chief Finance Officer.
- 16.5. Each business manager shall keep records of all plant, vehicles, furniture and equipment under their control and such records shall be available for inspection by the Chief Finance Officer.
- 16.6. The Chief Finance Officer shall effect all insurance cover and negotiate all claims in consultation with appropriate Officers.
- 16.7. The Chief Finance Officer shall keep appropriate records containing particulars of all insurances effected by the Council and shall give business managers all necessary information thereon.
- 16.8. The business manager concerned shall give prompt notification in writing to the Chief Finance Officer, who shall inform the police where appropriate, of any liability, loss or other damage in respect of Council property or of any other known circumstances likely to lead to a claim under any of the council's insurances.
- 16.9. All officials charged with or authorised to participate in the receipt, custody and/or disbursement of monies and property of the Council shall be included in a fidelity guarantee insurance policy of the council.
- 16.10. The Chief Finance Officer shall annually or at such other time as they may consider necessary, review insurances in consultation with the corporate leadership team and other Officers as appropriate.
- 16.11. Business managers shall consult the Chief Finance Officer in respect of the terms of any indemnity which the Council requests or is requested to give.

17. Security

- 17.1. Each business manager is responsible for maintaining proper security at all times for all buildings, stocks, stores, equipment, cash, documents and other assets under their control. They shall consult the Chief Finance Officer in any case where security is

thought to be inadequate or where they consider that special security arrangements may be needed.

- 17.2. Maximum limits for cash holdings shall be agreed with the Chief Finance Officer and shall not be exceeded without their express permission.
- 17.3. Keys to safes and similar receptacles used for security of cash or cheques are to be carried on the person of those responsible at all times whilst on Council business. The loss of any such keys must be reported to the Chief Finance Officer forthwith. No new keys in respect of the above are to be cut without the agreement of the Chief Finance Officer.
- 17.4. All Officers shall be responsible for maintaining proper security and privacy with respect to any information held and for ensuring compliance with the data protection legislation.

18. Protection of private property

- 18.1. Each business manager shall notify the Chief Finance Officer in writing of any case known to them where steps are necessary to prevent or mitigate loss or damage to moveable private property and shall forward to the Chief Finance Officer an itemised inventory in each case prepared in the presence of two Officers.

19. Inventories

- 19.1. Inventories shall be maintained by all departments recording an adequate description of furniture, fittings and equipment, plant and machinery in such form as may be agreed between the appropriate business manager and the Chief Finance Officer. A current copy of each inventory shall be supplied to the Chief Finance Officer.
- 19.2. Each business manager shall be responsible for the care of all equipment held within their department.
- 19.3. Each business manager shall be responsible for maintaining an annual check on the inventory. The Chief Finance Officer should be notified, and deficiencies treated as irregularities.
- 19.4. Council property shall not be removed otherwise than in accordance with the ordinary course of the council's business or used otherwise than for the council's purposes, except in accordance with specific directions issued by a business manager and subject to the approval of the Corporate Leadership Team.
- 19.5. The disposal of any items considered being obsolete or surplus to requirements shall be in consultation with the Chief Finance Officer.

20. Travelling, subsistence and other such payments

- 20.1. All claims for payment of car allowance, subsistence allowances, travelling and incidental expenses shall be submitted to the Chief Finance Officer duly certified by a business manager or other duly authorised Officer of the appropriate business area. The names of Officers authorised to certify such records shall be notified to the Chief Finance Officer and amended on the occasion of any change. Certifying Officers must not sign their own claims, subordinate Officers must not sign claims of senior Officers except that any Executive director may sign claims submitted by the Chief Executive.

- 20.2. The certification shall be taken to mean that the certifying Officer is satisfied that the journeys were justified and authorised, the expenses properly and necessarily incurred and that the allowances are properly payable. Claims generated by computer systems shall be subject to procedures approved in advance by the Chief Finance Officer.
- 20.3. Officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the Chief Finance Officer.
- 20.4. The allowances payable to Councillors shall be paid by the Chief Finance Officer or under arrangements approved by the Chief Finance Officer.
- 20.5. Claims for the payment of allowances shall be submitted in a form approved by the Chief Finance Officer and shall comply with statutory requirements. All claims for a financial year should be submitted within one month of 31 March.
- 20.6. The Chief Finance Officer shall maintain the statutory records required in respect of Members' allowances and make such records available for inspection and provide such information about them as may be required by law.

Part 5 – Section 6

Contract Standing Orders

Note: following Brexit and pending formal amendment, any reference in these contract standing orders to an EU procurement requirement shall apply to the corresponding UK requirement (if one exists).

1. General Rules and Interpretation

1.1. Every contract made by the Council shall, subject to the exceptions in c.12 below, comply with:

i) Contract standing orders and financial regulations;

ii) The EU treaty;

iii) Any relevant operative EU directive and regulations enacting the same;

iv) The local authorities (functions and responsibilities) (England) regulations 2000 (as amended from time to time); and

v) The council's procurement strategy.

1.2. Every Officer of the Council engaged in contract work shall, where relevant, consider:

i) The scope for innovation or added value, whether in sub-dividing or aggregating work or services, or in the adoption of alternative vehicles of service provision, including collaborating with others and the use of framework agreements;

ii) The need to secure continuous improvement in the economy, efficiency and effectiveness of the council's functions and adherence to the principles of best value contained in the local government act 1999;

iii) The adoption of good practice recommended in the CIPFA code of practice "commissioning local authority work and services" as may be updated from time to time ("the CIPFA code"), or in any other applicable guidance; and

iv) The scope for furthering the council's objectives regarding sustainability.

1.3. Any reference in contract standing orders to the Corporate Leadership Team (CLT) of the Council means the Chief Executive, the monitoring Officer (Director of Legal and Democratic Services), the Chief Finance Officer (director of finance), Strategic Director - Corporate Resources, Strategic Director - Communities and strategic director - place or such other composition as the Council may from time to time determine.

1.4. Any reference in contract standing orders to senior Officer means the Officer (which may be an Officer of the CLT) identified by CLT from time to time as being responsible for, and heading, the relevant service or services.

- 1.5. Any reference in contract standing orders to a contract value means an amount exclusive of vat.
- 1.6. These standing orders are made under Section 135 of the Local Government Act 1972 and apply to the making of contracts in the course of the discharge of the Council's functions, including those functions which are the responsibility of the Executive.

2. Pre-contract Considerations

- 2.1. Every Officer shall, before commencing a contractual process, consider:
 - i) The matters specified in point 1.2 above;

 - ii) Whether the type and value of the works, supplies or services are such that the European procurement regime and/or other provisions of the Public Contracts Regulations apply to them; and

 - iii) Whether, having regard to estimated value and all other considerations, the works, supplies or services should be procured by official order, by competitive quotation or by competitive tender or by using an appropriate framework agreement complying with Section 4 to part 2 of the Public Contract Regulations 2015.

- 2.2. If the works, supplies or services are subject to the European procurement regime, the rules set out in point 3 below shall apply.
- 2.3. If the works, supplies or services are of a value enabling procurement by official order, the rules set out in point 4 below shall apply.
- 2.4. If the works, supplies or services are of a value enabling procurement by competitive quotation, the rules set out in point 5 below shall apply.
- 2.5. If the works, supplies or services are of a value requiring procurement by competitive tender, the rules set out in points 6-8 below shall apply.
- 2.6. Works, supplies or services may be procured/called-off utilising an appropriate framework agreement or other technique or instrument, in accordance with Section 4 to part 2 of the Public Contracts Regulations 2015.
- 2.7. Save for a contract which has not otherwise been the subject of an advertisement inviting expressions of interest, quotation or tender, every contract, the estimated value of which exceeds £25,000, shall be advertised on contracts finder.

3. European Procurement

- 3.1. Contracts for the carrying out of works, the provision of supplies and of services shall be tendered in accordance with relevant regulations and any relevant procedural guidance provided that such tendering procedures shall only apply in respect of contracts, the estimated values of which exceed the thresholds in force at the relevant time (as advised to senior Officers by the Director of Legal and Democratic Services from time to time). In particular:

i) Works contracts (currently applying to those exceeding £4,733,252) shall comply with the Public Contracts Regulations 2015 ('the Regulations');

ii) Supply contracts (currently over £189,330) shall comply with the Regulations; and

iii) Services contracts (currently over £189,330) shall comply with the Regulations.

3.2. EU statistical returns: all Senior Officers shall, in respect of each calendar year, record details of contracts advertised and/or awarded pursuant to the above procurement regime. The following details shall be recorded:

i) The value (estimated if necessary) of the consideration given or payable under the contract;

ii) Whether the open, restricted or negotiated procedure was used;

iii) If the negotiated procedure was used, pursuant to which provision of the relevant regulation that procedure was invoked;

iv) The type of goods purchased or hired, services provided, or works carried out; and

v) The nationality of the person to whom the contract was awarded.

4. Lower Value Contracts

4.1. where the estimated amount or value of the contract does not exceed £5,000, the works, supplies or services may be procured by official order provided that:

i) The expenditure is within approved estimates;

ii) An Officer duly authorised by an Officer of the CLT or by a senior Officer shall have authorised the order; and

iii) The appropriate Officer of the CLT or senior Officer is satisfied that the contract represents value for money.

5. Inviting Quotations

5.1. Subject to the provisions relating to electronic processes (see 12.1(xi)), where the estimated amount or value of the contract exceeds £5,000 but is under £50,000 including nominated sub-contracts, the works, supplies or services may be procured by competitive quotation provided that:

i) At least three written quotations are sought;

ii) Quotations are opened at one time in the presence of two Officers, both duly authorised by the appropriate Officer of the CLT or senior Officer, one of whom shall record in writing details of the quotations, provided that for the purposes of this rule the authorisation of Officers by the Officer of the CLT or senior Officer shall be recorded in writing and notified to the Director of Legal and Democratic Services for entering in a register;

iii) No quotation other than the lowest or most economically advantageous of at least two received is accepted (subject in the case of the acceptance of the most economically advantageous quotation to the application of any relevant criteria recommended in the CIPFA code);

iv) The contract is evidenced in writing (which may consist of a true copy of an official order authorised (by an Officer duly authorised by the appropriate Officer of the CLT or senior Officer) and the order is retained for six years in paper or electronic form;

v) The expenditure is within approved estimates; and

vi) The appropriate Officer of the CLT or senior Officer is satisfied that the quotation represents value for money.

5.2. Invitations to quote should require quotations to be returned in a plain sealed envelope identifying the subject to which they relate but not the sender.

5.3. Owing to the statutory prohibition on pre-qualification questionnaires being used for contracts below the EU threshold, the pre-qualification questionnaire process is only for use where estimated contract values would exceed that threshold.

6. Inviting Tenders

6.1. All contracts including nominated sub-contracts that are required to be the subject of competitive tender shall be invited in accordance with one of the three procedures set out below.

Ad Hoc list

6.2. This procedure shall apply in circumstances where the use of the standing list is considered inappropriate and where the Council or a Committee or an authorised Officer have decided that invitations to tender are to be made to persons who have replied to a public notice which shall be given as follows:

i) On the Council's website, Southeast Business Portal website, contracts finder and/or equivalent EU-approved portal websites; and

ii) In the official journal of the European Union (OJEU), where thresholds do or may apply; or

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- iii) Where EU thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in OJEU.
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6.3. The public notice shall:

- i) Specify details of the proposed contract;
 - ii) Invite applications for permission to tender; and
 - iii) Specify a time limit of at least 14 days, to submit applications.
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6.4. After the expiration of the period specified in the public notice, the senior Officer, seeking such assistance as may be necessary, will undertake a financial and technical appraisal of the persons who applied for permission to tender, applying such guidance as to evaluation contained in the CIPFA code as may be relevant.

6.5. Invitations to tender for the contract shall then be sent to not less than four persons who applied for permission to tender or, if fewer than four persons have applied and are considered suitable, to all such persons.

Standing list

6.6. A standing list shall be used where an Officer of the CLT or a senior Officer decides that invitations to tender for a contract are to be limited to those persons or bodies who replied to a public notice, and whose names shall be included in a list compiled and maintained for that purpose by the senior Officer. The senior Officer shall apply such guidance as to evaluation contained in the CIPFA code as may be relevant.

6.7. At least four weeks before a list is compiled, notices inviting applications for inclusion in it shall be published as follows:

- i) on the council's website, Southeast Business Portal website, contracts finder and/or equivalent EU-approved portal websites; and
 - ii) in the official journal of the European Union (OJEU), where thresholds do or may apply; or
 - iii) Where EU thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in OJEU.
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6.8. The list shall be amended as required and reviewed at regular intervals not exceeding three years by the senior Officer.

6.9. At the time of a review each person whose name appears on the list shall be asked whether they wish to remain so, in which case retention on the list or otherwise shall

follow the consideration by the senior Officer of a performance report on tenders submitted and work performed by the applicant in the preceding twelve months.

6.10. Tenders shall be invited from:

- i) at least four persons selected from the list by the senior Officer in rotation; or
 - ii) where fewer than four persons are approved as mentioned above, all those persons.
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Open Tendering

6.11. This procedure shall apply where the Council or a Committee or an authorised Officer have decided that tenders for a contract are to be obtained by open competition.

- i) At least 14 days public notice, describing and inviting submission of tenders by a stated date and time, as follows; on the Council's website, southeast business portal website, contracts finder and/or equivalent EU-approved portal websites; and
 - ii) In the official journal of the European Union (OJEU), where thresholds do or may apply; or
 - iii) Where EU thresholds do not apply, in at least one newspaper or journal circulating among persons who undertake such contracts – where appropriate to the type of work and likely supply market this media may be used in addition to a notice in OJEU.
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7. Submission of Tenders

7.1. Subject to the provisions relating to electronic processes (see c.12.1(xi)), every invitation to tender shall state:

- i) That all tenders shall be enclosed in a plain sealed envelope bearing the word "tender" followed by the subject to which it relates (but no other names or mark identifying the sender); and
 - ii) That it must be received in accordance with arrangements made by the Director of Legal and Democratic Services by a stated date and time.
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7.2. An Officer receiving tenders shall write on the envelope the date and time of its receipt.

7.3. No tender shall be accepted unless it complies with the requirements of c7.1 above. Any tender received after the date and time indicated for receipt shall not be considered but shall be retained unopened by the Director of Legal and Democratic Services manager until after the list of tenders received has been made available and then be returned to the sender.

- 7.4. Tenders shall be kept in the custody of the Director of Legal and Democratic Services or in accordance with arrangements made by them until the time and date specified for their opening.
- 7.5. Each tenderer shall be required to give an undertaking which shall become a condition of the contract that the amount of the tender has not been calculated by agreement or arrangement with any other person other than the council; that the amount of the tender has not been communicated to any other person other than the Council and that they have not entered into any agreement or arrangement with any person which would result in that other person refraining from tendering.
- 7.6. Where tenderers are required to submit priced bills of quantities with their tenders, failure to do so will result in the tender being disqualified.

8. Opening and Acceptance of Tenders

- 8.1. Subject to the provisions relating to electronic processes (see c.12.1(xi)), tenders shall be opened at one time and in the presence of:
- i) The Director of Legal and Democratic Services or their duly authorised representative; and
 - ii) A duly authorised representative of the appropriate senior Officer.
- 8.2. The following details shall be recorded in writing:
- i) The nature of the goods or materials to be supplied or the work to be executed;
 - ii) The name of each person by or on whose behalf a tender was submitted;
 - iii) The amount of each tender;
 - iv) The date and time of opening of the tenders; and
 - v) The names of all the persons present at the time of opening the tenders.
- 8.3. A senior Officer may accept the lowest tender (if payment is to be made by the council) or the highest tender (if payment is to be made to the council) or the most economically advantageous tender (subject in this case to the application of criteria prescribed in the relevant regulations or recommended in the CIPFA code) provided in all cases that at least two tenders are received. In the event of only one tender being received the senior Officer may seek a direction from the CLT or invite fresh tenders.
- 8.4. (Note: 8.3 does not obviate the need to accord with Financial Regulation 10.9 as it may relate to proposed contracts).
- 8.5. In all cases where the senior Officer is of the opinion that the lowest tender (or the highest with respect to income) or the most economically advantageous tender should

not be accepted then approval of the CLT shall be obtained before acceptance of another tender.

8.6. No alternative to the tender sum shall be permitted except where:

i) There is an obvious arithmetical error in the priced bill of quantities or schedule of rates, in which case the tender sum shall be corrected accordingly, and the contractor notified in order to facilitate withdrawal of the submitted tender if the contractor so determines; or

ii) Any change to the tender sum is the result of post-tender negotiation carried out strictly in accordance with the CIPFA code.

8.7. As an alternative to amending the contract sum in (i) above, the tenderer may be given details of such error or errors and afforded an opportunity of confirming or withdrawing their offer.

8.8. Prior to accepting a tender and entering into a contract the senior Officer must be satisfied that the cost of the tender and the overall cost of the project are within approved estimates. This must be evidenced in a formal 'tender acceptance report' which clearly sets out the delegation allowing the Officer in question to enter into the contract. If the tender or project is not within approved estimates the senior Officer must seek a direction from the CLT.

8.9. The Director of Legal and Democratic Services shall ensure that a register (which may be in an electronic format) is kept of all contracts over £50,000 in value specifying the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any Member of the Council.

9. Nominated Sub-Contractors and Suppliers

9.1. Where a sub-contractor or supplier is to be nominated to a main contractor and the estimated amount or value of the sub-contract exceeds £50,000, tenders shall be invited in accordance with 6 above unless the Council or a Committee or an authorised Officer decide in a particular case that competitive tenders cannot reasonably be obtained or are unnecessary.

9.2. 6, 7 and 8 above shall apply to submitted tenders.

10. Contract Conditions

10.1. Every contract exceeding £5,000 in value shall:

i) Specify the goods, materials or services to be supplied and work to be executed; the price to be paid together with a statement as to the amount of any discount or other deduction and the time for performance of the contract;

ii) Where appropriate provide for the contractor to pay liquidated damages upon failure to complete the contract by the specified completion date; and

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- iii) Contain such other conditions and terms as may be agreed between the parties, including where necessary provision as to adequate insurance.
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- 10.2. Every contract exceeding £50,000 in value shall be in writing and under seal, except contracts to supply motor vehicles, plant, equipment and furnishing goods and materials, which shall be in writing and signed by the appropriate senior Officer.
- 10.3. Every contract the estimated value of which exceeds £500,000 shall require the contractor to give sufficient security for the due performance of the contract. Where the estimated value of the contract is less than £500,000 such security shall not be required unless considered necessary.
- 10.4. Where an appropriate British standard specification or British standard code of practice issued by the British standards institution or international equivalent acceptable standard, current at the date of the tender, every contract shall require that all goods and material used or supplied, and all the workmanship shall be of at least such a standard or European equivalent.
- 10.5. Assignment or underletting of contracts shall not be permitted except at the discretion of the appropriate Senior Officer and only where a satisfactory vetting procedure has been carried out.
- 10.6. Every contract shall contain a clause empowering the Council to cancel the contract and to recover any loss resulting from such cancellation, in circumstances where any party to the contract or any person acting on their behalf or in their employ shall have offered, given or agreed to give any Officer of the Council any gift or consideration of any kind as an inducement or reward with respect to the contract, or shall have committed any offence under the Bribery Act 2010 or Section 117(2) and (3) of the Local Government Act 1972.
- 10.7. Every contract shall require compliance with current legislation with respect to health and safety at work and sexual and racial equality.
- 10.8. Where a Member or Officer of the Council has an interest pecuniary or otherwise in a company, firm or partnership and is also involved in the process of contract acceptance this shall be reported to the Chief Executive in the case of an Officer and to the standards and audit Committee in the case of a Councillor.
- 10.9. Except with the prior approval of the Chief Executive, no contract shall be commenced until a contractual relationship with the contractor exists, the appropriate senior Officer has indicated readiness to proceed, and all other procedures have been completed to the satisfaction of the appropriate Officer of the CLT and the Director of Legal and Democratic Services.
- 10.10. Those contracts of the value and description specified in 10.2 above shall have the seal attested by the Mayor or Deputy Mayor of the Council or other appointed Member of the Council **and** by the Director of Legal and Democratic Services or an Officer designated by them.

11. Persons Engaged to Supervise Contracts

- 11.1. Persons engaged to supervise or arrange contracts shall be required:

- i) To comply with contract standing orders provided that the procedure to be followed in inviting and opening quotations or tenders shall be approved in advance by the appropriate senior Officer; and
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- ii) At any time during the performance of the contract, to produce, on request, all records maintained by them in relation to the contract and on completion of the contract, to transmit all such records to the appropriate Senior Officer.
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12. Exceptions

12.1. The following are the only permitted exceptions from all or part of contract standing orders:

- i) Where an Officer of the CLT is required to act in an emergency or other case of urgency, with the reason for the exception being fully documented and reported to the Director of Legal and Democratic Services;
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- ii) Where the Executive so directs;
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- iii) Where the Council is acting solely as an agent for another body in compliance with the contract standing orders of that other body or where the Council participates in a joint procurement led by another body in compliance with the contract standing orders of that body. The Council may enter into a contract with a person approved for the purpose of such contract by the principal authority. In such cases, contracts shall be sealed either at the request of the principal authority or if the senior Officer so requires (and 10.1(a) above shall be varied accordingly). In all other respects contract standing orders shall apply;
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- iv) Where a committee or an Officer of the CLT or a senior Officer is satisfied that the number of tenders or quotations required by contract standing orders cannot be obtained due to insufficient sources of supply or expertise, or where the need for standardisation or compatibility makes it necessary to obtain supplies or services from a particular source or to employ a particular contractor to carry out the work. Tenders or quotations shall be obtained from the sole or all available suppliers/persons who possess sufficient expertise or suitability;
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- v) Where the contract is one of employment;
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- vi) Where the contract is for works carried out by statutory undertakers in circumstances where they have monopoly status, or where no genuine competition would exist, for example, because of fixed prices or prices controlled by trade organisations;
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- vii) The extension of an existing contract (or the execution of work or materials necessary for maintenance repairs to existing machinery or plant) provided that the price for each item supplied or unit of work carried out is no higher than in the original contract and the value of the original contract is not increased by
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more than one third by the aggregate of extensions made under this exception; and one and two unit ad hoc refurbishment contracts may be extended by additional units up to a maximum of two, provided that the new works are at the same rates as for the original tender;

viii) Where the contract is to appoint legal advisers, provided that the Director of Legal and Democratic Services shall be satisfied that the contract represents value for money;

ix) Where the contract is for the disposal or acquisition of land or property;

x) Where the contract relates to a financing transaction, and

xi) The paper processes and requirements relating to the invitation, submission and opening of tenders and quotations (Standing Orders c.5.0, c.7.0 and c.8.0), shall not apply to the operation of electronic processes, provided that those processes are undertaken within a system whose use has been authorised by the Chief Finance Officer and which includes secure e-mail and document management environment to nationally approved standards and in compliance with recognised protocols.

12.2. Note: the use of delta eSourcing has been authorised, by the Chief Finance Officer, for all tenders with an estimated value of £50,000 or more.

12.3. Exceptions shall be recorded as follows:

i) A direction of the Executive shall be reported to Council; and

ii) Exceptions made under c.12.1 (a), (d) and (g) shall be reported to the Director of Legal and Democratic Services who shall maintain a record of all such exceptions.

Part 5 – Section 7

Councillor and Officer Relationship Protocol

1. Introduction

- 1.1. Mutual understanding and basic respect between Councillors and Officers are the greatest safeguard of the integrity of the Council.
- 1.2. Copies of this protocol will be issued to all Councillors upon their election to the Council and to all staff upon their recruitment to the Council and included in all induction training and refresher sessions.
- 1.3. Questions on interpretation of this protocol will be determined by the Monitoring Officer in consultation with the Chair of the Corporate Governance and Standards Committee, unless the provision in question relates to a matter to be determined by the Joint Chief Executive, in which case it will be determined in consultation with the Leader of the Council.
- 1.4. The Standards and Audit Committee will be responsible for reviewing the practical application of this protocol and will make appropriate suggestions for its improvement and development.
- 1.5. This protocol is supplementary to the Councillors' Code of Conduct and Staff Code of Conduct contained in Part 5 of this Constitution.

2. Roles

- 2.1. Both Councillors and Officers serve the public, but their responsibilities are distinct. This protocol seeks to guide Councillors and Officers in their relations with one another.
- 2.2. Councillors are responsible to the electorate. Their job is to represent their constituents, to agree policy and to take all non-delegated decisions. They serve as long as their term of office lasts.
- 2.3. Officers are responsible for day-to-day managerial and operational decisions within the authority. Their job is to give advice to Councillors and the public, to take all delegated decisions and to carry out the council's work in a professional manner.
- 2.4. The role of Officers is to seek to assist Councillors within the restrictions of their levels of authority and in regard to the rules governing access to information. They also have a role to ensure that Councillors are properly informed about information to which they have a right of access. Officers should not use professional expertise to discourage or intimidate Councillors from pursuing lines of inquiry. There may be service level agreements set out regarding the timescales for responding to particular queries or referrals from individual Councillors. These may vary dependent on the 'level' of a Councillor or the topic in question.
- 2.5. For example, responses to the leader of the Council or the leader of any political group may need to be given more speedily than a referral from a backbench Councillor. Responses to matters of urgency, for example regarding the safeguarding of vulnerable adults or children can require a prompter response due to the immediacy of the issue and the need to take action within a short timeframe. Both Officers and Councillors have to prioritise their work. When their priorities do not coincide, they should discuss and agree a mutually acceptable timescale for response.
- 2.6. Officers must not allow their own personal or political opinions to interfere with their work.

3. Mutual Responsibilities of Councillors and Officers

3.1. The Mutual responsibilities are as follows:

- i) To work in partnership.

- ii) To have respect for each other's roles, workloads and pressures.

- iii) To display respect, dignity, courtesy, integrity, mutual support and appropriate confidentiality.

- iv) To undertake training and development in order to carry out their role effectively.

- v) To not subject the other to bullying or harassment.

- vi) To have a common purpose; providing the best possible service to the residents and other stakeholders of Woking Borough.

- vii) To have a commitment to collaborative, non-adversarial resolution of disputes.

4. Relations with Statutory Officers

4.1. In reaching their decisions, Councillors must have regard to the advice given by Officers and in particular, that offered by the:

- i) the Director of Finance, whose duties are prescribed under section 114 of the Local Government Finance Act 1988.

- ii) The Monitoring Officer's duties are set out under section 5 of the Local Government and Housing Act 1989. The Monitoring Officer should be consulted when there is any doubt as to the Council's power to act; or in determining whether any action proposed lies within the policy framework agreed by the Council; or where the legal consequences of action or failure to act by the Council might have important repercussions.

- iii) The statutory Officers of the Council are the Head of Paid Service (the Chief Executive), the Monitoring Officer and the Director of Finance (or Section 151 Officer). All have a duty to advise the Council as a corporate body. The ability of these Officers to discharge their duties depends not only on effective working relations with their Councillor colleagues, but also on the flow of information and access to the debating processes of politicians. As such, it is crucial that you have a good working relationship with your statutory Officers that are based on a clear understanding of their roles and responsibilities.

5. Effective Collaborative Working is Essential

- 5.1. In establishing an effective working relationship, there should be clarity about the respective roles of Councillors and Officers. This is often made easier if:
- i) Both parties discuss and agree the values and behaviours they expect from each other in a relationship of mutual trust.

 - ii) Councillors identify their priorities, assisted by Officers.

 - iii) Officers provide clear advice and offer alternative courses of action where they exist.

 - iv) Councillors and Officers communicate clearly and openly, avoiding ambiguity and the risk of misunderstanding.

 - v) Everyone works in a spirit of partnership, to turn the Council's core values and priorities into practical policies for implementation.

 - vi) While Councillors and Officers may have their own specific roles and responsibilities, there are clearly some grey areas in which both groups have a shared responsibility, e.g. agreeing workable policies and monitoring performance. In addition to this, Councillors and Officers both face the same public service agenda, i.e. delivering quality services to local people in a climate of tough challenges and constraints (budgets and timescales).

6. General Rules

- 6.1. All dealings between Councillors and Officers will be courteous and neither party will seek to take unfair advantage of their position.
- 6.2. A Councillor will not raise matters relating to the conduct or capability of an Officer at any public session of a meeting.
- 6.3. If a Councillor has a concern regarding an Officer's conduct or behaviour that is not resolved through respectful mutual discussion, then they may raise the matter with the Officer's Senior Manager or Strategic Director.
- 6.4. If after receiving a written report from the Senior Manager or Strategic Director, a Councillor remains concerned, the Chief Executive will be advised.
- 6.5. Should any further action with regard to an Officer's conduct or behaviour be undertaken, it will be in accordance with the appropriate employment rules and procedures.
- 6.6. An Officer will not raise matters relating to the conduct or capability of a Councillor at any public session of a meeting.
- 6.7. If an Officer has a concern regarding a Councillor's conduct or behaviour that is not resolved through respectful mutual discussion then they may raise the matter with their Senior Manager, Strategic Director or the Chief Executive.

- 6.8. The Senior Manager, Strategic Director or Chief Executive will take the appropriate action by approaching the Councillor concerned and/or his or her group leader.
- 6.9. Officers should endeavour to provide Councillors with sufficient notice of meetings to allow them to prepare and balance their diaries and commitments

7. Officer Advice to Councillors and Political Groups

- 7.1. Officers serve the Council as a whole and not any individual political group or any individual Councillor.
- 7.2. An Officer briefing meeting prior to a committee meeting or such support in whatever form it takes will be available to all Councillors and all party groups.
- 7.3. The rules for providing advice to Councillors include:
- i) Officer advice and support must relate only to matters of Council business and never include advice on political issues.

 - ii) Officers may refuse to provide advice to a Councillor/group until guidance has been sought from their Strategic Director or the Chief Executive if that advice might be considered inappropriate.

 - iii) Decisions made at party group meetings are not decisions of the Council and must not be treated or acted upon as such by either Councillors or Officers.

 - iv) Officers should not normally attend formal meetings of political groups.

 - v) If a Councillor requests information from an Officer, the Officer will inform the Councillor at the time if that information is to be made available to any other Councillors.

 - vi) Councillors should not consider an Officer supportive of a policy because they have helped to construct it.

 - vii) Councillors should contact report authors for any further information in advance of a committee meeting.

8. Support Services to Councillors and Political Groups

- 8.1. Support services will be provided to assist Councillors only in discharging their role as Councillors.
- 8.2. Councillors will ensure they are up to date with and in compliance with all Council policies

9. Councillors' Access to Information and Council Documents

- 9.1. Cooperation between Councillors and Officers is vital to ensure a good service to the public. A free flow of information between Officers and Councillors is an essential part of this cooperation.

- 9.2. All confidential information held by the Council, in whatever form, remains confidential to the Council and subject to the requirements of the Data Protection regulations, unless and until such confidentiality is waived by the Monitoring Officer. Any dispute will be determined by the Monitoring Officer in consultation with the Chair of the Standards and Audit Committee.
- 9.3. Officers and elected Members are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Data Protection Act 2018 and to familiarise themselves with their obligations under the 2018 Act accordingly.
- 9.4. Officers and Councillors who require advice or assistance in relation to their duties under the Data Protection Act 2018 should take advice from the Monitoring Officer or the Information Rights Officer as appropriate.
- 9.5. Councillors can approach any Senior Manager to ask for information or seek advice. In the event of any difficulty, Councillors should approach the relevant Strategic Director or the Chief Executive.
- 9.6. All Councillors have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at a Council, Executive, Committee or sub-Committee meeting.
- 9.7. The over-riding principle is that Councillors should be given access to all documents, unless there is a justifiable reason for refusal. The reason must be clearly explained. Councillors wishing to view confidential information will be required to justify the request in specific terms.
- 9.8. Councillor access to Council documents is a common law right in so far as access to the document in question is reasonably necessary to enable the Councillor to perform their duties. This is commonly known as “the need to know” principle. Where information is being withheld the Executive Senior Manager will advise the Councillor why it is being withheld.
- 9.9. In case of difficulty, the Senior Manager or Councillor may seek the advice of the Monitoring Officer.
- 9.10. Councillors should be kept fully informed and consulted by Officers on all significant matters affecting their Ward or other area of responsibility. If a matter is urgent or sensitive, Officers must ensure Councillors are made aware as soon as reasonably possible and before the matter is made public.
- 9.11. All information shared with a Councillor shall only be provided for the reason requested and will not be shared except under terms set out in the access to information rules.
- 9.12. Any Councillor found to be or suspected of being in breach of the requirement to keep the confidentiality of items taken ‘in Committee’ may be the subject of a Code of Conduct complaint.

10. Councillor/Officer Relationships

- 10.1. Working relationships between Councillors and Officers must always remain and appear professional and impartial.

- 10.2. Officers of the Corporate Leadership Team will be responsible for the contents of a report. Councillor queries about report contents will be addressed to the report author. Issues arising between a Councillor and a report author will be referred to the appropriate Officer of the Corporate Leadership Team. If unresolved the matter will pass to the Chief Executive for resolution, in consultation with the Council Leader.
- 10.3. Officers work closely with Councillors, but they are accountable to their Senior Manager or Strategic Director and cannot go beyond the bounds of whatever authority they may have been given by their Senior Manager, Strategic Director or by the Council.
- 10.4. It is appropriate for members of the Overview and Scrutiny Committee to ask Officers to explain and justify advice given to Councillors, whether on the Executive or otherwise, and to justify decisions Officers have taken under delegated powers.
- 10.5. Where requested to provide information to the Overview and Scrutiny Committee, Officers will provide that information in as a comprehensive and timely fashion as if the request had come from the Executive.

11. Correspondence

- 11.1. Correspondence between a Councillor and an Officer, will not be copied by the Officer to any other Councillor, unless the Councillor who initiated the correspondence copied it to other Councillors in which case the Officer shall copy his correspondence to those other Councillors.
- 11.2. If it is necessary to copy correspondence to another Councillor, this should be made clear to the original Councillor through notation on the correspondence.
- 11.3. A system of 'silent copies' (Bcc) should never be employed. Correspondence sent to all Councillors or groups of Councillors will make the circulation list clear.
- 11.4. Official letters on behalf of the Council will be sent in the name of the appropriate Officer rather than in the name of a Councillor. Letters which create obligations or give instructions on behalf of the Council will never be sent out in the name of a Councillor.
- 11.5. Councillors and Officers will undertake training in the principles of the General Data Protection Regulation and will apply those principles when producing and storing personal information.

12. Ward Councillors

- 12.1. Whenever a significant meeting is organised by the Council to consider a local issue, all Councillors representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, ward Councillors will be notified at the outset of the exercise.
- 12.2. Officers will not normally attend meetings arranged by Councillors unless this has been discussed and agreed with the appropriate Senior Manager or Strategic Director in advance in order that proper representation and briefing can be arranged.

13. Ceremonial Events

- 13.1. The Mayor, or in their absence the Deputy Mayor, will be the appropriate person to lead/ represent the Council at ceremonial events which are of particular significance or are not specifically associated with the office of the Leader, a particular Portfolio/ Committee/Sub-Committee.
- 13.2. Local Councillors should always be informed of, and, where possible, invited to ceremonial events taking place within their own Wards.
- 13.3. Any Councillor taking part in a ceremonial event must not seek disproportionate personal publicity nor use the occasion for party political advantage bearing in mind that the Councillor is representing the Council as a whole.

14. Access To Officers

- 14.1. Officer shall always be available to ward Councillors to discuss any issues of concern in their ward or area of responsibility.
- 14.2. With the Council-wide use of e-mail, Councillors should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention. Where an urgent response is required, the Councillor should seek to telephone the Officer and if required, arrange a convenient meeting
- 14.3. Ward Councillors are encouraged to contact relevant Officers in advance of Committee meetings to discuss any concerns.

15. Undue Pressure

- 15.1. To ensure that the business of the Council is carried out effectively, Councillors and Officers should endeavour to create a cordial working relationship with each other. Councillors should:

i) Be aware of how they speak with and relate to Officers, avoiding undue pressure;

ii) Avoid personal attacks on Officers, particularly in publications, press statements or meetings attended by the public;

iii) Avoid words or actions which could undermine respect for Officers by the public;

iv) Never require an Officer to carry out work on a matter which is not justified in terms of budgetary controls, Council policy or the Officer's duties and responsibilities Officers should:

- Be aware of how they speak with and relate to Councillors;

- Remember at all times that they work in a political environment;

- Any Officer who is personally connected to a Councillor must notify their Strategic Director. Officers must not use undue influence over a Councillor, nor develop close personal friendships that could compromise or be perceived to compromise the integrity of their actions.

16. Summary

- 16.1. The working relationship between Councillors and Officers is integral to the successful operation of an effective Local Authority. Politicians and managers have vital roles to play in providing a form of joint leadership which is based on shared knowledge, skills and experience. The heart of this relationship should be a common vision, shared values and mutual respect.

Part 5 – Section 8

Monitoring Officer Protocol

1. General Introduction to Statutory Responsibilities

- 1.1 The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989 and is accountable to the Council. That Act, the Local Government Act 2000 and the Local Government, Public Involvement in Health Act 2007 and the Localism Act 2011 place personal obligations on the appointee in respect of the Council, which are summarised as a schedule in the appendix to this protocol. This protocol provides some general information on how those statutory requirements will be discharged at Woking Borough Council.
- 1.2 The current responsibilities of the Monitoring Officer role rest with the Director of Legal and Democratic Services, who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the council. In doing so they will also safeguard, so far as is possible, Councillors and Officers whilst acting in their official capacities, from legal difficulties and/ or criminal sanctions.
- 1.3 The main functions of the Monitoring Officer at Woking Borough Council are:
- i) To report to the Council and to the Executive in any case where they are of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989;

 - ii) To investigate any matter, which they have reason to believe may constitute, or where they have received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;

 - iii) To act as the principal adviser to the authority's Standards and Audit Committee;

 - iv) To act as the principal adviser to the authority's Standards Panel;

 - v) To maintain the register of Members' interests;

 - vi) To maintain the register of Part II items and undertake an annual review of the same;

 - vii) To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and its Committees;

 - viii) To have responsibility for responding to complaints to the Local Government Ombudsman;

 - ix) To undertake, with others, investigations in accordance with the council's Whistleblowing procedures; and

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- x) To act as Proper Officer for the Data Protection Act 1998 and the Freedom of Information Act 2000.
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1.4 It is the Monitoring Officer's duty to consult with both the Head of Paid Service (the Chief Executive) and the Chief Finance Officer (the Director of Finance and Section 151 Officer) during the preparation of a report under paragraph 1 above, and as soon as practicable after its preparation to arrange for a copy of it to be sent to each Member of the council. The Full Council must consider the report within 21 days of the Monitoring Officer having sent it to Councillors. Once the Monitoring Officer has sent out the report, the Council cannot implement any proposal or decision to which it relates until the end of the first business day after they have considered it.

1.5 The Monitoring Officer is bound to perform all of their duties personally, save that during absence, unavailability or illness, a deputy nominated by them may undertake those duties.

1.6 In general terms, the Monitoring Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Councillors and Officers:

- i) complying with the law (including any relevant Codes of Conduct);

 - ii) complying with any general guidance issued, from time to time, by the Standards and Audit Committee and the Monitoring Officer;

 - iii) making lawful and proportionate decisions;

 - iv) complying with the Council's constitution and Standing Orders therein;

 - v) generally, not taking action that would bring the Council, their Officers, or professions into disrepute;

 - vi) communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters.
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2. Working Arrangements

2.1 It is important that Councillors and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this, and it is vital therefore that Councillors and Officers work with the Monitoring Officer (and their staff) to enable them to discharge their statutory responsibilities and other duties.

2.2 The following arrangements and understandings between the Monitoring Officer, Councillors and senior Officers (Corporate Leadership Team) are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

- i) be alerted by Councillors and Officers to any issue(s) that may become of concern to the council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
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- ii) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the council, Committee meetings and/or strategic directorate (or equivalent arrangements);

 - iii) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the council, Committee meetings and/or strategic directorate (or equivalent);

 - iv) in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Councillor or Officer who can assist in the discharge of their functions;

 - v) ensure the other statutory Officers (Head of Paid Service and the Chief Finance Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

 - vi) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

 - vii) report to the council, from time to time, on the constitution and any necessary or desirable changes following consultation, in particular, with the Corporate Governance Working Group, Standards and Audit Committee, the Head of Paid Service and Chief Finance Officer;

 - viii) in accordance with statutory requirements, make a report to the council, as necessary on the staff, accommodation and resources they require to discharge their statutory functions;

 - ix) have an appropriate relationship and good communication with the Leader of the council, the Mayor, political group leaders, the Chair of the Standards and Audit Committee, and the Corporate Governance Working Group, with a view to ensuring the effective and efficient discharge of Council business;

 - x) develop effective working liaison and relationship with the council's auditors, the Local Government and Social Care Ombudsman and the Housing Ombudsman (including having the authority, on behalf of the council, to complain to them, refer any breaches to them or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council in consultation with the Chief Executive;

 - xi) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality;

 - xii) give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being received by the Monitoring Officer) and, if appropriate, make a written report to the Standards Committee (unless the Chair of the Standards and audit Committee agrees a report is not necessary) if, in the opinion of the Monitoring Officer, there is a serious breach of Woking Borough Council's Members' Code of Conduct;

 - xiii) in consultation, as necessary, with the Leader of the Council and the Standards and Audit Committee, defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
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- xiv) be responsible for preparing any training programme for Councillors on ethical standards and Code of Conduct issues;
 - xv) advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
 - xvi) appoint a deputy(ies) and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer. The deputy(ies) will only act in the absence of the Monitoring Officer if urgent action is required which cannot await the return of the Monitoring Officer.
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- 2.3 To ensure the effective and efficient discharge of the arrangements set out in paragraph 5 above, Councillors and Officers will report any breaches of statutory duty or Council policies or procedures and other vices or constitutional concerns to the Monitoring Officer, as soon as practicable.
- 2.4 The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc., or by identifying alternative and legitimate means of achieving the objective of the proposal.
- 2.5 Where the Monitoring Officer receives a complaint of a potential reportable incident, they shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.
- 2.6 In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.
- 2.7 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report of any other Officer of the authority.
- 2.8 Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Chief Executive and the Chief Finance Officer, they are of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the police for investigation.
- 2.9 The Monitoring Officer is available for Councillors and Officers to consult on any issues of the council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. Standing Orders, policy framework, terms of reference, scheme of delegations etc).
- 2.10 To ensure the effective and efficient discharge of this protocol, the Council will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

Part 5 – Section 9

Code of Conduct for Employees

1.0 Introduction

- 1.1 The Council's employees are responsible to the Council for carrying out its work. Their jobs are paid, and paid employment brings with it certain obligations. These obligations may be statutory; for instance, if an employee knows that a contract in which they have a financial interest is being considered by the Council, notice of that interest must be given.
- 1.2 Employees should never do anything that is incapable of being justified to the public. It is the responsibility of local government employees to give the highest possible standard of service to the public. This means that employees must do nothing that might give rise to suspicion, however ill-founded, that they are in any way influenced by improper motives.
- 1.3 This Code of Conduct contains formal guidelines to employees covering matters such as the acceptance of gifts and hospitality, private work and the use of the Council's time and materials. This Code is intended to offer broad advice to employees in these areas of activity and, in limited cases, to prescribe rules for future conduct. These rules must be followed unless the Director of Legal and Democratic Services has agreed, in writing, that exceptional circumstances justify otherwise.
- 1.4 This Code takes into account 'The Seven Principles of Public Life' which are included in the Localism Act 2011. They are selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.5 References in this Code to the Director of Legal and Democratic Services, Chief Finance Officer and Head of Human Resources include their respective deputies, who may act in their absence.
- 1.6 An e-form for reporting (i) receipt of gifts and hospitality and/or (ii) details of private work/employment is available on ewokplus in the Human Resources forms section.

2.0 Gifts and Hospitality

- 2.1 Employees should treat with caution any offer of a gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.
- 2.2 Employees should bear in mind the importance of avoiding the appearance of improper conduct or undue influence, any suggestion of which damages public confidence in local government. Openness is important, and in the limited cases where gifts are considered acceptable their receipt should be put on record.
- 2.3 As a general rule employees should decline offers of gifts from persons or organisations who may provide works/goods/services to the Council or who may benefit from some decision of the Council (for example applicants for planning permission, those seeking to agree terms in property transactions etc.).
- 2.4 In limited circumstances, it may be acceptable to depart from the general rule in paragraph 2.3 above. These circumstances include the following:
- 2.5 Gifts of promotional stationery (e.g. diaries, pens and calendars) with a value of less than £10 may be accepted and do not need to be recorded in the register referred to in paragraph 2.7 below.

- 2.6 At Christmas time, gifts of a modest value (e.g. sweets, biscuits and alcohol with a value of less than £25) may be accepted. This is because of the custom and practice that such gifts are routinely given at this time of year, which provides a justifiable context for their acceptance.
- 2.7 **A gift of cash should not be accepted in any circumstances.**
- 2.8 Where a gift is considered acceptable, its receipt should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the gift and its approximate value, identify the person or organisation making the gift, the Officer to whom it was given, and the date of its receipt.
- 2.9 Employees should also exercise caution in accepting hospitality. ‘Hospitality’ includes both attendance at events and meals. The provision of hospitality may, of course, be incidental to the carrying on of legitimate business activity (for instance, during business lunches). If so, such hospitality is acceptable and should merely be put on record (see paragraph 2.9 below). However, employees need to consider carefully whether the benefit is reasonable in scale to the work under discussion and be satisfied that its provision is genuinely “work-related”.
- 2.10 Details of hospitality received by employees should be recorded via the e-form described in 1.6 above and will be kept in an open register kept by the Director of Legal and Democratic Services. The register entry shall describe the hospitality and its approximate value, identify the person or organisation providing the hospitality, the Officer to whom it was provided and the date of its receipt.
- 2.11 Employees should always exercise care in the provision of gifts or hospitality to outside bodies, whenever this is to be paid for by the Council. Broadly-speaking, the same tests that apply to the receipt of gifts and hospitality apply to their provision. It is important to avoid the appearance of improper conduct. The provision of hospitality should always be funded from a budget specifically established for the purpose, and its use must, where appropriate, be properly authorised by the appropriate Officer. The provision of the benefit must be reasonable in scale to the matter under discussion and it must be genuinely relevant to the business in hand. The purpose of the provision must be capable of justification by reasonably objective standards. For instance, the justification for the provision of limited hospitality may be that it facilitates, or is conducive to, the carrying on of legitimate and important business activity.

3.0 Private Work

- 3.1 The Council recognises that with the changing pattern of employment (in particular the increase in part-time, reduced hours and flexible working) it would not be appropriate to prevent employees of the Council from taking other employment (that is in addition to their role with the Council, or indeed more than one position with the Council). The Council therefore does not apply a blanket prohibition on staff accepting other employment or carrying out private work. However, it does require such employment or work to be authorised, in writing, by an Officer of the Corporate Leadership Team. This is to ensure that the work does not conflict with the Council’s interests or weaken public confidence in the conduct of the Council’s business. Details of such employment or work should be recorded via the e-form described in 1.6 above and will be kept recorded in an open register kept by the Director of Legal and Democratic Services.
- 3.2 The requirements of paragraph 3.1 above to obtain the approval of an Officer of the Corporate Leadership Team do not apply to any employment or private work an

employee was carrying out before they were employed by the Council provided such employment or private work was made known to the Council before the employee was employed by the Council. Details of such employment or work do still need to be recorded in the open register kept by the Director of Legal and Democratic Services.

- 3.3 If an employee's role at the Council changes materially, they are required to seek further written authority from an Officer of the Corporate Leadership Team to continue with the other employment/private work.
- 3.4 The Council expects employees to carry out other work only to the extent that it does not interfere with the performance of their normal duties and provided, of course, that such work is undertaken outside normal working hours for that employee. The Council accepts that, in some instances, the carrying on of "freelance" work (for instance, by participating in seminars or contributing articles to professional journals) can be of mutual benefit to the Council and the employee alike; they may reflect credit upon the Council (for instance, by publicising service initiatives) whilst assisting in the development of the employee's expertise. Although these factors may encourage flexibility in individual cases, employees should be concerned to ensure that private work does not conflict with their work obligations. It is important to consider whether the work is being undertaken on behalf of the Council, and therefore in an official role, or alternatively in the employee's private capacity. Articles written for private gain should be composed in the employee's own time, and the same rule applies to time spent in preparation for and presentation at seminars. If services are to be delivered on behalf of the Council or during work hours, any fees received should be passed to the Council. Fees received that are not the result of work carried out in the Council's time and satisfying the above tests may be retained by the employee.
- 3.5 Unless expressly authorised by the Chief Executive in writing on an exceptional basis, it is not permissible for an employee to undertake private work in connection with plans or applications intended for consideration by the Council. An employee engaged in work on his or her own application is not to be treated as undertaking "private work" for these purposes.

4.0 Use of Council time and materials

- 4.1 Unless expressly permitted by other policies of the Council, employees should always make sure that any facilities (such as stationery, telephones, IT, photocopying or secretarial services) provided by the Council for use in performance of their duties are used strictly for those duties and for no other purpose. It has been made clear above that private work should not be undertaken in the Council's time, and it is equally important that any such work is carried out without using the Council's materials or services. The Council's materials may only be used for such work if the Chief Finance Officer agrees in writing and the full cost of provision of the material/service is paid by the employee.

5.0 Copyright

- 5.1 It is important to set out some broad principles relevant to copyright and intellectual property created during employment. Intellectual property is a generic term that includes inventions, creative designs, writings and drawings.
- 5.2 If these are created by an employee during the course of employment, then as a general rule they belong to the employer. However, statutory rules may provide otherwise. In particular, the Patents Act 1977 provides that inventions are only the property of the employer if:

- i) They have been made in the course of the employee's normal duties; or
 - ii) They have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
 - iii) They were made in the course of the employee's duties and at the time the employee had (because of the nature of his duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.
- 5.3 In the unlikely event of a dispute arising between the Council and employee as to the ownership of information or material, it will be important to establish the ambit of the employee's "normal duties" (recourse will naturally be made to the individual's contract of employment).

6.0 Confidentiality of Information

- 6.1 The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. In general, employees should act on the assumption that open government serves the public better than secrecy.

However, employees should recognise that certain information is confidential to the Council. This includes information which is stated to be "Part II" for the purpose of a report to Council or a Committee, and information which is classified under the Council's information classification scheme as not being open to the public.

- 6.2 Employees should not use information obtained in the course of their employment for personal gain or benefit, nor should they pass it to others who may use it in that way.

7.0 Working with Councillors

- 7.1 Employees are in the service of the Council. It follows that they have a duty to serve all Councillors, not just Councillors of a controlling group. The basic rule is that Councillors should be briefed and consulted on any matter where they have an interest or entitlement to know what is going on and, in particular, on Committee business. Employees should ensure that all necessary help and support is given without restriction. Advice to Councillors, whether given in Committee or in briefings or otherwise, should be firm, clear and consistent.
- 7.2 Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage this relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.
- 7.3 Employees should ensure that at all times they adhere to the Councillor and Officer Relationship Protocol.

8.0 Declaration of External Interests (as may be relevant to employment)

- 8.1 Employees are obliged by statute to disclose financial interests, whether direct or indirect, in contracts which have been, or are proposed to be, entered into by the Council. The Council's Standing Orders go further and require disclosure of interests in non-financial matters (drawing a parallel with Councillors' "Code of Conduct" interests). The point is that interests that are not financial may be just as important,

and employees must not allow the impression to be created that they are using their position to promote a private or personal interest. Non-financial interests include those arising from membership of bodies exercising functions of a public nature, bodies directed to charitable purposes and bodies one of whose principal purposes includes the influence of public opinion or policy.

- 8.2 Employees will need to consider carefully which outside interests may give rise to conflict in the performance of their normal duties and which therefore ought to be disclosed to their manager and formally recorded. It may be, for instance, that a purchasing Officer, regularly required to choose between competing companies, will have a family connection with a potential supplier. Another example might be an employee whose membership of an organisation not open to the public (characterised by commitments of allegiance and secrecy of membership) would call into question his or her objectivity in selecting applicants for employment.
- 8.3 Employees shall disclose details of interests relevant to their employment with the Council (whether direct or indirect, financial or otherwise) which will be recorded in a register kept by the Director of Legal and Democratic Services. Such interests shall include those arising from membership of the bodies described in paragraph 8.1 above. The requirements of this rule are in addition to the statutory duty of disclosure contained in Section 117 Local Government Act 1972 (financial interests in contracts) and the general requirements of Rule 8.0 of the Officer Employment Rules.

9.0 Confidential Reporting

- 9.1 If one believes, or suspects, that a colleague in the Council is involved in corrupt or questionable practices, one should refer to the guidance under the Council's Confidential Reporting Policy.

10.0 Politically Restricted Posts

- 10.1 Some posts in the Council are politically restricted under the Local Democracy, Economic Development and Construction Act 2009. Employees undertaking these posts will be prevented from having any politically active role either in or outside the workplace. Employees will not be able to hold or stand for elected office and will also be prevented from:

- i) Participating in political activities, publicly expressing support for a political party or undertaking other activities such as canvassing on behalf of a person who seeks to be a candidate; and
- ii) Speaking to the public at large or publishing any written or artistic work that could give the impression of advocating support for a political party.

11.0 Disciplinary Policy

- 11.1 This code forms part of the Council's Disciplinary Policy. Any failure to comply with it may be dealt with under that policy.

12.0 Further Advice

- 12.1 Further advice on the acceptance of gifts and hospitality may be sought from the Director of Legal and Democratic Services. Further advice on other aspects of this Code may be sought from the Head of Human Resources.

Part 5 – Section 10

Officer Conflicts of Interest Protocol

1. Introduction

- 1.1. The Council is a major public authority, active in its local community. As such, it is important that the Council ensures that its Officers do not act on its behalf, when there is a conflict between an Officer's personal interests and those of the Council.
- 1.2. Provisions relevant to conflicts of interest are contained in the Local Government Act 1972, the Council's Officer Employment Procedure Rules and the Council's Code of Conduct for Employees Policy. This Protocol provides further guidance to Officers on how conflicts of interest are dealt with at the Council.
- 1.3. For the avoidance of doubt, this Protocol does not apply to the roles performed by Officers as Council appointed directors of companies in which the Council has an interest. In these circumstances, an Officer's role is no different to what it would be if the activity was directly managed by a department of the Council.

2. Existing Requirements

The Local Government Act 1972

- 2.1. Section 117 of the Local Government Act 1972 requires Officers to give notice to the Council of any Council contract in which they have a pecuniary interest.
- 2.2. Failure to comply with this obligation is punishable, on conviction, with a fine not exceeding £2,500.

Officer Employment Rules

- 2.3. Section 8 of the Officer Employment Rules requires Officers to give notice of interests (pecuniary and non-pecuniary) to the Director of Legal and Democratic Services. The record of these interests is open for inspection by Councillors.
- 2.4. Section 8 of the Officer Employment Rules also requires reports to Council, Executive and Committees to include reference to Officer s' interests.

Code of Conduct for Employees Policy

- 2.5. Section 8 of the Code of Conduct for Employees Policy requires Officers to consider carefully which outside interests might give rise to a conflict in the performance of their normal duties and which ought to be disclosed to their manager and formally recorded.
- 2.6. Section 9 of the Code of Conduct for Employees Policy also reinforces the requirement for Officers to comply with the provisions of the Local Government Act 1972 and the Officer Employment Rules.

3. What is a Conflict of Interest?

- 3.1. For the purposes of this Protocol, a conflict of interest arises when:
 - i) an Officer's personal or professional interests compromise their integrity and/or ability to act in the best interests of the Council in respect of a particular matter, or
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- ii) a reasonable person, with knowledge of all relevant facts, would consider this to be the case.
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- 3.2. The effect of this definition is that Officers should never do anything that is incapable of being justified to the public.
- 3.3. A consistent and corporate approach should be adopted in determining whether an Officer has a conflict of interest. If there is a conflict of interest, the Officer should not be involved in the transaction being undertaken by the Council. The following section of this Protocol outlines the procedure that should be followed.

4. Procedure

- 4.1. Officer interests shall be declared and recorded in accordance with the requirements of the Local Government Act 1972, Officer Employment Rules and Code of Conduct for Employees Policy.
- 4.2. An Officer who has declared an interest may only be involved in a transaction to which the declaration relates if one of the three Statutory Officers of the Council has, following (where practical) consultation with the Leader of the Council (or in their absence, the Deputy Leader of the Council), determined that the Officer does not have a conflict of interest. In the event that all three Statutory Officers are absent (or are otherwise unable to act), a Deputy Statutory Officer shall determine whether the Officer has a conflict of interest.
- 4.3. In the event that the Officer declaring an interest is a Statutory Officer, the determination may only be made by a Statutory Officer who does not have the same, or similar, interest.
- 4.4. Full details of Statutory Officers' Determinations shall be included in:
 - i) a Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol) maintained by the Monitoring Officer, and
 - ii) the Project Workbook, prepared under the Council's Project Management Framework, for the underlying proposal.
- 4.5. The Register of Statutory Officers' Determinations (as detailed in the Officers' Conflict of Interests Protocol) and Project Workbook shall be available for inspection by Councillors.
- 4.6. The extent to which an Officer has a conflict of interest in respect of a Council transaction shall be reviewed on a three-monthly basis. This review shall, where practical, be undertaken by the Statutory Officer who made the initial determination. The provisions in 4.2 and 4.3 shall apply to the review. The outcome of the review shall be recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).
- 4.7. The Monitoring Officer shall undertake a general review of the operation of this Protocol on a three-monthly basis. The Deputy Monitoring Officer will review any actions taken by the Monitoring Officer under this Protocol. The outcome of the review shall be

recorded in the Register of Statutory Officers' Determinations (Officers' Conflict of Interests Protocol).

- 4.8. An annual report shall be submitted to the Executive setting out details of the Statutory Officer s' Determinations.

This Protocol was adopted by the Council on 15 October 2020.

Part 5 – Section 11

Planning Code of Practice for Councillors and Officers

1. Purpose of the Code of Conduct

- 1.1. This Code of Practice is intended to provide clear guidance to Councillors and Officers about how they should carry out their duties in relating to planning matters so as to ensure openness, transparency and consistency in decision making and to set standards of probity and conduct which the residents of Woking can expect.

2. Context

- 2.1. The town and country planning system involves the Council taking decisions about the development and use of land in the public interest. Planning law requires that all planning applications are determined in accordance with the approved Development Plan unless material planning considerations, such as the National Planning Policy Framework, indicate otherwise.
- 2.2. Planning is often highly contentious because its decisions affect the lives of everyone, be they applicant, objector, supporter or local resident. This is heightened by the system actively inviting public opinion on applications before decisions are taken. It is essential, therefore, that the planning process is characterised by transparent, consistent and open decision-making.

3. General Roles and responsibilities

- 3.1. Councillors and Officers have different, but complementary, roles in the planning process. Likewise, members of the Planning Committee have different roles from other Councillors when exercising the functions of the Local Planning Authority. All Councillors are, however, bound by the terms of the Council's Code of Conduct.

Members of the Planning Committee

- 3.2. Whilst the determination of a planning application is not a 'quasi-judicial' process, it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the authority's code.
- 3.3. In addition to complying with the Council's Code of Conduct, Councillors who sit on the Planning Committee must:

- i) act fairly and openly;
- ii) avoid inappropriate social contact with applicants and their agents,
- iii) objectors and other interested parties;
- iv) despite any views expressed publicly, approach decision-making with an open mind, and have regard to all material planning considerations and be prepared to change their view if persuaded they should;
- vii) make decisions purely on planning grounds in the public interest and not favour, or appear to favour, any person, company, group or locality;
- ix) not decide how to vote on each application on the basis of any political "whip", but solely on the planning merits; and
- xi) ensure that the reasons for their decisions are clearly stated at the meeting.
- xii)

Other Councillors

- 3.4. Councillors who do not sit on the Planning Committee represent their wards and the Borough as a whole and may exercise their right to attend meetings of the Planning Committee to speak, although not vote, on any planning matter.
- 3.5. Councillors should particularly note that they have the same duty as members of the Committee in respect of compliance with the Code of Conduct when they attend any meeting and should always declare any pecuniary or non-pecuniary interests at the appropriate stage in the proceedings.
- 3.6. In order to avoid confusion for the public attending meetings of the Planning Committee, Councillors, who are not members of the Committee, must not sit with those who are and must sit in the area designated for non-members. The Chair, at the beginning of the meeting will identify the members of the Committee and any other Councillors present who are not members of the Committee.
- 3.7. Councillors who are not members of the Committee do not act in any decision making role but shall nonetheless act fairly and openly.
- 3.8. In certain circumstances, the Full Council carries out the functions of the Planning Committee and Councillors should be aware that in those circumstances they should comply with the provisions of this Code of Practice.

Officers

- 3.9. Officers are responsible to the Council as a whole. They must always act openly and impartially and provide consistent professional advice based on planning policies and procedures and planning law, ensuring that members of the Committee are aware of all relevant material planning considerations before decisions are made. Officers must comply with any professional codes of conduct that may be applicable; for Planning Officers this is the Royal Town Planning Institute's (RTPI) Code of Professional Conduct Officers must also conscientiously carry out the decisions of the Committee.

4. Code of Conduct

- 4.1. The Council has adopted a Members' Code of Conduct at Part 5 of this Constitution. The Code of Conduct requires the open disclosure of any Disclosable Pecuniary Interest or non-pecuniary interest in issues being considered by the Council or its Committees.
- 4.2. Training and guidance on the Code has been provided to all Councillors and will be regularly updated. Members of the Planning Committee must be particularly careful to ensure that they are familiar with the requirements of the Code. It is the personal responsibility of individual Councillors to ensure they comply with the Code and make all appropriate declarations. If in any doubt, Councillors should seek advice in advance of the meeting either from the Monitoring Officer or from the legal adviser to the Committee.
- 4.3. Although "Declaration of Interests" appears as a separate item on the agenda for every meeting of the Planning Committee, the Chair normally asks whether any Councillor wishes to make a declaration of interest prior to the consideration of each individual planning application so that it is clear for which application interests are being declared. This does not, however, preclude a Councillor declaring any interest under the specific item on the agenda.

5. Lobbying of Councillors

- 5.1. It is a legitimate part of the planning application process for applicants, neighbours and other interested parties to approach Councillors. However, the rules of natural justice mean that planning applications should be determined in an open and fair manner and taking account of all relevant information and arguments. It is only at the meeting of the Committee that Councillors will have, and be able to consider, all the relevant information and considerations pertaining to the application.
- 5.2. It is therefore important that to maintain the integrity both of individual Councillors and of the Council as a whole that all Councillors should: -
 - i) If lobbied, explain the potentially conflicting position they are in. When expressing an opinion, make clear that this opinion is provisional and that they will only be able to come to a final view at the Committee meeting after hearing all the relevant information and arguments.
 - ii) Avoid giving constituents planning advice, save in relation to general planning procedures, for example, how the constituent can make a representation on the application, how the decision will be made (delegated or Committee) etc.
- 5.3. Members of the Planning Committee often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. It is good practice for Councillors to forward a copy of the correspondence to the Head of Planning. Merely forwarding the correspondence in this way does not preclude the Councillor from being involved in the determination of the application.
- 5.4. Should a member of the Planning Committee be directly lobbied by any third party, they should notify the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying. They should also indicate at the appropriate stage of the Committee proceedings that they have notified the Monitoring Officer of this lobbying.

6. Lobbying by Councillors

- 6.1. If a Councillor becomes a member of, leads, or represents an organisation whose primary purpose is to lobby the promotion or opposition to planning proposals, they may have an interest and may have to withdraw from the meeting during consideration of that proposal.
- 6.2. A Councillor should not lobby fellow Councillors excessively regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of a meeting at which any planning decision is to be taken.

7. Meeting

- 7.1. Officers frequently hold meetings with applicants and objectors to discuss applications. These are part of the normal planning process but are, and must be clearly stated to be, without prejudice to the professional recommendation that may be made to the Committee and the decision of the Committee. Councillors will not normally attend such meetings.
- 7.2. If a Councillor wishes to arrange a meeting with Planning Officers for themselves and/or a small number of constituents about a planning application, this will be arranged at the Council Offices.

- 7.3. Officers will not normally attend public meetings unless their attendance has been agreed with the Head of Planning and representatives of both the applicant and objector are given the opportunity to be present. Members of the Committee and Ward Councillors will be advised of any public meeting either organised by Officers or which Officers have agreed to attend.

8. Presentations on likely development proposals

- 8.1. The Council may itself organise presentations to keep Councillors informed generally on matters which appear to have or are likely to have strategic importance for the Borough. At such presentations, Councillors should maintain an impartial role, listening to what is being said and asking questions but not expressing an opinion.
- 8.2. Councillors may sometimes be invited to attend presentations/open days etc on likely development proposals by developers. Councillors should consider the appropriateness of accepting such invitations and give consideration to how their attendance might be perceived. Councillors should notify the Monitoring Officer of attendance at any such event.

9. Officer reports to Committee

- 9.1. All applications requiring a decision by the Planning Committee will be the subject of full written reports from the Head of Planning or such other planning Officer acting under delegated authority. The report will provide a clear outline of the site history, the relevant Development Plan policies, the response of consultees and the substance of objections. The report will include a clear recommendation with a technical appraisal justifying it. Any objections or other relevant issues arising after the agenda has been published will be the subject of an oral report to the Committee at the meeting.

10. Committee site visits

- 10.1. Committee site visits are fact-finding exercises which allow the Planning Committee to make a more informed decision than would otherwise be possible from reading the Officer's report and considering the views expressed at the Committee meeting. They are not part of the formal consideration of any application and therefore public rights of attendance and speaking do not apply.
- 10.2. The Committee has adopted a procedure for site visits, and this is set out at Appendix 11.

11. Public participation at the Planning Committee

- 11.1. Members of the Planning Committee must not allow members of the public, applicants, agents or public speakers to communicate with them during the Committee meeting either orally or in writing, other than under the adopted public participation scheme, as this may give the appearance of bias to other observers.
- 11.2. The Public Speaking Rules at Part 4 of the Constitution provide the framework for public participation at the Planning Committee.

12. Planning Committee decisions contrary to Officer recommendation

- 12.1. From time to time, members of the Committee will disagree with the professional advice given by Officers and may determine an application contrary to that advice. When this happens Councillors must clearly express the planning reasons for their decision, such

that a person observing the meeting would understand why the recommendation has not been followed. Officers will be given an opportunity to explain to the Committee any planning and / or legal implications arising from their intended decision before the decision is confirmed.

- 12.2. The reasons given by the Committee for the decision will be recorded in the minutes of the meeting and the Head of Planning will be asked to finalise the wording of the decision notice, normally after consultation with the Chair and Vice Chair of the Committee.

13. Appeals against Council decisions

- 13.1. Generally, Officers will organise and appear as witnesses at planning appeals on behalf of the Council as required. In giving evidence, Officers will present the best possible case on behalf of the Council, whilst complying with the RTPI Code of Professional Conduct and taking into account cost/benefit analysis. In some circumstances it may be necessary to appoint consultants to appear on behalf of the Council; for example, where the Committee has decided an application contrary to the Officer recommendation. Where the overall strategy for a planning appeal is contrary to, or unsupportive of, the Planning Application Committee's decision in the first instance, the Head of Planning must consult with the Chair and the Vice Chair of the Planning Committee and relevant ward Councillors.
- 13.2. If a Councillor intends to make representations to the Planning Inspectorate on any appeal either in writing or in person at any hearing / public inquiry, they should advise the Head of Planning and indicate whether these representations will be in support of the Council's case.

14. Councillor and Officers as Applicants

- 14.1. Where a Councillor is the (prospective) applicant for planning permission, they must appoint a professional agent to act on their behalf in dealing with Planning Officers. Whilst this might appear to place an undue financial burden on the Councillor, regard should be had to the Members' Code of Conduct Part of this Constitution.
- 14.2. Any application submitted by a serving Councillor, or a partner as defined in the Members' Code of Conduct, or persons who were Councillors within the previous four years, will not be dealt with by Officers under delegated powers but will be the subject of a decision by the Planning Committee. The Committee will be advised that that the application has been submitted by a Councillor, or former Councillor, and will also be advised whether the application is one that would normally have been dealt with under the Scheme of Delegation.
- 14.3. In the case of serving Councillors, the Monitoring Officer should be notified by the Councillor concerned in writing of the application no later than the date of its submission.
- 14.4. The same rules apply in respect of any Officer, or a partner as defined in the Members' Code of Conduct, who is currently employed by the Council or who has been employed by the Council within the previous four years.

15. Training

- 15.1. Councillors may not sit on the Planning Committee unless they have attended at least the annual mandatory planning training prescribed by the Council. Where the Full Council determines a major planning application, all sitting Councillors must have attended the prescribed planning training as determined by the Head of Planning.

15.2. Suitable additional training opportunities will be arranged at regular intervals by the Head of Planning and/or the Monitoring Officer.

16. Review

16.1. It is important that decisions, and the decision-making process, are regularly reviewed to improve the quality and consistency of decision making, thereby strengthening public confidence. Arrangements will normally be made for Councillors to visit, on an annual basis, a sample of implemented planning permissions to assess the quality of the decision. These visits will include a range of developments (major, minor, departures, upheld appeals, listed building works etc). The Committee will also receive an annual review of appeal decisions from the Head of Planning.

Part 5 – Section 12

Public Participation at Planning Committee

1. Principles

- 1.1. The Council resolved to introduce public participation at meetings of the Development Control Sub-Committee which was brought into operation on 25 February 1997. The principles now apply to the Planning Committee which was established in May 2000 as a result of the introduction of new Council democratic structures at that time.
- 1.2. The number of objectors required before a planning application qualifies for public speaking at the Planning Committee is ten.

2. Definitions

Applications on which the Public may Speak

- 2.1. The public speaking scheme applies only to planning applications. It does not include Certificates of Lawful Use and Development or applications for work to trees covered by Tree Preservation Orders.
- 2.2. Public may speak when any application which attracts ten or more individual objections (a petition will be regarded as one objection) prior to the designated cut-off date, which will be 14 days prior to the meeting or, if later, the expiry of the 21-day period for receipt of representations.
- 2.3. In addition, the public will have the right to address the Committee on any of the following types of applications (see below) irrespective of the number of objections made:
 - i) any application which in the opinion of the Borough Planning Officer raises major policy issues which is at variance with approved planning policies, or is of such a magnitude that significant planning issues are raised;
 - ii) any application for development requiring an Environmental Statement under the provisions of Schedule I and II of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 and any subsequent amending regulations;
 - iii) applications for major commercial (retail, industrial or business) development with a floor space exceeding 2500 sq. metres (outline or detailed applications), but not reserved matters; and
 - iv) applications for residential developments of over 50 dwellings (outline or detailed applications), but not reserved matters.
- 2.4. (Note: Council applications are also subject to the same criteria set out above.)

Applications that Officers shall normally give a presentation to the Committee

- 2.5. This category will be of the type currently included on Section A and B of the Planning Committee agenda which would include:
 - i) developments proposing in excess of one dwelling;
 - ii) certain applications for change of use;
 - iii) non-controversial business or industrial/warehouse or retail proposals;
 - iv) all development proposals (including minor applications) submitted by the Council; and
 - v) applications involving a Member of the Council or staff.

- 2.6. note: A presentation will also be given on any application where the public exercise a right to speak.

Applications which will not be formally presented to the Committee unless specifically requested by Councillors on which the public will not be invited to speak

- 2.7. This will normally be other minor applications which have been referred to the Committee at the request of Borough Planning Officer which would normally be dealt with under delegated powers.
- 2.8. Also, minor applications where enforcement action is being recommended will not normally be presented by Officers but will be included on this section of the Planning Committee agenda.

3. Procedures

Informing the Public

- 3.1. The letters which are sent to persons identified under the Council's neighbour notification procedure will also include advice that objectors may have a right to speak at Committee meetings and will enclose an information leaflet explaining what happens at the Committee meeting.
- 3.2. The agenda is normally published seven clear days prior to the Committee meeting. The 'cut-off' point for receipt of letters, or electronic communications, which would fall into the criteria of allowing public speaking shall be 14 days prior to the meeting or, if later, the expiry of the 21-day period for receipt of representations.
- 3.3. At the end of the working day, 14 days prior to the meeting at which the application is to be considered or later (as the case may be), the case Officer s/team leaders will advise the Borough Planning Officer of those applications intended for inclusion on the agenda which have attracted 10 (see point 1.3. above) or more objections (and, of course, those applications which the right to speak arises irrespective of the number of objections).
- 3.4. If the representations received exceed 10 (see point 1.3. above) individual letters (a petition would count as one objection, but standardised letters will be treated as individual letters) then notification will be sent to all those persons advising them of their right to speak (in the case of a petition the first named person). The letter will be sent first class no later than the Wednesday following the dispatch of the agenda which is normally received by Councillors on the Tuesday evening preceding (also letters need to be sent to any objectors to major applications with less than 10 (see paragraph 1.3. above) objections which are to be included on the first part of the agenda).
- 3.5. The current letter sent to applicants or agents has been revised, advising them of the date of the meeting and that they also have the right to make an oral presentation if objectors have given notice that they wish to make representations.
- 3.6. A list of the objectors (in all the categories where the right to speak exists) will be advised to the Democratic Services Officer together with details (and a contact number if known) of the agent or applicant.

- 3.7. In the letter advising the representors that they may speak at the meeting; they will be required to register an interest no later than 4.00 p.m. on the Monday prior to the day of the Committee meeting (or 9.00 a.m. on the Tuesday following Bank Holidays). Representors will be required to leave their details on a 24hr answerphone which will be open from 9.00 a.m. on the day after the agenda goes out. Democratic Services will have responsibility for monitoring and actioning calls.
- 3.8. The representor will be advised of the arrangements for the procedure at the Committee and the agent or applicant will be contacted and advised that representations are to be made.
- 3.9. Only one representor of the objectors will be allowed to make an oral representation. This should be done on a 'first come first served' basis, i.e. the first person to register on the dedicated answerphone. Any subsequent representors wishing to speak will be advised by the Democratic Services Officer to contact the person who will be appearing so that representations can be combined if necessary.

4. Procedure at committee

- 4.1. All speakers will be required to report to the Democratic Services Officer in the Council Chamber no later than 6.45 p.m. on the night of the Committee. The Democratic Services Officer will meet the speakers and explain procedures and give directions as to where to sit in the Chamber. If the objector fails to appear then the applicant/agent will not be entitled to speak.
- 4.2. (Note: Where more than one person has registered an interest to speak, the second named representor will be entitled to speak if the first named representor is not in attendance five minutes before the start of the meeting.)
- 4.3. Officers will introduce the application and advise Councillors on the recommendations.
- 4.4. Representors views will then be heard in the following order: representative of the objectors and agent/applicant. Each speaker will be allocated three minutes.
- 4.5. Whilst objectors and the agent have a right to speak, applications will not be deferred because one side is unable or does not wish to be present.
- 4.6. Councillors will not ask questions of the representatives at the end of the address. The representor will then be asked to move back to an allocated seating area.
- 4.7. Officers will then be asked by the Chair whether they have anything to add by way of clarification.
- 4.8. The Committee will then debate the application (no more representors' views will be taken once the debate has started).
- 4.9. Representors will not have the right to speak or question the Councillors or Officers once they have made their submission.
- 4.10. Councillors will have the opportunity of asking further questions of the Officers and, if necessary, ask Officers to make a brief summary of the planning issues, at the end of the debate.

- 4.11. If the representors wish to present documentary material this should be made available to the Democratic Services Officer before 12.00 noon on the day of the Committee.
- 4.12. The right to speak will only be exercised at the first meeting of the Planning Committee at which the application is considered and will not normally be the subject of further representors presentations at any subsequent meeting.
- 4.13. Exceptionally, where significant changes have taken place after a deferral by the Committee, a further presentation may be allowed.
- 4.14. In the event that a representor does not get the opportunity to speak as a result of the deferral of an application (either by the Borough Planning Officer or at the request of the applicant) before it is presented to the Committee, their chance to speak when the application is referred back to the Committee for consideration will be protected (i.e. they will be offered the opportunity first).

5. Notes

- 5.1. Representors will be allocated space behind the area normally occupied by the Press and come forward to the end of the outer horseshoe (nearest to where the Democratic Services Officer sits) when speaking. A lectern will be placed in this position prior to the meeting.
- 5.2. The format of the revised agenda will include the following headings:

Section A: Applications on which the public are eligible to speak.

Section B: Applications which will be the subject of a presentation by Officers.

Section C: Other applications where no presentations will be made unless requested by a Member of the Council.

Part 5 – Section 13

Local Code of Corporate Governance

1. Introduction

- 1.1. Woking Borough Council recognises the need to ensure that its affairs are managed in a way which achieves the highest standards of corporate governance.
- 1.2. This Code sets out for Councillors and Officers the main principles of good governance for Woking Borough Council.

2. Definition of Corporate Governance

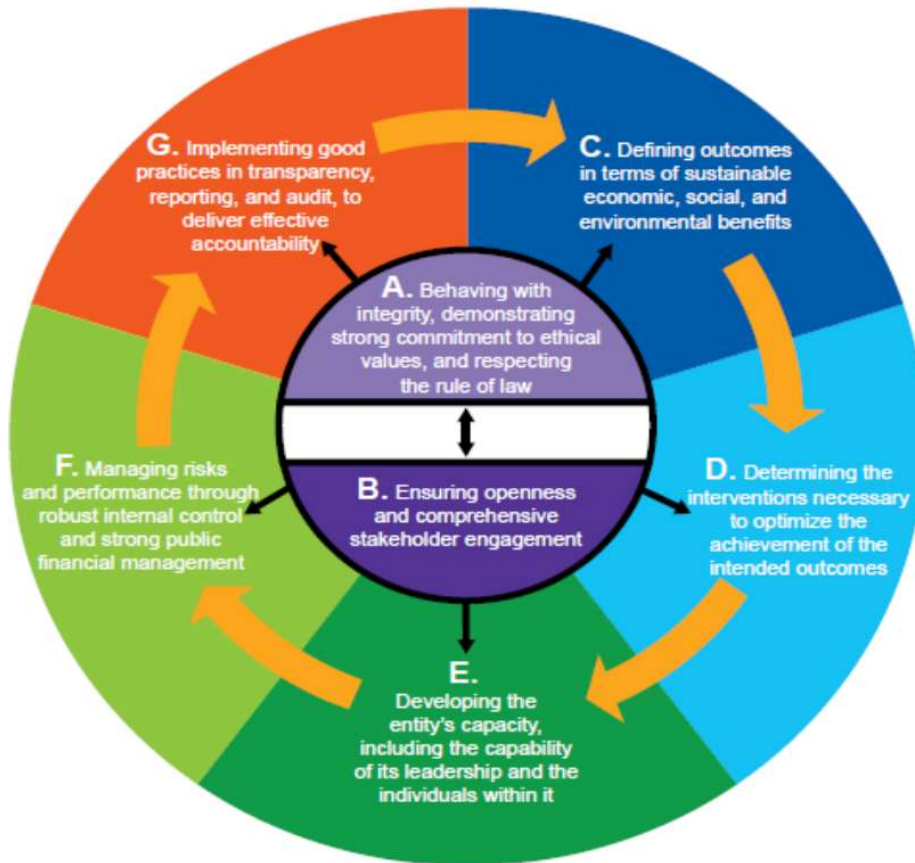
- 2.1. Governance comprises the arrangements put in place to ensure the intended outcomes for stakeholders are defined and achieved.
- 2.2. Good governance is how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems, processes, cultures and values by which the Council is directed and controlled. Through effective governance the Council is accountable to, engages with and, where applicable, leads the community.

3. Purpose of the Code

- 3.1. This Code is intended to support political and Officer leadership with developing and maintaining robust governance across the whole governance system.
- 3.2. The Code is the framework within which the Council is accountable to its users, stakeholders and the wider community. It sets out and describes the way in which the Council carries out its functions through its Councillors and Officers, and the procedures and processes through which it undertakes its work, and through which it aims to establish and maintain public confidence.

4. Framework used to create the Local Code of Corporate Governance

- 4.1. It is based on existing good practice within the Council and is consistent with the CIPFA framework for Delivering Good Governance in Local Government (CIPFA/Solace, 2016)
- 4.2. The Council is committed to the principles of good governance, and has adopted the seven core principles of the CIPFA and SOLACE framework as follows:
 - i) Behaving with Integrity
 - ii) Ensuring Openness
 - iii) Defining Outcomes
 - iv) Determining effective interventions
 - v) Developing Capacity
 - vi) Managing Risks and Performance
 - vii) implementing good practices
 - viii) Transparent and Effective Accountability
- 4.3. The diagram below, taken from the International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014) (the 'International Framework'), illustrates how the various principles of good governance in the public sector relate to each other.



- 4.4. Full details of the seven principles with the respective sub-principles, together with the actions and behaviours that can demonstrate compliance can be found at this website: <https://www.cipfa.org/policy-and-guidance/standards/international-framework-good-governance-in-the-public-sector>.

5. The Council's approach to Good Governance

- 5.1. The Council's approach to governance takes account of the environment in which it operates. The Council's aim is to ensure resources are directed in accordance with agreed policy and priorities; there is sound and inclusive decision making; and there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.
- 5.2. All Councillors have an important role to play in representing their constituents, as well as acting together as the Council. Officers serve the Council as a corporate body rather than any political group, combination of groups, or individual Councillor.
- 5.3. Councillors and Officers should work in an atmosphere of mutual trust and respect. Councillors determine the Council's policies and Officers are responsible for implementing decisions taken by the Council, Leader, Executive and / or the appropriate Committee as well as taking decisions delegated to them under the Scheme of Delegation. The Overview and Scrutiny Committee reviews and scrutinises the Council's performance.
- 5.4. In discharging these duties all parties should act in an open, honest and transparent manner.

- 5.5. The Council seeks to ensure the highest standards are met, and governance arrangements are not only sound but are seen to be sound.

6. Accountability for Corporate Governance

- 6.1. All Councillors and Officers are expected to commit to the Council's principles of good governance; however, there are specific responsibilities for the following individuals and groups:

- 6.2. The Corporate Leadership Team has a collective responsibility for good governance, but this is underpinned by the role of the three statutory Officers of the Council:

- i) Head of Paid Service – Chief Executive
- ii) Monitoring Officer – Director of Legal and Democratic Services
- iii) Section 151 Officer – Director of Finance

- 6.3. Chief Officers are responsible for the policies and procedures which form part of this Code and that fall within their functional responsibilities. Each chief Officer is supported by senior managers who are responsible for ensuring that the relevant policies and procedures are up to date, are being complied with and are effective in achieving good governance.

- 6.4. Most of the arrangements are set out in the Council's constitution and supporting policies and documentation. However, the Council recognises that these arrangements must be kept up-to-date and need to be kept under review to ensure that they remain appropriate and are improved where possible. Without proper monitoring, the effectiveness of the Council's arrangements could be compromised so the Council will ensure that systems are in place to monitor compliance with the agreed processes and procedures including the Annual Governance Statement.

7. Responsibility for maintaining the Local Code of Corporate Governance

- 7.1. To ensure the Code is effectively maintained, we the Council shall:

- i) update the Code with developments in best practice and leading guidance; and
- ii) undertake an annual review of Corporate Governance that incorporates the Annual Governance Statement.

- 7.2. The Standards and Audit Committee will have responsibility for providing assurance to Council in respect of the:

- i) effectiveness of the Council's Corporate Governance arrangements;
- ii) approval of the Annual Governance Statement; and
- iii) effectiveness of the Council's financial and non-financial performance.