



**ST HELENS**  
BOROUGH COUNCIL

# **The Constitution of St Helens Borough Council**

1.	<u>Part 1 - Summary and Explanation</u>	5
2.	<u>Part 2 - Articles of the Constitution</u>	11
	Article 1 – The Constitution	13
	Article 2 – Members of the Council	15
	Article 3 – Citizens of the Council	19
	Article 4 – The Roles of Full Council	23
	Article 5 – Chairing the Council	25
	Article 6 – The Cabinet	27
	Article 7- Overview and Scrutiny Commission	29
	Article 8 – Regulatory and Other Committees	33
	Article 9 – The Standards Committee	35
	Article 10 – Councillor Improvement Fund	37
	Article 11 – Joint Arrangements	39
	Article 12 - Officers	43
	Article 13 – Decision Making	47
	Article 14 – Finance, Contracts and Legal Matters	51
	Article 15 – Review and Revision of the Constitution	53
	Article 16 – Suspension, Interpretation and Publication of the Constitution	55
3.	<u>Part 3 - Responsibility of Functions</u>	57
	Responsibility for Local Choice Functions	59
	Responsibility for Council Functions	63
	Responsibility for Executive Functions	85

4.	<u>Part 4 - Rules of Procedure</u>	95
	Council Procedure Rules	97
	Remote Meetings Protocol	119
	Access to Information Procedure Rules	125
	Budget and Policy Framework Procedure Rules	139
	Executive Procedure Rules	149
	Overview and Scrutiny Procedure Rules	155
	Financial Procedure Rules	177
	Contract Procedure Rule	207
	Land and Property Disposal Procedure Rules	249
	Officer Employment	263
5.	<u>Part 5 - Codes and Protocols</u>	271
	Code of Conduct for Elected members	273
	Protocol on Member/Officer Relations	287
	Developing Effective member and Officer Relations	297
	Local Ward Member Protocol	305
	Protocol for Councillors and Officers Dealing with Planning Matters	307
	Code of Conduct for Employees	321
6.	<u>Part 6 - Members Allowances Scheme</u>	337
7.	<u>Appendices</u>	343
	Appendix 1 – Role of a Councillor	345
	Appendix 2 – Roles and Responsibilities	347

This page is intentionally left blank

## **THE COUNCIL'S CONSTITUTION**

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

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business and, in general, will not be subject to frequent change. More detailed procedures and codes of practice, which are broadly about how the Articles will be put into effect, are provided in separate rules and protocols at the end of the document.

## **WHAT'S IN THE CONSTITUTION?**

Article 1 of the Constitution commits the Council to exercising all its powers and duties in accordance with the law and this Constitution. Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council Meeting (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- Overview and Scrutiny of Decisions (Article 7)
- Regulatory and Other Committees (Article 8)
- The Standards Committee (Article 9)
- Councillor Improvement Fund (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision-Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)

- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

## **HOW THE COUNCIL OPERATES**

The Council is composed of 48 Councillors with one-third elected three years in four. until May 2021. From 2022, whole Council elections will commence for all Councillors and will take place every 4 years thereafter.

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

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

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will appoint the Leader and hold the Cabinet to account. There will be an opportunity for members of the public to ask questions at Council Meetings.

## **HOW DECISIONS ARE MADE**

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, who is appointed by the Council, and a Cabinet of up to 9 Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's Public Notice of Key Decisions insofar as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be

open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **OVERVIEW AND SCRUTINY**

There is an over-arching overview and scrutiny commission and a number of overview and scrutiny committees that support the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny commissions also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

### **COUNCILLOR IMPROVEMENT FUND**

The Council has established a Councillor Improvement Fund which allocates funding to the eighteen wards of the Borough in proportion to the number of residents in each ward. This enables the ward councillors in each ward to put forward environmental schemes for consideration to enhance the ward environment.

### **THE COUNCIL'S STAFF**

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

wisely. A code of practice governs the relationships between officers and members of the Council.

## **CITIZENS' RIGHTS**

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny commission;
- find out, from the Cabinet's Public Notice of Key Decisions, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;



- complain to the Council about the standard of service, actions, or lack of action, by the Council or their staff affecting an individual customer or group of customers;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

This page is intentionally left blank

**Part 2**  
**Articles of the Constitution**

This page is intentionally left blank

## **Article 1 - The Constitution**

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

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

### **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of St. Helens Council.

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

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no-one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;
8. provide a means of improving the delivery of services to the community and achieving best value; and
9. ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council.

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

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## Article 2 - Members of the Council

### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 48 Members, otherwise called Councillors. Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Boundary Commission for England and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of St. Helens Borough, or those living or working there, will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

**Elections and terms.** Up to May 2021, the ordinary election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May in each year beginning in 2002, except that in 2005 and every fourth year after there will be no regular election. Beginning in 2022, elections by thirds will cease and whole Council elections for all Councillors will be held on the first Thursday in May 2022 and will be held every fourth year thereafter. The terms of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### 2.03 Roles and Functions of all Councillors

- (a) **Key roles.** All Councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

- (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
  - (v) be involved in decision-making;
  - (vi) be available to represent the Council on other bodies;
  - (vii) maintain the highest standards of conduct and ethics; and
  - (viii) take part in member development and training.
- (b) **Rights and duties.**
- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it;
  - (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules.

#### 2.04 **Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations and comply with any reasonable request of the Council’s Standards Committee.

#### 2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

#### 2.06 **Register of Interests**

Under the Localism Act 2011 there is a requirement to establish and maintain a Register of Interests (ROI) of Elected Members and Co-opted members of the authority.



This register is coordinated and maintained by Democratic Services on behalf of the Monitoring Officer. The register is maintained as an electronic copy and published on each Elected Member's web page on the Council's website using modern.gov software.

At the start of each municipal year, any newly Elected Members are supported in completing a Register of Interests and current Members are reminded of their obligation to review and refresh their current Register.

Alongside an initial submission and a refresh and review of a submission at the start of the municipal year, Members are encouraged to update their ROI as soon as possible and within 28 days of a disclosable interest arising.

Any updates and changes are filed and published on the Elected Member's web page.

The process is the same for Co-Opted Members, except they are not published on the Council's website.

This page is intentionally left blank

## Article 3 - Citizens and the Council

### 3.01 Citizens' Rights

Citizens have the following rights:-

(a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to:

- (i) vote; and
- (ii) sign a petition to request a referendum for an elected mayor form of Constitution.

All citizens of the Borough have the right to sign a petition to request the Council to consider or take action on any matter.

(b) **Information.** Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) attend meetings of the Cabinet when key decisions are being considered;
- (iii) find out from the Public Notice of Key Decisions what key decisions will be taken by the Cabinet and when;
- (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (v) inspect the Council's accounts and make their views known to the external auditor.

(c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by the overview and scrutiny commission or any of its committees.

(d) **Complaints.** Citizens have the right to complain to:

- (i) the Council itself under its complaints scheme;

- (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.
- (e) Such other rights as may be prescribed by law.

### 3.02 **Citizens' Responsibilities**

- (a) Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.
- (b) Citizens are legally required to register to vote and actively encouraged to exercise their vote, as part of their commitment to citizenship and local democracy.

### 3.03 **Reporting of Meetings by the Public and Press**

Any member of the public or press attending a public meeting of the Council may record the proceedings and report them to others.

The Council has an approved Protocol for Webcasting, Filming & Recording of Council meetings, which is available from Democratic Services.

'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the internet, to publish or share the recorded material. This would include the use of social media.

Any person wishing to record a public meeting is not required to give the Council prior notice although they are encouraged to do so in order that reasonable facilities can be provided.

No one is entitled to record or report the proceedings of a meeting if the meeting has moved into Part 2 to consider confidential or exempt business. In such circumstances, the public and press would be required to leave the

meeting and to deactivate and/or remove any recording or communications equipment.

Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.

Any person recording or reporting a meeting may not film any children or vulnerable adults present at the meeting, or any member of the public who objects to being filmed.

Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences.

They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The chairman is expected to give this advice to all present

This page is intentionally left blank

## Article 4 - The Roles of Full Council

### 4.01 Meanings

- (a) **Policy framework.** The policy framework means the following plans and strategies:-
- Community Safety Partnership Delivery Plan
  - Local Transport Plan
  - Youth Justice Plan
  - Food and Feed Law Enforcement Plan
  - The plan and strategy which comprise the Capital Programme
  - Council Plan
  - Local Plan and Core Strategy
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision-maker is minded to make

it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

- (d) appointing the Cabinet Leader;
- (e) ultimately holding the Cabinet to account;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (h) adopting an allowances scheme;
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (j) confirming the appointment of the Head of Paid Service;
- (k) approving the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151 Officer). Before deciding whether or not to approve any dismissal account must be taken of the conclusion of any independent investigation, the views of the Independent Persons Panel and any representations of the officer;
- (l) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (m) all local choice functions which the Council decides should be undertaken by itself rather than the Cabinet; and
- (n) all other matters which, by law, must be reserved to Council.

#### 4.03 **Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

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

#### 4.04 **Responsibility for Functions**



The Council will maintain a record setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

This page is intentionally left blank

## **Article 5 - Chairing the Council**

### **5.01 Role and Function of the Mayor**

The Mayor and Deputy Mayor will be elected by the Council annually.

The Mayor and, in his/her absence, the Deputy Mayor will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet to account;
4. to promote public involvement in the Council's activities; and
5. to attend civic and ceremonial functions on behalf of the Council.

This page is intentionally left blank

**Article 6 - The Cabinet****6.01 Role**

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

**6.02 Form and Composition**

The Cabinet will consist of the Cabinet Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Cabinet Leader, except that the Cabinet Leader shall not appoint the Mayor or the Deputy Mayor to the Cabinet.

**6.03 Leader**

The Cabinet Leader will be a Councillor elected to the position of Leader by the full Council. The Leader's term of office will start on the day on which he/she is elected as Leader. The Leader holds office until the annual meeting which follows the Leader's normal day of retirement as a Councillor, unless:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a Councillor; or
- (c) he/she is removed from office by resolution of the Council.

If the serving Leader ceases to be the Leader for one of the above reasons, the Council will elect a new Leader.

**6.04 Other Cabinet Members**

Subject to Paragraph 6.02, other Cabinet members will be appointed by the Cabinet Leader. These Members will hold office until the Leader's term of office expires unless removed by the Leader, or for any of the reasons set out in 6.03 (a)-(c) above.

6.05 The Leader will nominate one Member of the Cabinet as his/her deputy. The Deputy Leader will act as Leader if the post of Leader is vacant, or if for any

reason the Leader is unable to act. The Deputy Leader will hold office, until the end of the Leader's term of office, unless removed by the Leader or for any of the reasons set out in 6.03 (a)-(c) above.

**6.06 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules.

**6.07 Responsibility for Functions**

The leader will maintain a list setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

**6.08 Land & Property Acquisition Group**

This Group shall comprise the Leader of the Council, Deputy Leader of the Council, Cabinet Member for Finance & Governance, Cabinet Member for Regeneration & Planning, Executive Director, Place Services and the Executive Director, Corporate Services. This Group shall have delegated to it all relevant powers of the Council in order that it may carry out the aims and objectives of the Land & Property Acquisition Strategy. Further the Group shall operate in full accordance with the terms and safeguards set out in the approved Land & Property Acquisition Strategy.

## Article 7 - Overview and Scrutiny Commission

### 7.01 Terms of Reference

The Council will have one Overview and Scrutiny Commission, which will be responsible for all overview and scrutiny functions on behalf of the Council.

The Commission will appoint 3 sub-committees, referred to as overview and scrutiny committees, to fulfil such overview and scrutiny functions as may be delegated by the Commission. The Commission will consist of:

12 elected Members – comprising a chair, the chairs of the 3 overview and scrutiny Committees and 8 additional members to provide political balance on the Commission; 2 voting Church representatives;

The Overview and Scrutiny Committees will consist of 10 elected Members.

No member of the Cabinet shall be a member of the Overview and Scrutiny Commission or Committees. The Commission and Committee are appointed on the terms of reference, referred to in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution and outlined below:

<u>Commission</u>	<u>Scope</u>
Overview and Scrutiny Commission	Responsibility for: all overview and scrutiny functions and parent committee/ co-ordination role for the Committees; corporate/authority-wide issues; a major role in the budget formulation process and receiving financial monitoring reports.
<u>Committee</u>	<u>Scope</u>
Children and Young People's Services Scrutiny Committee	The provision, planning, management and performance of services for children and young people, including a call-in role for issues within the Committee's remit.
Adult Social Care and Health Scrutiny Committee	The provision, planning, management and performance of public health, social and health care, elderly persons and mental welfare services in St Helens, and the planning and operation of health services, including a call-in role for issues within the Committee's remit.

Place Scrutiny Committee	Borough-wide economic development, environment, regeneration, housing, culture, tourism, leisure, libraries, flood risk management, crime and disorder and community safety partnership issues, including a call-in role for issues within the Committee's remit.
--------------------------	---

## 7.02 **General Role**

To the extent authorised by the Commission and included within their terms of reference, the Overview and Scrutiny Committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

## 7.03 **Specific Functions**

(a) **Policy development and review.** To the extent authorised by the Commission and included within their terms of reference, the Overview and Scrutiny Committees may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;



- iv) question Members of the Cabinet and/or committees and Executive Directors about their views on issues and proposals affecting the area; and
  - v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** To the extent authorised by the Commission and included within their terms of reference, the Overview and Scrutiny Committees may:
- i) review and scrutinise the decisions made by and performance of the Cabinet and committees and Council officers both in relation to individual decisions and over time;
  - ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - iii) question Members of the Cabinet and committees and Executive Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - iv) make recommendations to the Cabinet and appropriate committee and/or Council arising from the outcome of the scrutiny process;
  - v) review and scrutinise the performance of other public bodies in the area and invite reports from them about their activities and performance; and
  - vi) question and gather evidence from any person (with their consent).

- (c) **Finance.** The Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** The Overview and Scrutiny Commission must report annually to full Council on its workings and that of its Committees, and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** The Overview and Scrutiny Commission may exercise overall responsibility for the work programme of the officers employed to support their work.

#### 7.04 **Proceedings of the Overview and Scrutiny Commission**

The Overview and Scrutiny Commission and its Committees will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules.

## **Article 8 - Regulatory and other Committees**

### **8.01 Regulatory and other Committees**

The Council will appoint the committees set out in the left-hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

### **8.02 Proceedings of Regulatory and Other Committees**

The Committees will conduct their proceedings in accordance with the relevant provisions of the Council Procedure Rules.

This page is intentionally left blank

## Article 9 - The Standards Committee

### 9.01 Standards Committee

The Council will establish a Standards Committee which shall meet on 2 occasions per municipal year and any other time necessary shall be set up on an ad hoc basis.

### 9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of 10 Councillors.
- (b) **Chairing the committee.** The Committee will appoint a Chair at the first meeting of each municipal year.

### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- (b) assisting the Councillors and co-opted members, and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted members, and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) determining appeals against the decision of the Monitoring Officer in relation to written requests for dispensations by Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

- (g) dealing with any reports from the Monitoring Officer on any matter, and in particular, determining whether a breach of the Code by any Member has taken place and determining what action, if any, to take in respect of that breach;
- (h) the exercise of (f) and (g) above in relation to the parish councils wholly within the Borough;
- (i) To consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority;
- (j) monitoring and reviewing as necessary the operation of whistleblowing procedures.

## Article 10 – Councillor Improvement Fund

- 10.01 The Council has a Councillor Improvement Fund, which enables Ward Councillors to put forward environmental schemes which they believe will enhance their ward environment.
- 10.02 The main principles upon which the Councillor Improvement Fund operates are as follows:
- (a) The Council will determine a budget to be allocated to the Councillor Improvement Fund and this will then be allocated to the eighteen wards in strict proportion to the number of residents in each ward, refreshed annually.
  - (b) Any individual Councillor may put forward a proposal for a scheme to be technically appraised. Once a scheme has been technically appraised and costed, any proposal for expenditure on the scheme must be sponsored by:
    - In three member wards, at least two of the three Ward Councillors;
    - In two member wards, both of the Ward Councillors;
    - In a single member ward, the proposal for expenditure will be subject to approval by the Director of Operations.
  - (c) If a costed scheme is sponsored by two Ward Councillors, it will be considered by the Service Director, the Chief Finance Officer and the Chief Legal Officer. If there are no objections on technical, financial or legal grounds, a decision on whether to approve the scheme will be taken by the Director of Operations in consultation with the Leader of the Council, in accordance with formal decision-making requirements.
  - (d) Any schemes proposed which have a residual budgetary impact on revenue costs for future maintenance must include those costs as part of the scheme.





## **Article 11 - Joint Arrangements**

### **11.01 Arrangements to Promote Well-being**

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

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

### **11.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not executive functions, in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a

member for a ward which is wholly or partly contained within the area.

In this case the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's scheme of delegations in Part 3 of this Constitution.

#### **11.03 Delegation to and from other Local Authorities**

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

#### **11.04 Contracting Out**

The Council, for functions which are not executive functions, and the Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

#### **11.05 Arrangements for Appointment of External Auditors**

At its meeting on 26th October 2016 Cabinet considered a report regarding the arrangements for the appointment of external auditors following the closure of the Audit Commission and the end of the transitional arrangements at the conclusion of the 2017/18 audits. Approval was provided for the Council to opt-in to a Sector Led

Body appointment and the Council have subsequently been notified by the Public Sector Audit Appointments (PSAA) body of the appointment of Grant Thornton (UK) LLP to audit the accounts of St. Helens Council for five years, for the for accounts from 2018/19 to 2022/23.

The appointment was made under regulation 13 of the Local Audit (Appointing Person) Regulations 2015, and was approved by the PSAA Board following earlier consultation with the Council.

This page is intentionally left blank

## Article 12 - Officers

### 12.01 Management Structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Statutory Officers.** Head of paid service, Monitoring Officer and Chief Finance Officer. The Council will designate the officers to hold these posts: Head of Paid Service, Monitoring Officer, Chief Finance Officer which will have the functions described in Article 12.02-12.04 below.
- (c) **Executive Directors.** The Council will designate the officers to hold these posts: Executive Director Corporate Services; Executive Director Place Services; Executive Director People (Adult Social Care, Children & Young People and Public Health).
- (d) **Structure.** The head of paid service will determine and publicise a description of the overall staff structure of the Council and amend it as necessary.

### 12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The head of paid service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The head of paid service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 12.03 Functions of the Monitoring Officer

The Monitoring Officer will:

- (a) maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public;

- (b) after consulting with the head of paid service and Chief Finance Officer, report to the full Council, or to the Cabinet in relation to an executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness, or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;
- (c) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee;
- (d) to filter complaints between those which do and do not require investigation;
- (e) conduct investigations into allegations of breaches of the Code of Conduct and make reports or recommendations in respect of them to the Standards Committee;
- (f) ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible;
- (g) advise whether decisions of the Cabinet are in accordance with the budget and policy framework;
- (h) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (i) deal with requests for dispensations from members to enable them to take part in a matter where the member has a disclosable pecuniary interest.

The Monitoring Officer cannot be the Chief Finance Officer or the head of paid service.

#### 12.04 **Functions of the Chief Finance Officer (Section 151 Officer)**

The Chief Finance Officer (Section 151 Officer) will:

- (a) after consulting with the head of paid service and the Monitoring Officer, report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully;
- (b) have responsibility for the administration of the financial affairs of the Council;
- (c) contribute to the corporate management of the Council, in particular through the provision of professional financial advice;
- (d) provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the Cabinet, and will support and advise Councillors and officers in their respective roles;
- (e) provide financial information to the media, members of the public and the community.

**12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer (Section 151 Officer)**

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

**12.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations.

**12.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules.

## 12.08 Conflicts of Interest

- (a) If, having regard to the particular circumstances, it appears that the Chief Executive has a clear and substantial conflict of interest, any reference to the Chief Executive in any guidance, protocol or procedure approved by the Council shall be substituted by references to the Monitoring Officer.
- (b) If, having regard to the particular circumstances, it appears that the Monitoring Officer has a clear and substantial conflict of interest, any reference to the Monitoring Officer in any guidance, protocol or procedure approved by the Council shall be substituted by references to the Chief Finance Officer.
- (c) If, having regard to the particular circumstances, it appears that the Chief Finance Officer has a clear and substantial conflict of interest, any reference to the Chief Finance Officer in any guidance, protocol or procedure approved by the Council shall be substituted by references to the Monitoring Officer.



## **Article 13 - Decision-Making**

### **13.01 Responsibility for Decision-Making**

The Council will issue and keep up-to-date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions.

### **13.02 Principles of Decision-Making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) Wednesbury reasonableness (ie. the decision must not be so unreasonable that no reasonable Council could have reached it, having taken into account all relevant considerations and having ignored irrelevant considerations).

### **13.03 Types of Decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions
  - (i) The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 state that a key decision means an executive decision which is likely -

a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

b) to be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority subject to any guidance issued by the Secretary of State in relation to the meaning of significant.

(ii) In the absence of such guidance, a key decision is

- any decision of the Cabinet incurring expenditure or making savings in excess of 10% of the relevant portfolio or £500,000, whichever is the smaller, unless

(i) the specific expenditure or saving has previously been agreed by full Council;

(ii) it is a decision taken in accordance with the Council's Treasury Management Policy;

or

- any decision of the Cabinet which, in the view of the Leader, will have a significant effect on a significant number of people living or working in two or more wards of the Authority.

For the avoidance of doubt, any decision approving proposals for the making or amendment of a plan or budget which requires the approval of full Council shall be treated as a key decision.

(iii) A decision-taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

**13.04 Decision-making by the Full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules when considering any matter.

**13.05 Decision-making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Executive Procedure Rules when considering any matter.

**13.06 Decision-making by Overview and Scrutiny Commission and Committees**

Overview and Scrutiny Commission and Committees will follow the Overview and Scrutiny Procedures Rules when considering any matter.

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

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedure Rules as apply to them.

**13.08 Decision-making by Council bodies acting as Tribunals**

The Council, a Committee, a Councillor or an officer acting as a tribunal or, in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

**13.09 Decision-making by Outside Bodies upon which the Council is represented**

Where an elected member is appointed by the Council to be its representative on an outside body or is on the outside body by virtue of his/her role on Council, the elected member concerned shall follow the decision-making principles set out in 13.02 and act only in the interests of the Borough of St

Helens in any contribution to the decisions made by the relevant outside body.

## **Article 14 - Finance, Contracts and Legal Matters**

### **14.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules.

### **14.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules.

### **14.03 Legal Proceedings**

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

### **14.04 Authentication of Documents**

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

Any contract with a value as specified in the Contracts Procedure Rules entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the

decision. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested either by the Monitoring Officer, Deputy Monitoring Officer, Head of Paid Service , the Mayor or an authorised signatory of the authority.

## Article 15 - Review and Revision of the Constitution

### 15.01 Duty to Monitor and Review the Constitution

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

#### **Protocol for Monitoring and Review of the Constitution by Monitoring Officer**

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

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders;
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice; and
5. take such other action as he/she considers appropriate.

### 15.02 Changes to the Constitution

- (a) **Approval.** Except insofar as the Council has delegated to the Monitoring Officer power to make minor amendments to the Constitution, changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer. Amendments will be submitted and considered by the annual

meeting of the Council unless otherwise required by the Monitoring Officer.

- (b) **Change from a leader and cabinet form of Executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.



## **Article 16 - Suspension, Interpretation and Publication of the Constitution**

### **16.01 Suspension of Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** Any suspension of any of the Rules must be in accordance with the Council's Procedural Rules.

### **16.02 Interpretation**

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

### **16.03 Publication**

- (a) The Chief Executive will make sure an electronic copy of this Constitution is available to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Town Hall and on the Council's website [www.sthelens.gov.uk](http://www.sthelens.gov.uk). Copies can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

This page is intentionally left blank

**Part 3**  
**Responsibility for Functions**

This page is intentionally left blank

## 1. **RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

### A. Local Choice Council Functions

The following are the functions that the Council has determined should be Council functions under Regulation 3(1) and Schedule 2 to the Regulations.

1. Any function under the County of Merseyside Act 1980 and other local Acts insofar as they relate to licensing, registration and regulatory functions. All other functions under these Acts shall be executive functions.
2. The determination of an appeal against any decision made by or on behalf of the Authority.
3. The making of arrangements pursuant to the relevant legislation in connection with review of permanent exclusions of pupils.
4. The making of arrangements pursuant to Section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (Admission Appeals).
5. The making of arrangements pursuant to Section 95(2) of, and Schedule 25 to, the 1998 Act (Children to whom Section 87 applies : Appeals by Governing Bodies).
6. The making of arrangements under Section 20 (Questions on Police Matters at Council Meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority.
7. The making of appointments under Paragraphs 2 to 4 (Appointment of Members by Relevant Councils) of Schedule 2 (Police Authorities established under Section 3) to the Police Act 1996.
8. Any function relating to contaminated land.
9. The discharge of any function relating to the control of pollution or the management of air quality.
10. The service of an Abatement Notice in respect of a Statutory Nuisance.
11. The passing of a Resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.
12. The inspection of the Authority's area to detect any statutory nuisances.
13. The investigation of any complaint as to the existence of a Statutory Nuisance.
14. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
15. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

16. The appointment of an individual:-
- (a) to any office other than an office in which he is employed by the Authority;
  - (b) to any body other than:-
    - (i) the Authority;
    - (ii) a Joint Committee of two or more Authorities; or
  - (c) to any Committee or Sub-Committee of such a body
- and the revocation of any such appointment.
17. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.
18. Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 above).
19. The functions of
- (a) imposing any condition, limitation or other restrictions on an approval, consent, licence, permission or registration granted in the exercise of a function specified in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (The Regulations);
  - (b) determining any other terms to which any such approval, consent, licence, permission or registration is subject;
  - (c) determining whether, and in what manner, to enforce any failure to comply with an approval, consent, licence, permission or registration granted in exercise of a function specified in The Regulations;
  - (d) determining whether, and in what manner, to enforce any failure to comply with a condition, limitation or other restrictions to which any such approval, consent, licence, permission or registration is granted;
  - (e) amending, modifying or varying any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject; or
  - (f) revoking any such approval, consent, licence or registration
- are to be the responsibility of the Council.

B. Local Choice Executive Functions

The following functions are functions which the Council has determined should be executive functions under Regulation 3(1) and Schedule 2 to the Regulations.

1. All functions under the County of Merseyside Act 1980 and other local Acts except those relating to licensing, registration and regulatory functions;
2. The appointment of any individual to an office outside the Council or to a Joint Committee in connection with the discharge of functions that are the responsibility of the Cabinet, either by virtue of these arrangements or as a matter of law;
3. The making of agreements for the execution of highway works. These agreements are not enforcement or quasi-judicial matters and are appropriate to be adopted as an executive function.
4. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, to the extent that it relates to the exercise of an executive function, e.g. compulsory purchase.

This page is intentionally left blank



## 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

### A. Terms of Reference and Delegated Functions of Council Committees

<b>Committee</b>	<b>Membership</b>	<b>Committee Functions</b>
Planning	<p>Composition: Elected Members 15</p> <p>Chairman: Cllr Hodkinson</p> <p>Membership:</p> <p><u>Elected Members</u> Councillor: Lab - 9 D Banks, J Banks, Bowden, Gomez-Aspron MBE, Hodkinson, Laird, Maloney MBE, McCauley and McCormack</p> <p>Councillor: Grn - 2 Hooton and Makin Councillor: LD - 1 Pearl Councillor: Inds - 1 Tasker Councillor: NIW - 1 Collier Councillor: Con - 1 Case</p>	<p>A. <u>Functions Delegated to Committee</u></p> <p>Functions relating to town and country planning and development control as specified in Regulation 2 and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended (The Functions Regulations), and such functions as set out in Schedule 2 of the Functions Regulations insofar as the Council has determined by the exercise of local choice that they ought to be Council functions.</p> <p>Functions relating to complaints under Part 8 of the Anti-Social Behaviour Act 2003, insofar as they are not delegated to officers.</p> <p>B. <u>Advisory Functions</u></p> <p>To advise the Cabinet on the formulation of the Council's Development Plan.</p>
Licensing and Environmental Protection	<p>Composition: Elected Members 15</p> <p>Chairman: Cllr D Banks</p> <p>Membership:</p> <p><u>Elected Members</u> Councillor: Lab - 9 D Banks, J Banks, Bell, Campbell, Hattersley, Laird, T Long, Maloney MBE and Uddin Councillor: Grn - 2 Hawley and Sheldon Councillor: LD - 1 Haw Councillor: Inds - 1 Tasker Councillor: NIW - 1 Maguire Councillor: Con - 1 Mussell</p>	<p><u>Functions Delegated to Committee</u></p> <p><u>Taxi, Entertainment, Gaming, Food and Miscellaneous Licensing</u></p> <p>Functions relating to licensing and registration as set out in Regulation 2 and Schedule 1 to the Functions Regulations, as amended (excluding the Highways Act functions in Part B numbered 47 to 55 inclusive) and such functions as set out in Schedule 2 of the Functions Regulations, insofar as the Council has determined by the exercise of local choice that they ought to be Council functions.</p>

Committee	Membership	Committee Functions
		<p><u>Environmental Protection</u></p> <p>Functions relating to environmental protection as set out in Regulation 2 and Schedule 1 to the Functions Regulations, as amended, and such functions as set out in Schedule 2 of the Functions Regulations, insofar as the Council has determined by the exercise of local choice that they ought to be Council functions.</p> <p><u>Health and Safety</u></p> <p>Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</p>
Licensing Sub-Committee	<p>Composition: Elected Members 3</p> <p>The Sub-Committee to be reconstituted each time it meets, with the Membership being drawn from the Licensing and Environmental Protection Committee</p> <p>Chairman: To be appointed by the Sub-Committee</p>	<p><u>Functions Delegated to Sub-Committee</u></p> <p>Matters under the Licensing Act 2003 as set out below:</p> <p>Application for personal licence if a police objection</p> <p>Application for personal licence with unspent convictions</p> <p>Application for premises licence/ club premises certificate if a relevant representation made</p> <p>Application for provisional statement if a relevant representation made</p> <p>Application to vary premises licence/club premises certificate if a relevant representation made</p> <p>Application to vary designated premises supervisor if a police objection</p> <p>Application for transfer of premises licence if a police objection</p> <p>Applications for interim authorities if a police objection</p> <p>Application to review premises licence/club premises certificate</p>

Committee	Membership	Committee Functions
		<p>Decision to object when local authority is a consultee and not the relevant authority considering the application</p> <p>Determination of an objection to a temporary event notice by a relevant person</p> <p>Application to determine classification of films</p> <p>Review of a personal licence where the licence holder has been convicted of a relevant offence or required to pay an immigration penalty.</p>
Appointments	<p>Composition: Elected Members 10</p> <p>Chairman: To be appointed by the Committee</p> <p>Membership:</p> <p><u>Elected Members</u></p> <p>Councillor: Lab - 7 Baines, Bond, Charlton, Gomez-Aspron MBE, McCauley, Maloney MBE and Quinn</p> <p>Councillor: Grn - 2 Makin and van der Burg</p> <p>Councillor: LD - 1 Sims</p>	<p><u>Functions Delegated to Committee</u></p> <ol style="list-style-type: none"> <li>1. To authorise the filling of the posts of Head of the Paid Service and Chief Officers, as defined in Paragraph 4.2 of the Officer Employment Procedure Rules.</li> <li>2. To shortlist candidates for the posts of Chief Executive and Chief Officers, as defined in Paragraph 4.2 of the Officer Employment Procedure Rules.</li> <li>3. To recommend to full Council the appointment of the Head of the Paid Service.</li> <li>4. To make appointments to all Chief Officer posts, as defined in Paragraph 4.2 of the Officer Employment Procedure Rules, plus statutory officer Posts.</li> <li>5. To approve the remuneration which is to be offered in respect of new appointments to posts where the salary is £100,000 or above.</li> </ol>

Committee	Membership	Committee Functions
Investigation and Disciplinary Committee (IDC)	<p>Composition: Elected Members 5</p> <p>Membership:</p> <p><u>Elected Members</u> Councillor: Lab - 4 Bond, Dickinson, Laird and McCormack</p> <p>Councillor: Grn - 1 van der Burg</p> <p>The Committee must be politically balanced, shall consist of 5 Members of the Council of which and at least 1 member of the Committee must be a member of the Cabinet.</p> <p>Members of the Committee must have completed mandatory training.</p> <p>A quorum for the meeting shall be 3 Members.</p> <p><b>NB</b> If the IDC hears a matter which may result in the dismissal of a Designated Statutory Officer then the Independent Persons Panel must be convened.</p> <p><b>NB</b> There is a right of appeal for action short of dismissal to the Disciplinary Appeals Committee.</p>	<p>Investigation and Disciplinary Committee (“IDC”) terms of reference.</p> <ol style="list-style-type: none"> <li>1. To consider &amp; determine whether the Designated Statutory Officer (defined as the Head of Paid Service, Monitoring Officer &amp; Chief Finance Officer (Section 151) should be suspended either immediately, or following a preliminary investigation into their conduct, and to formally review any suspension after it has been in place for two months in consultation with the Independent Investigator and after taking into account any representations of the Officer.</li> <li>2. To review as soon as practicable any decision to temporarily suspend the Designated Statutory Officer where a decision has been made to suspend them at very short notice &amp; before the IDC could meet.</li> <li>3. To consider and determine any disciplinary action in relation to a Designated Statutory Officer in accordance with the Local Authorities (Standing Orders) Regulations 2001 (as amended) and the JNC Model Disciplinary Procedure, including the appointment of an Independent Investigator and consideration of their report and recommendations.</li> <li>4. To make recommendations to Council regarding the dismissal of the Designated Statutory Officer for capability, conduct or some other substantial reason.</li> <li>5. To consider whether any objection by a member of Cabinet to the dismissal of the Designated Statutory Officer is material or well founded and to take action accordingly.</li> </ol>
Disciplinary Appeals Committee	<p>Composition: Elected Members 5</p> <p>Membership:</p> <p><u>Elected Members</u> Councillor: Lab - 3 Maloney MBE,</p>	<ol style="list-style-type: none"> <li>1. To act as the final internal appeal body to hear and determine appeals from any decision of the Investigation &amp; Disciplinary Committee in respect of action</li> </ol>

Committee	Membership	Committee Functions
	<p>Murphy MBE and Sweeney Councillor: Grn - 1 Hooton</p> <p>Councillor: LD - 1 Sims</p> <p>The Committee must be politically balanced and at least 1 member of the Committee must be a member of the Cabinet. Members of the Committee must have completed mandatory training.</p> <p>A quorum for the meeting shall be 3 Members.</p> <p><b>NB</b> In the interests of natural justice members who sat on the relevant IDC must not sit on the Disciplinary Appeals Committee.</p>	<p>short of dismissal in relation to the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151).</p>
Independent Persons Panel (IPP)	<p>Minimum of 2 To be appointed as and when required and to comprise the Council's current Independent Person/s (appointed to the Standards Committee under the Localism Act 2011) or if necessary, such Independent Persons appointed by another authority and nominated by the Council for this purpose.</p>	<p>Functions Delegated to Committee</p> <p>1 To provide independent advice, views and recommendations to full Council in relation to any proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151) on the grounds of conduct, capability or some other substantial reason.</p>
Personnel Appeals	<p>Composition: Elected Members 3</p> <p>The Committee to be reconstituted each time it meets, with the Membership being drawn from the following pool of Members:</p> <p>Membership: <u>Elected Members</u> Councillor: Lab - 2 From a pool of Labour Group Members</p> <p>Councillor: Grn - 1 van der Burg</p> <p>Chairman: To be appointed by the Committee</p>	<p>Functions Delegated to Committee</p> <p>1. To hear and adjudicate on appeals arising from the operation of the Council's employment procedures.</p> <p>2. To determine non-collective grievance cases.</p>
Sarah Cowley	<p>Composition: Elected Members 10</p> <p>Chairman: to be appointed by the Committee</p> <p>Membership: <u>Elected Members</u> Councillors: Lab - 6 J Banks, Clarke, Dickinson, Hodkinson,</p>	<p>Functions Delegated to Committee</p> <p>To determine applications for payments from the Sarah Cowley Trust Fund, in accordance with the terms of the Sarah Cowley Trust Deed.</p>

Committee	Membership	Committee Functions
	<p>McQuade and O'Connor</p> <p>Councillor: Grn - 1 Hawley Councillor: LD - 1 Haw</p> <p>Councillor: Inds - 1 Greaves</p> <p>Councillor: NIW - 1 Collier</p>	
Standards	<p>Composition: Elected Members 10</p> <p>Chairman:</p> <p>Membership:</p> <p><u>Elected Members</u> Councillor: Lab - 6 Bond, Bowden, Johnson, Maloney MBE, Murphy MBE and McCormack</p> <p>Councillor: Grn - 1 Hawley</p> <p>Councillor: LD - 1 Pearl</p> <p>Councillor: Inds - 1 Stevenson</p> <p>Councillor: NIW - 1 Collier</p>	<ol style="list-style-type: none"> <li>1. Promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;</li> <li>2. Assisting the Councillors and co-opted members, and church and parent governor representatives to observe the Members' Code of Conduct.</li> <li>3. Advising the Council on the adoption or revision of the Members' Code of Conduct.</li> <li>4. Monitoring the operation of the Members' Code of Conduct.</li> <li>5. Advising, training or arranging to train Councillors and co-opted members, and church and parent governor representatives on matters relating to the Members' Code of Conduct.</li> <li>6. Determining appeals from decisions of the Monitoring Officer for dispensations by Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct.</li> <li>7. Dealing with any reports from the Monitoring Officer on any matter and, in particular, determining whether a breach of the Code by any Member has taken place and determining what action, if any, to take in respect of that breach.</li> <li>8. The exercise of (6) and (7) above in relation to members of the parish councils wholly within the Borough.</li> </ol>

Committee	Membership	Committee Functions
		<p>9. To consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Authority.</p> <p>10. monitoring and reviewing as necessary the operation of whistleblowing procedures.</p>
Independent Persons Panel (IPP)	<p>Minimum of 2 To be appointed as and when required and to comprise the Council's current Independent Person/s (appointed to the Standards Committee under the Localism Act 2011) or if necessary, such Independent Persons appointed by another authority and nominated by the Council for this purpose.</p>	<p>1 To provide independent advice, views and recommendations to full Council in relation to any proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151) on the grounds of conduct, capability or some other substantial reason.</p>
Audit and Governance Committee	<p>Composition: Elected Members 10 Independent Person</p> <p>Chairman: Cllr Clarke</p> <p>Membership:</p> <p>Councillor: Lab - 7 Clarke, D Long, McCormack, McQuade, Murphy MBE, O'Connor and Osundeko</p> <p>Councillor: Grn - 1 van der Burg</p> <p>Councillor: LD - 1 Spencer</p> <p>Councillor: Inds - 1 Stevenson</p>	<p>Terms of reference in full attached at Appendix 5 at the end of the Constitution.</p>
People's Board	<p>Leader of the Council, St Helens Council* - Chair of this Board Chair of the St Helens Placed Based Partnership – Deputy Chair of this Board Deputy Chair of St. Helens &amp; Knowsley Hospital Trust* Portfolio Holder for Integrated Health &amp; Care, St Helens Council* Portfolio Holder for Children and Young People, St Helens Council* Portfolio Holder Wellbeing, Culture</p>	<p>1. To assess the needs of the St Helens population and lead development of the Joint Strategic Needs Assessment and Community Safety Needs Assessment.</p> <p>2. To work together with the Cheshire and Merseyside Integrated Care Partnership, the Provider Collaborative and the St Helens St Helens place-</p>

Committee	Membership	Committee Functions
	<p>and Heritage, St Helens Council*  Portfolio Holder Safer Communities, St Helens Council*  Portfolio Holder Inclusive Economy, Business and Skills, St Helens Council*  Opposition Member, St Helens Council*  Chief Executive, St Helens Council*  NHS Place Director &amp; Executive Director People* (Adult Social Care, Children &amp; Young People and Public Health) Executive Director of Place Services, St Helens Council*  Director of Public Health, St Helens Council*  Director of Children and Young People Services, St Helens Council*  Director of Adult Social Services, St Helens Council*  Director of Communities, St Helens Council*  Clinical Deputy Chair NHS St Helens CCG *  Chief Executive Halton and St Helens Voluntary and Community Action  Chair – Healthwatch*  NHS England Local Area Team representative NHS England  Chief Superintendent Merseyside Police*</p> <p>Deputy Chief Fire Officer Merseyside Fire and Rescue Service*  Managing Director Torus  Chief Executive St Helens and Knowsley Hospitals NHS  Chief Operating Officer, Merseycare  Chair of the St Helens Integrated Care Partnership Board  Chief Executive Officer of the Wirral Community NHS Foundation Trust  Clinical Lead Primary Care Representative Voluntary Sector Provider  Chair of the Inequalities Commission  Partnership Manager, St Helens Job Centre (DWP)  Chief Executive St Helens Chamber</p> <p>* = Organisations that are statutory duties of Community</p>	<p>based partnership to promote collaboration integration and partnership across the local public sector, including the production of a St Helens People's Plan and Community Safety Strategy.</p> <ol style="list-style-type: none"> <li>3. To hold partners to account on tackling inequalities through the Inequalities Commission</li> <li>4. To support strategic planning and joint commissioning and provision of services across health, wellbeing, social care and community safety (including Prevent and Channel which are part of the Government's CONTEST counter-terrorism strategy).</li> <li>5. To contribute to developments in wider partnership arrangements in St Helens with a focus on the Borough's strategic priorities.</li> <li>6. To assess and manage threats to health, with the Health Protection Board.</li> <li>7. To receive reports and monitor performance with regard to the St Helens Borough Active Lives Strategy.</li> </ol>



<b>Committee</b>	<b>Membership</b>	<b>Committee Functions</b>
	Safety Partnerships or statutory members of the People's Board.	
STAR Procurement	Cabinet Member – Corporate Services Substitute – Cabinet Member - Economy, Business and Skills	
Yorkshire Purchasing Organisation (YPO)	Cabinet Member – Corporate Services Substitute – Cabinet Member - Economy, Business and Skills	

Link to all Terms of Reference:

<https://sthelensintranet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13210&path=0>

## B. Council Functions Delegated to Officers

### Introduction

1. This Scheme delegates to the Chief Executive and Executive Directors all the powers and duties of the Council necessary for the discharge of the specific functions set out below.
2. Officers may only exercise delegated powers in accordance with:
  - (a) the budget approved by the Council;
  - (b) the Contract Procedure Rules, Land and Property Disposal Procedure Rules and Financial Procedure Rules of the Council; and
  - (c) any statutory restrictions, statutory guidance or statutory Code of Practice.
3. This Scheme includes the power for officers further to delegate any function which has been delegated by them under this Scheme to another officer or to other officers. Every such sub-delegation shall be in writing, setting out the terms and conditions upon which that function is to be performed and accountability for the performance of the sub-delegated function. The officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Chief Executive.

### A. Chief Executive

1. To exercise the delegations of any Executive Director in her/his absence.
2. To maintain the list of politically restricted posts required by Section 2(2) of the Local Government and Housing Act 1989 and to deal with applications for a certificate of opinion under Section 3(3) of that Act.
3. To appoint, discipline and dismiss staff and to determine the terms and conditions on which they hold office.
4. To authorise the filling of all Executive Director posts as defined in the Officer Employment Procedure Rules.

5. To shortlist candidates for the posts of all Executive Director as defined in the Officer Employment Procedure Rules.
6. To make agreements with other local authorities for the placing of staff at the disposal of those other authorities.
7. To make payments or provide other benefits in cases of maladministration.
8. To authorise the use of the Council's crest in appropriate circumstances.
9. To hold the responsibilities of the Council's Returning Officer for the election of Councillors and Parish Councillors within the Borough, and the conduct of other elections and referenda under relevant legislation.
10. To hold the responsibilities of the Electoral Registration Officer for any constituency or part of a constituency in the Borough of St Helens.
11. To appoint Deputy Electoral Registration Officers.

**B. Executive Director of Corporate Services**

General

1. To appoint, discipline and dismiss staff and to determine the terms and conditions on which they hold office.
2. To appoint 10 members to constitute an Appointments Committee in accordance with the wishes of the political groups. The 10 members to be drawn as far as is possible from the Panel of members appointed by the Council.
3. To appoint 3 members to constitute a Personnel Appeals Committee in accordance with the wishes of the political groups. The 3 members to be drawn as far as is possible from the Panel of members appointed by the Council.
4. To make arrangements for Admissions Appeals and Appeals by Governing Bodies pursuant to Sections 94(1) and (4) and 95(2) respectively of the School Standards and Framework Act 1998.
5. To make arrangements for Reviews of Permanent Exclusion of Pupils pursuant to Regulation 7 of the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012.
6. To approve and include, for the purposes of 4 and 5 above, suitable applicants on the Council's List of Education Appeal Panel Members and the List of Review Panel Members.
7. To appoint Education Appeal Panels, for the purposes of 4 above, from the Council's List of Education Appeal Panel Members.
8. To appoint Review Panels, for the purposes of 5 above, from the Council's List of Review Panel Members

9. To deal with any request for permanent changes to the membership of Council Committees by Political Groups in accordance with their allocation of Committee places.
10. To make arrangements under Section 20 of the Police Act 1996 to enable questions to be put at Council meetings on the discharge of the functions of a Police Authority.
11. To serve the following notices:
  - (a) Planning Contravention Notice S.171 C & D Town and Country Planning Act 1990
  - (b) Requisition for Information S.330 Town and Country Planning Act 1990
  - (c) Requisition for Information S.16 Local Government (Miscellaneous Provisions) Act 1976
12. To authorise members of staff to represent the Council in Magistrates' Court, County Court and Tribunal proceedings in cases where it is appropriate to do so.
13. To award contracts with an aggregate value up to £50,000

#### Elections

To determine fees and conditions for the supply of copies of, or extracts from, election documents.

### **C. Director of Finance/Section 151 Officer**

#### Finance

1. To authorise, on behalf of the Council, the entry into binding financial agreements which will commit the Council to meet the terms and conditions of grants to local authorities, under Section 31 of the Local Government Act 2003, and also to repay the grants if they are not met;
2. In consultation with the Cabinet Member, Corporate Services:
  - i. To approve the Council Tax Bases for the Council and its parishes;
  - ii. To make detailed calculations and agree the submission of the NNDR1 form in accordance with government deadlines.

### **D. NHS Place Director & Executive Director People (Adult Social Care, Children & Young People and Public Health)**

1. To appoint, discipline and dismiss staff and to determine the terms and conditions on which they hold office.

2. To ensure that the functions of the Director of Adult Social Services are carried out in accordance with relevant statutory guidance.
3. To ensure that functions of the Director of Public Health are carried out in accordance with relevant statutory guidance.
4. To ensure that the functions of the Director of Children's Services are carried out in accordance with relevant statutory guidance.
5. To award contracts with an aggregate value up to £50,000
6. To award a contract without competition where:
  - i) A placement is sought for an individual with a registered care provider of their choice;
  - ii) The particular needs of an individual require a particular social care package.

**E. Director of Children & Young People Services**

1. To appoint, discipline and dismiss staff and to determine the terms and conditions on which they hold office.
2. To license the employment of children.
3. To have responsibility for the Council's Children's Services function, including education, in accordance with relevant statutory guidance.
4. To award contracts with an aggregate value up to £50,000
5. To award a contract without competition where: A placement is sought for an individual with a registered care provider of their choice; The particular needs of an individual (either adult or child) require a particular social care package or SEN.

**F. Executive Director of Place Services**

General

1. To appoint, discipline and dismiss staff and to determine the terms and conditions on which they hold office.
2. To authorise officers to enforce the provisions of the relevant statutory enactments in relation to the functions of the Place Services Department.
3. To award contracts with an aggregate value up to £50,000

Housing & Community Safety

To have responsibility for the delivery of relevant Council housing, community safety services and associated services in accordance with relevant legislation and statutory guidance including the statutory responsibility for CONTEST Prevent and Channel under the Counter Terrorism and Security Act 2015.

Licensing – Environmental Health

To make determinations (including grant, grant with conditions, refuse, revoke or suspend) in respect of licences, permits, registrations, authorisations and approvals

dealt with under the provisions of the relevant statutory enactments in relation to the following matters:-

1. The licensing of the use of land as a caravan site.
2. The licensing of the use of moveable dwellings and camping sites.
3. The maintenance of a list of persons entitled to sell non-medicinal poisons.
4. The registration and licensing of premises for the preparation of food.
5. The authorisation of the operation of a loudspeaker.
6. The licensing of agencies for the supply of nurses.
7. The licensing of the movement of pigs.
8. The licensing of the sale of pigs.
9. The licensing of collecting centres for the movement of pigs.
10. The licensing of the movement of cattle from a market.
11. The authorisation of use of parts of buildings for storage of celluloid.
12. Meat product premises.
13. Premises for the production of minced meat or meat preparations.
14. Dairy establishments.
15. Egg product establishments.
16. The licensing of retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
17. Fish products premises.
18. Dispatch or purification centres.
19. The registration of auction and wholesale markets.
20. Maintaining a register of food business premises.
21. The registration of food business premises.
22. The appointment of inspectors under Part 1 of the Health and Safety at Work Act 1974.
23. Licensing of premises for acupuncture, tattooing, ear-piercing and electrolysis.
24. Licensing of premises for the breeding of dogs.

25. Licensing of pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
26. Registration of animal trainers and exhibitors.
27. Licensing of zoos.
28. Licensing of dangerous wild animals.
29. Licensing of knackers yards.
30. To determine applications for licences for temporary markets.
31. To issue, cancel, amend or replace safety certificates for sports grounds and/or regulated stands at sports grounds.

#### Licensing – Taxi, Private Hire, Gambling, Entertainment, Miscellaneous

##### Licensing

Subject to the policy requirements of the Council with regard to the reference of an individual case to the Licensing and Environmental Protection Committee for determination, to make determinations (including to grant, grant with conditions, refuse, revoke or suspend) in respect of licences, permits, registrations, authorisations and approvals dealt with under the provisions of the relevant statutory enactments in relation to the following matters:-

1. Licensing of hackney carriages and private hire vehicles.
2. Licensing of drivers of hackney carriages and private hire vehicles.
3. Licensing of operators of hackney carriages and private hire vehicles.
4. Registration of pool promoters.
5. Licensing for track betting.
6. Licensing for inter-track betting schemes.
7. Permits in respect of premises with amusement machines.
8. Registration of societies wishing to promote lotteries.
9. Permits in respect of premises where amusements with prizes are provided.
10. Cinema and cinema club licences.
11. Theatre licences.
12. Entertainments licences.
13. Licensing of sex shops and sex cinemas.
14. Licensing of performances of hypnotism.

15. Licensing of pleasure boats and pleasure vessels.
16. Licensing of night cafés and take away food shops.
17. Licensing of dealers in game and the killing and selling of game.
18. Licensing of scrapyards.
19. Licensing of premises for the solemnization of marriages and civil partnerships.
20. Registration of land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:-
  - (a) an exchange of lands effected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981; or
  - (b) an order under Section 147 of the Inclosure Act 1845.
21. Registration of variation of rights of common
22. Licensing of persons to collect for charitable and other causes.
23. Licensing of motor salvage operators.
24. Application for personal licence if no objection made.
25. Application for premises licence/club premises certificate if no relevant representation made.
26. Application for provisional statement if no relevant representation made.
27. Application to vary premises licence/club premises certificate if no relevant representation made
28. Application to vary designated premises supervisor if no police objection.
29. Request to be removed as designated premises supervisor.
30. Application for transfer of premises licence if no police objection.
31. Applications for interim authorities if no police objection.
32. Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.
33. Suspension of Premises Licences and Club Premises Certificates for non-payment of annual fees.

#### Highways

1. To create footpath or bridleway by agreement.
2. To create footpaths and bridleways.

3. To keep register of information with respect to maps, statements and declarations.
4. To stop up footpaths and bridleways.
5. To determine an application for a public path extinguishment order.
6. To make a rail crossing extinguishment order.
7. To make a special extinguishment order.
8. To divert footpaths and bridleways.
9. To make a public path diversion order.
10. To make a rail crossing diversion order.
11. To make a special diversion order.
12. To require an applicant for order to enter into agreement under Section 119C(3) of the Highways Act 1980.
13. To make an SSSI diversion order.
14. To keep a register with respect to applications under Sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.
15. To decline to determine certain applications under Section 121C of the Highways Act 1980.
16. To assert and protect the rights of the public to use and enjoyment of highways.
17. To serve notice of proposed action in relation to obstruction.
18. To apply for a variation of order under Section 130B of the Highways Act 1980.
19. To authorise a temporary disturbance of surface of footpath or bridleway.
20. Temporarily to divert a footpath or bridleway.
21. The making good of damage and the removal of obstructions.
22. The removal of things so deposited on highways as to be a nuisance.
23. To extinguish certain public rights of way.
24. To keep a definitive map and statement under review.
25. To include modifications in other orders.
26. To keep a register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981.
27. To reclassify roads used as public paths.



28. To prepare a map and statement by way of consolidation of a definitive map and statement.
29. To designate footpath as cycle track.
30. To enter into agreements with respect to means of access pursuant to Section 35 of the Countryside and Rights of Way Act 2000.
31. To provide access in absence of agreement pursuant to Section 37 of the Countryside and Rights of Way Act 2000.
32. To grant a street works licence.
33. To permit the deposit of a builder's skip on highway.
34. To license planting, retention and maintenance of trees, etc. in part of highway.
35. To authorise the erection of stiles, etc. on footpaths or bridleways.
36. To license works in relation to buildings, etc. which obstruct the highway.
37. To consent to temporary deposits or excavations in streets.
38. To dispense with obligation to erect hoarding or fence.
39. To restrict the placing of rails, beams, etc. over highways.
40. To consent to construction of cellars, etc. under street.
41. To consent to the making of openings into cellars, etc. under streets, and pavement lights and ventilators.
42. To license street trading.

#### Environmental Protection

1. To issue Abatement Notices to prohibit or restrict the occurrence or reoccurrence of statutory nuisances under Section 80 of the Environmental Protection Act 1980.
2. To carry out the functions of Part 1 of the Environmental Protection Act 1990 including the issue of authorisations.
3. To issue Enforcement Notices or Prohibition Notices under Sections 13 and 14 of the Environmental Protection Act 1990 for prescribed industrial premises.
4. To issue street litter control notices under Section 93 of the Environmental Protection Act 1990.
5. To enforce offences committed under the provisions of Part 1 of the Health Act 2006 as from 1 July 2007.

6. To deal with any functions relating to contaminated land under Part IIA of the Environmental Protection Act 1990.
7. To discharge any function relating to the control of pollution or the management of air quality.

### Planning

1. To determine all applications for planning permission, listed building consent, conservation area consent, tree works consent, advertisement consent, prior notifications, lawful development certificates, variation/discharge of Section 106 agreements and all other matters submitted for the determination, formal approval or comment of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.
2. To decline to accept applications for development for which there has been an appeal dismissed within the preceding two years.
3. To decline to accept applications for development for which there has been a refusal where, in the view of the Council's Head of Planning, there has been no material change in circumstances.
4. To decline to determine retrospective applications where an existing enforcement notice exists.
5. To instruct the Council's Chief Legal Officer to issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices, Discontinuation Notices, Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act and, where appropriate, take direct action in the event of non-compliance with any notice.
6. To grant planning permission in those cases where a matter is referred to the Secretary of State for him to decide whether or not he wants to call it in, and he decides not to do so, and the Planning Committee have been minded to grant planning permission.
7. To exercise the powers of Council relating to the protection of important hedgerows under the Hedgerows Regulations 1997.
8. To exercise the powers of Council relating to the preservation of trees.
9. To determine all complaints made under Part 8 of the Anti-Social Behaviour Act 2003, for "high hedges".
10. To make the formal determination of received complaints under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges other than where such a complaint relates to a hedge on Council-owned land or where there are considered to be wider neighbourhood issues and the matter is locally sensitive, in which case the matter be referred to the Planning Committee.
11. To issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices and Discontinuance Notices, and Breach of Condition Notices under Section 187a of the Town and Country Planning Act (as amended).

### Exceptions

- (a) Applications which are contrary to the provisions of the Council's Unitary Development Plan/Local Development Framework and which are recommended for approval.
- (b) Applications which are contrary to the Council's policies, standards and guidance and which are recommended for approval.
- (c) Applications which raise issues which are not covered by specific Council policies, standards or guidelines.
- (d) Applications which are potentially controversial or likely to be of significant public interest in the opinion of the Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning.
- (e) Applications which would have a significant impact on the environment, in the opinion of the Chief Planning Officer.
- (f) Applications (except for Prior Notifications for Telecommunications Development and Lawful Development Certificates) on which six or more independent material planning objections have been received which cannot be resolved by negotiation or through this imposition of conditions.
- (g) Applications which have been submitted by or on behalf of an Elected Member of the Authority (or their spouse/partner), by or on behalf of a Chief Officer of St Helens Council (or their spouse/partner), or by or on behalf of an employee within Development Services Section of St Helens Council (or their spouse/partner).
- (h) Applications submitted by, or on behalf of, the Council, irrespective of the number of objections.
- (i) Applications which the Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning considers should be presented to Committee for decision.
- (j) Variation of Section 106 agreements and planning conditions relating to applications that were originally granted by the Planning Committee

### Provisos

- (a) In the case of formal applications, they are not determined until at least 12 days have elapsed since they appeared on the weekly list.
- (b) All representations are to be carefully considered and all proposals are to be dealt with in accordance with statutory requirements and having regard to the Council's relevant policies and guidelines.
- (c) All matters dealt with by the exercise of delegated powers are supported by file notes referring to all material considerations, comments and objections received and clearly stating the reason for the decision.

- (d) All applications determined under delegated powers are reported for the information of Members by way of regular reports on the Planning Committee agenda.
- (e) In some circumstances less than six objections may be significant. In such cases the application will be referred to the Planning Committee.

#### URGENT MATTERS

Where urgent Council matters arise which are not covered by a specific delegation to an officer, and time does not allow for the calling of Council or the appropriate Council Committee, there shall be delegated to the Chief Executive/Executive Director, whose responsibilities relate to the matter, all the powers of the Council to deal therewith, provided that:-

1. Where the matter falls within the remit of a Committee, the power is exercised in consultation with the Chairman of that Committee; or
2. Where the matter does not so fall, the power is exercised by the Chief Executive in consultation with the leaders of the political groups on the Council;
3. No decision is made which is contrary to a resolution of the Council or involves expenditure which cannot be contained within an existing budget;
4. All decisions shall be recorded on the Urgent Council Decisions System and be reported to the relevant committee or Council as appropriate as soon as possible after they are taken.

### Part 3 of the Constitution – Responsibility for Functions

#### 3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

In accordance with the provisions of Article 6, the Cabinet Leader has appointed 9 Councillors to be members of the Cabinet.

The names of all members of the Cabinet, together with the portfolio of functions for which they are responsible, are as follows:

Portfolio	Name	Areas of Oversight	Council priority
Council Leader (Cabinet Chair)	Cllr D Baines (Leader)	<ul style="list-style-type: none"> <li>• Overall Council Strategy, Policy Determination and Budget Strategy</li> <li>• City Region</li> <li>• Communications &amp; Media</li> </ul>	
Strategic Transport	Cllr S Gomez- Aspron (Deputy Leader)	<ul style="list-style-type: none"> <li>• Transport Planning</li> <li>• Transport Policy</li> <li>• Transport Strategy</li> <li>• Highways Delivery</li> <li>• Engineering Services</li> <li>• Localities</li> </ul>	<u>Priority 5</u>  Create a green, thriving and vibrant place to be proud of
Children & Young People	Cllr N Charlton (Statutory Lead)	<ul style="list-style-type: none"> <li>• Children's Social Care</li> <li>• Children's Safeguarding</li> <li>• Vulnerable Pupils</li> <li>• Youth Justice</li> <li>• Nurseries &amp; Schools</li> <li>• Post 16 Education</li> </ul>	<u>Priority 1</u> Ensure children and young people have a positive start in life
Integrated Health & Care	Cllr M Quinn	<ul style="list-style-type: none"> <li>• Adult Social Care</li> <li>• H&amp;SC Integration</li> </ul>	<u>Priority 2</u> Promote good health, independence and care across our communities
Economy, Business and Skills	Cllr K Groucutt	<ul style="list-style-type: none"> <li>• Post 16 Education (adult)</li> <li>• Employment &amp; Skills</li> <li>• Business engagement and support</li> <li>• Night-time economy</li> <li>• Regulatory Services</li> <li>• Inclusive Growth</li> </ul>	<u>Priority 1</u> Ensure children and young people have a positive start in life  <u>Priority 3</u> Create safe and strong communities for our residents  <u>Priority 4</u> Support a strong, diverse and well-connected local

			economy
Wellbeing, Culture and Heritage	Cllr A Burns	<ul style="list-style-type: none"> <li>• Recreation</li> <li>• Libraries</li> <li>• Arts, Culture &amp; Heritage</li> <li>• Public Health</li> <li>• Voluntary sector</li> </ul>	<p><u>Priority 2</u> Promote good health, independence and care across our communities</p> <p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 5</u> Create a green, thriving and vibrant place to be proud of</p>
Regeneration and Planning	Cllr R McCauley	<ul style="list-style-type: none"> <li>• Planning</li> <li>• Local Plan</li> <li>• Town Centre Developments</li> <li>• Town Deal Board</li> <li>• Regeneration</li> <li>• Assets &amp; Buildings</li> <li>• Housing</li> </ul>	<p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 4</u> Support a strong, diverse and well-connected local economy</p> <p><u>Priority 5</u> Create a green, thriving and vibrant place to be proud of</p>
Environmental Services and Climate Change	Cllr A Bowden	<ul style="list-style-type: none"> <li>• Climate Change</li> <li>• Recycling &amp; Waste</li> <li>• Traded Services</li> <li>• Parks &amp; Open Spaces</li> <li>• Enforcement of Waste and Fly-tipping</li> </ul>	<p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 4</u> Support a strong, diverse and well-connected local</p>

			economy  <u>Priority 5</u> Create a green, thriving and vibrant place to be proud of
Corporate Services	Cllr M Bond	<ul style="list-style-type: none"> <li>• Finance</li> <li>• Revenue &amp; Benefits</li> <li>• Legal &amp; Democratic</li> <li>• HR</li> <li>• Performance &amp; Policy</li> <li>• IT &amp; Digital</li> <li>• OD</li> <li>• Commercialisation</li> <li>• Customer Services</li> </ul>	<u>Priority 6</u> Be a modern, efficient, and effective council
Safer Communities	Cllr M Uddin	<ul style="list-style-type: none"> <li>• Community Safety (including CONTEST Prevent and Channel)</li> <li>• Crime Prevention</li> </ul>	<u>Priority 3</u> Create safe and strong communities for our residents

The Cabinet Leader has not, yet, delegated any powers to the individual Cabinet Councillors, but he has delegated powers to Executive Directors as set out in the Executive Scheme of Delegation below.

To the extent that an executive function is not delegated to a Executive Director, it shall be the responsibility of the full Cabinet.

## **EXECUTIVE SCHEME OF DELEGATION**

### **1. INTRODUCTION**

1.1 This Scheme delegates to the Chief Executive and Executive Leadership Team all the powers and duties of the Council necessary for the discharge of the Council's executive functions carried out within his/her directorate/department.

1.2 For the purposes of this Scheme:

- (a) "The Cabinet Leader" shall be taken to mean the leader of the Council as elected by the Council.
- (b) "Cabinet Councillor" shall be taken to mean a Councillor appointed as such by the Cabinet Leader.

- (c) “Portfolio” shall be taken to mean an area of Council activity allocated by the Cabinet Leader to a Cabinet Councillor.
- (d) “Proper Officer” shall be taken to mean the officer appointed by the Council for the purpose of this Scheme or in default of such appointment, or in the absence of the appropriate Executive Director, the Chief Executive of the Council.
- (e) “Executive Leadership Team”, means the Chief Executive; Executive Director Corporate Services; Executive Director Place Services; and Executive Director People (Adult Social Care, Children & Young People and Public Health)
- (f) “Statutory Officer”, for the purposes of this Scheme, means
  - (i) the Monitoring Officer in respect of any proposal, decision or omission which has given rise, or is likely to give rise, to a breach of law or of any statutory code of practice or maladministration;
  - (ii) the Chief Finance Officer in respect of the proper administration of the Council’s financial affairs.
- (g) “Head of Profession” means
  - (i) Head of People Management in respect of all personnel and human resources issues;
  - (ii) Executive Director Corporate Services in respect of all health and safety issues;
  - (iii) Executive Director Corporate Services in respect of all contracting and procurement issues relating to goods and services;
  - (iv) Assistant Director - Property & Economy in respect of all land and property issues.

## **2. OVERALL LIMITATIONS**

### 2.1 This Scheme does not delegate to Officers:

- (a) any matter reserved by law or by the Constitution to the Council, or to a Committee or Sub-Committee of the Council;
- (b) any matter which by law may not be delegated to an Officer;
- (c) any key decision as defined by Article 13.03 of the Constitution.

### 2.2 Officers may only exercise delegated powers in accordance with

- (a) the policy framework as approved by the Council;
- (b) the budget approved by the Council;
- (c) the Council’s Procedure Rules, Contract Procedure Rules and Financial Procedure Rules of the Council;



- (d) any statutory restrictions, statutory guidance or statutory code of practice.
- 2.3 In exercising delegated powers, Officers shall act only within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation thereof which is permitted by the Council's Financial Procedure Rules.
- 2.4 Sub-delegation:
- (a) This Scheme includes the power for Officers further to delegate any function which has been delegated to them under this Scheme to another Officer or to other Officers. Every such sub-delegation shall be in writing, setting out the terms and conditions upon which that function is to be performed and accountability for the performance of the sub-delegated function. The Officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Proper Officer.
  - (b) Officers shall devolve responsibilities for service delivery and management to the nearest practicable point to the service user.
- 2.5 In exercising any delegated function, Officers shall have regard to the requirement to comply with the restrictions set out in paragraph 2.2 above and shall be responsible for undertaking any appropriate consultation with the Council's Statutory Officers before making any decision.
- 2.6 In exercising any delegated function, Officers shall have regard to any professional standards or operational policies of the Council and shall be responsible for undertaking any appropriate consultation with the Head or Heads of Profession relevant to the matter under consideration.
- 2.7 There are two types of decisions which may be taken by the Executive Leadership Team and Statutory Officers under this scheme of delegation:
- (a) Executive decisions
  - (b) Operational decisions

### **3. EXECUTIVE DECISIONS**

- 3.1 "Executive Decisions" shall be those decisions which do not fall within the definition of Operational Decisions as set out in paragraph 4 hereof and are not key decisions as defined in Article 13.03 of the Constitution.
- 3.2 Consultation
- (a) Before taking any executive decision, the Officer shall prepare a report, setting out
    - (i) the Officer preparing to take the decision;
    - (ii) the issue to be decided;
    - (iii) any restriction upon the publication of the report as if the decision were a decision falling to be made by a Committee or Sub-Committee of the Council in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972;

- (iv) any facts upon which any decision must be based;
  - (v) any legislative requirements;
  - (vi) any Council policy relating to the issue;
  - (vii) any relevant national or regional guidance;
  - (viii) the alternative options available to the Officer;
  - (ix) the staffing and financial implications of the issue;
  - (x) any consultations undertaken; the view of any consultees;
  - (xi) any implications for any other areas of the Council's activities;
  - (xii) the Cabinet portfolio which the issue falls within;
  - (xiii) the Officer's proposed decision and the reasons supporting the Officer's proposed decision.
- (b) The Officer shall then send a copy of the report to:
- (i) the relevant Cabinet Councillor(s) whose Portfolio includes the matter under consideration, or if he/she is unavailable through illness or holiday, or any other reason, or has a personal and prejudicial interest in the matter under consideration, to the Cabinet Leader or such other Cabinet Councillor as he/she may nominate;
  - (ii) all the Statutory Officers;
  - (iii) where the matter affects the responsibilities of one or more Head(s) of Profession, the Head(s) of Profession so affected;
  - (iv) any other Chief Officer who is responsible for services which may be affected by the proposed decision.

### 3.3 Objection

- (a) The relevant Cabinet Councillor or any of the other consultees may object to the report within 5 working days of receiving the same by notifying the Officer of his/her objection and requesting that the matter be referred to the Cabinet for determination.
- (b) If neither the Cabinet Councillor nor any of the consultees object to the decision, he/she shall return the report to the Officer duly signed within 5 working days of receiving the same.

### 3.4 Determination

- (a) Where no objection within the timescale outlined above has been received, the Officer may proceed to make his/her final decision as outlined in the report.

- (b) Where an objectee has requested that the report be referred to the Cabinet, the Officer shall no longer have the power to take the final decision in respect thereof. The Monitoring Officer shall include the report for decision to the next convenient meeting of the Cabinet and the Officer's proposed decision shall form his/her recommendation to the Cabinet.
- (c) An Officer may determine that an issue which falls to him/her to determine as an executive decision is of such importance that it is inappropriate for the matter to be decided by an Officer and accordingly, he/she may report the matter to the Cabinet for decision.

### 3.5 Urgent Decisions

Where an Officer is of the opinion that an executive decision for which he/she is responsible should be made urgently in order to prevent or reduce the risk of damage to persons or property, or to the interests of the Council, and that the urgency of the decision is such that it is not practicable to complete the executive decision-making process set out above, the Officer shall

- (a) use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full executive decision-making process been followed; and
- (b) have the full power to take that executive decision, notwithstanding that the full procedure has not been followed;
- (c) as soon as practicable after taking the decision, ensure that a report set out as in paragraph 3.2(a) is prepared, setting out also the reasons for the urgency and the final decision which has been taken, and that report shall go to the next convenient meeting of the Cabinet for information.

### 3.6 Recording of Executive Decisions

- (a) Upon making an Executive Decision, the Officer shall provide the Monitoring Officer with a written statement of his/her decision, signed by the Officer within 2 working days of the date of his decision.
- (b) The Monitoring Officer shall publish all executive decisions within 5 working days of the date of the decision and shall ensure that a record of these decisions, including the report upon which the Executive Decision was made and, subject to any requirement for confidentiality, is published and posted on the Members' Noticeboard and is available for public inspection during all normal office hours, and that the public shall have a right to copy, or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

### 3.7 Call-in Mechanism

- (a) Where an Executive Decision is taken by a Chief Officer and it involves expenditure or reductions in service over a value of £500,000, then that decision is only a provisional decision other than where the specific expenditure or reduction has previously been approved by the Council.

- (b) This provisional decision will be notified to all Members of the Council within 5 working days of the provisional decision having been made.
- (c) That provisional decision may then be called in, in accordance with the provisions of the Overview and Scrutiny Procedure Rules.

### 3.8 Accountability

Officers are accountable to the Council for any Executive Decision which they make and may be required to report to, and to attend and answer questions from, an Overview and Scrutiny Committee in respect of any Executive Decision which they make.

## 4. **OPERATIONAL DECISIONS**

### 4.1 A decision shall not comprise an Operational Decision if

- (a) it is a Strategic or Reserved Decision;
- (b) it is not within an approved budget;
- (c) it is in conflict with the Policy Framework approved by the Council;
- (d) it raises new issues of policy;
- (e) it requires any of the following:
  - (i) *Staff*

it will result in any staff being displaced or TUPE transferred
  - (ii) *Land*

it requires the acquisition or disposal of any land or interest in land, unless such acquisition or disposal falls within the specific delegations of the Assistant Director, Property & Economy set out below:

    1. To approve any property transaction or any compensation, damages claim or disposal of surplus, obsolete or damaged property involving less than £100,000 in capital or rent of less than £20,000 p.a.
    2. To approve:
      - (a) the purchase of property affected by Council resolutions in respect of Clearance Areas, Compulsory Purchase Orders
      - (b) acquisition and compensation comprised in valuers' reports in respect of properties within Compulsory Purchase, Closing and Demolition Orders
    3. To grant licences or leases for a period not exceeding 18 months.

4. To approve the disposal of ground rents and rent charges up to a capital value of £25,000.

(iii) *Finance*

It requires a virement which is contrary to that allowed within the scheme of virement as included in the Financial Procedure Rules

(iv) *Tenders*

It required the award of a contract with the value of (or estimated value) of £200,000 or above, whether it involves an exemption from Contract Procedure Rules or not.

- (f) it comprises or includes the making, approval or publication of a draft order, scheme or plan which may require either directly, or in the event of objection, the approval of the Secretary of State;
- (g) it requires the passage of local legislation or the adoption by the Council of national legislation;
- (h) it proposes the payment of an ex-gratia payment or payment of a sum in settlement of a complaint against the Council;
- (i) is in response to an Ombudsman's finding of maladministration with injustice;
- (j) it proposes the write-off of a debt to the Council of more than £5,000;
- (k) it proposes an alteration in the charges which the Council makes for any of its services unless
- (i) the alteration is as a result of a charge which has been fixed by Government without discretion as to implementation;
- (ii) the charge is estimated to generate annual income not exceeding £25,000;
- (l) on consultation under paragraph 4.2, it raises an objection from any of the Statutory Officers or a Head of Profession;
- (m) the Officer is of the opinion that it should be treated as an Executive Decision;
- (n) it relates to the acceptance of, or application for, grant funding for a sum in excess of £100,000.

#### 4.2 Consultation and Publicity

Officers do not have to prepare or publish a formal written report in respect of an Operational Decision, but are responsible for ensuring that consultation where appropriate is undertaken with the Statutory Officers, and where the decision involves staffing, with the Head of People Management.

Where the decision proposes the write-off of a debt to the Council, the Chief Finance Officer must be consulted and the procedure must be undertaken in accordance with the Financial Procedure Rules.

#### 4.3 Referral

Whilst this Scheme of Delegation is designed to encourage Officers to take responsibility for Operational Decisions, an Officer may decide that a particular issue is such that it should be treated as an Executive Decision, in which case the procedure for executive decisions shall apply.

#### 4.4 Recording and Reporting of Operational Decisions

There is no requirement to maintain a record of Operational Decisions for the purpose of Councillor or public access, or to report Operational Decisions to a Committee or Sub-Committee, but Officers are responsible for retaining a record of Operational Decisions which they take and the reasons for such decisions sufficient for audit and evidential purposes (against the eventuality of evidence being required for Judicial Review, Employment Tribunal, Ombudsman, External Audit, Ofsted or other proceedings or investigation), and for ensuring that all those who need to know are informed promptly of the decision.

#### 4.5 Accountability

Officers are accountable to the Council for any Operational Decisions which they make and may be required to report to, and attend and answer questions from, a Scrutiny Committee in respect of any Operational Decisions which they make.

COUNCIL PROCEDURE RULES

1. DEFINITIONS
2. ANNUAL MEETING OF THE COUNCIL
3. ORDINARY MEETINGS
4. EXTRAORDINARY MEETINGS
5. TIME AND PLACE OF MEETINGS
6. NOTICE OF AND SUMMONS TO MEETING
7. CHAIR OF MEETING
8. QUORUM
9. QUESTIONS BY MEMBERS
10. QUESTIONS BY THE PUBLIC
11. HEARING OF DEPUTATIONS
12. MOTIONS ON NOTICE
13. MOTIONS WITHOUT NOTICE
14. RULES OF DEBATE
15. PREVIOUS DECISIONS AND MOTIONS
16. VOTING
17. MINUTES
18. EXCLUSION OF PUBLIC
19. MEMBERS' CONDUCT
20. DISTURBANCE BY PUBLIC
21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE  
RULES
22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

This page is intentionally left blank



## COUNCIL PROCEDURE RULES

### 1. DEFINITIONS

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

“Monitoring Officer” - the officer of the Council responsible for the provision of administrative services to the Council and the person designated under Section 5 of the 1989 Act, or his/her duly authorised representative;

“Authority” - the St. Helens Borough Council;

“Chief Executive” - the Head of the Authority’s Paid Service, or his/her duly authorised representative;

“Chief Officer” - the Head of the Paid Service, the Monitoring Officer, the Chief Finance Officer, any other statutory chief officer, Executive Director or his/her duly authorised representative;

“Committee” - a committee of the St. Helens Borough Council;

“Council” - the St. Helens Borough Council acting as the Council;

“Member of the Cabinet” - Members of the Council appointed by the Leader to be a member of the Cabinet;

“Cabinet Councillors” - Members of the Council appointed by the Leader to be a member of the Cabinet;

“Group Leader” - the Leader of a political group as defined in the Local Government (Committees etc.) Regulations 1989;

“Leader” - such Member of the Council, as the Council may appoint under Rule 2.1;

“majority group” - a political group to which more than half the Members of the Council belong or exactly half of the Members, including the Mayor;

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

“Member” - in relation to the Council, a Member of the Council; in relation to any Committee or Sub-Committee, a person appointed as a member of that Committee or Sub-Committee, whether or not entitled to vote;

“minority group” - a political group which is not the majority group;

“Monitoring Officer” - the person designated under Section 5 of the 1989 Act;

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

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

“Sub-Committee” - a Sub-Committee of a Committee;

“the 1972 Act” - the Local Government Act 1972;

“the 1989 Act” - the Local Government and Housing Act 1989;

“the 2000 Act” - the Local Government Act 2000.

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

## 2. **ANNUAL MEETING OF THE COUNCIL**

### 2.1 Timing and Business

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

The annual meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor;

- (vi) receive any announcements from the Leader of the Council;
- (vii) appoint at least one Overview and Scrutiny Commission, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3 of this Constitution;
- (viii) agree the scheme of delegation, or such part of it, as the Constitution determines it is for the Council to agree;
- (ix) approve a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

## 2.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each Committee and outside body; and
- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## 2.3 Appointment of Chairmen

- (a) At its Annual Meeting, the Council may appoint from among the voting Members the Chairman and Deputy Chairman of a Committee or Sub-Committee, with the exception of the Chairman of Overview and Scrutiny Commission, who shall be appointed at its first meeting by the elected members of the Overview and Scrutiny Commission.

- (b) If any appointment possible under the previous rule is not made, a Committee may appoint from among the voting Members a Chairman of that Committee.
- (c) If any appointment possible under (a) is not made, a Committee may appoint from among the voting Members a Chairman of a Sub-Committee appointed by them.
- (d) If any appointment possible under the preceding paragraphs is not made, a Sub-Committee may appoint from their voting Members a Chairman.
- (e) If the Chairman is absent, a meeting of a Committee or Sub-Committee shall appoint from among the voting Members present a person to preside at that meeting.
- (f) If it is necessary for the Committee or Sub-Committee to appoint a Chairman, the Monitoring Officer or his/her representative shall call for a motion for a voting Member of the Committee or Sub-Committee to take the Chair.
- (g) If discussion arises the Monitoring Officer or his/her representative shall exercise the powers of the Chairman to regulate that discussion and to maintain order at the meeting.
- (h) The motion and any amendment shall be put to the meeting in accordance with Rule 16.6.

### 3. **ORDINARY MEETINGS**

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

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive apologies for absence;

- (iv) receive any declarations of interest from members;
- (v) receive any announcements from the Mayor;
- (vi) receive any announcements from the Leader of the Council
- (vii) receive questions from, and provide answers to, Members of the Council;
- (viii) receive questions from, and provide answers to, the public;
- (ix) the hearing of deputations by members of the public;
- (x) deal with any business from the last Council meeting;
- (xi) receive any reports from the Cabinet and the Council's committees, and receive questions and answers on any of those reports;
- (xii) receive any reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- (xiii) consider motions; and
- (xiv) consider any other business, if any, specified in the summons to the meeting.

#### 4. **EXTRAORDINARY MEETINGS**

##### 4.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

5. **TIME AND PLACE OF MEETINGS**

The Annual Meeting will be held at 12 noon at St. Helens Town Hall. The time and place of other ordinary meetings will be determined by the Council and notified in the Summons.

6. **NOTICE OF AND SUMMONS TO MEETINGS**

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Executive will send a Summons signed by him or her to every member of the Council. The Summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. **CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairman of Committees and Sub-Committees

8. **QUORUM**

The quorum of a meeting will be one quarter of the whole number of members, rounded up where appropriate. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. **QUESTIONS BY MEMBERS**

9.1 On reports of the Cabinet or Committees

A member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of the

Cabinet or a Committee when that item is being received or under consideration by the Council.

## 9.2 Questions of Notice at Full Council

Subject to Rule 9.3, a Member of the Council may ask:-

- the Mayor
- the Leader
- any member of the Cabinet
- the Chairman of any Committee or Sub-Committee
- any member appointed by the Authority to a Joint Authority or any external body

a question on any matter in relation to which the Council has a responsibility or which affects the Borough and does not relate to any personal or individual matter.

## 9.3 Notice of Questions

A member may only ask a question under Rule 9.2 if either:-

- (a) they have given notice in writing or electronic mail of the question to the Chief Executive by not later than 12.00 noon on the Monday in the week preceding the meeting of the Council at which it is to be asked. Provided that when the Monday is a Bank Holiday, then by not later than 12.00 noon on the preceding Friday; or
- (b) the question relates to urgent matters, they have the consent of the Mayor to ask the question.

## 9.4 List of Questions

A list of all the questions, of which notice has been given, shall be circulated to Members of the Council at or before the meeting at which the question is to be asked.

#### 9.5 Response

Every question shall be put and answered without discussion.

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and all members of the Council.

#### 9.6 Supplementary Question

A member asking a question under Rule 9.2 may ask one supplementary question without notice of the member to whom the first question was asked.

The supplemental question must arise directly out of the original question or the reply. A second supplementary question may be asked by any other member of the Council. The answer may take the same form as described in Rule 9.5.

### 10. **QUESTIONS BY THE PUBLIC**

10.1 A period of not more than thirty minutes shall be allowed for questions submitted by a member of the public.

#### 10.2 General

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council.

#### 10.3 Notice of Questions

A question may only be asked if:-

- (a) notice has been given by delivering it in writing or by electronic mail to the Chief Executive by not later than 12.00 noon on the Monday in the week preceding the meeting of the Council at which it is to be asked.  
Provided that when the Monday is a Bank Holiday, then by not later



than 12.00 noon on the preceding Friday. Each question must give the name and address of the questioner;

- (b) the Mayor considers that by reason of special circumstances it is reasonable that a question may be asked even though due notice has not been given.

#### 10.4 Number of Questions

At any one meeting no person may submit or put more than one question.

#### 10.5 Scope of Questions

The Chief Executive may reject a question if it:-

- is not about a matter for which the Local Authority has a responsibility or which affects the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

#### 10.6 Record of Questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the member who is the most appropriate to answer the question. Rejected questions will include reasons for rejection.

Copies of all questions which are accepted by the Chief Executive will be circulated to all members and will be made available to the public attending the meeting.

#### 10.7 Asking the Question at the Meeting

The Mayor will invite the questioner to put the question to the appropriate member. If a questioner who has submitted a written question is unable to be present, they may nominate in writing another member of the public to ask the

question on their behalf. The question will not be put if the questioner or his/her nominee is not present.

The questioner will have two minutes to ask the question.

#### 10.8 Response

Every question shall be put and answered without discussion. The respondent will have five minutes to reply to an initial question and two minutes to reply to any supplementary question asked under Rule 10.9.

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and all members of the Council.

#### 10.9 Supplementary Questions

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. The questioner will have one minute to ask a supplementary question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 10.5 above.

### 11. **HEARING OF DEPUTATIONS**

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

11.2 A deputation shall be heard provided that by not later than 12.00 noon on the Monday in the week preceding the relevant meeting of the Council and with the further proviso that when the Monday is a Bank Holiday notice must be received by 12.00 noon on the preceding Friday.

A deputation may only be heard if:

- a) notification has been given to the Chief Executive in accordance with this Rule;
- b) the subject matter of the deputation is notified in writing;
- c) the names and addresses and organisation (if any) of the persons forming the deputation, to be no more than six, indicating which one person is to speak, are notified in writing;
- d) copies of any accompanying material which should comprise no more than two sides of A4 paper are lodged in advance.

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

- (a) any personal or individual matter;
- (b) any planning matter which falls within the terms of reference of the Planning Committee.

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

- a) a future meeting of the appropriate Committee or Sub-Committee to receive a report; or
- b) the appropriate Chief Officer and Cabinet Councillor(s).

## 12. **MOTIONS ON NOTICE**

### 12.1 Notice

Except for motions which can be moved without notice under Rule 13, or which the Mayor considers should be considered as a matter of urgency, notice of every motion must be given by delivering it in writing or by electronic mail to the Chief Executive not later than 5.00 p.m. on the Monday in the week preceding the relevant Council meeting except when the Monday is a Bank Holiday then by not later than 12 noon on the Tuesday. These will be entered in a book open to public inspection.

#### 12.2 Scope

The Monitoring Officer may reject a Motion if it –

- (i) is not about a matter for which the Council has a responsibility, or which affects the Borough;
- (ii) seeks to circumvent a decision-making process under way;
- (iii) is potentially defamatory, vexatious, frivolous or offensive;
- (iv) requires the disclosure of confidential or exempt information;
- (v) is in some other respect considered to be unlawful, irregular, improper or incapable of having practical effect.

Such motions submitted will be dealt with by the Monitoring Officer and the proposer of the Motion given advice accordingly in line with the criteria.

#### 12.3 Motion set out in Agenda

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

- 12.4 A motion shall only be moved by either the member who gave the notice or by a member authorised in writing by that member.

#### 13. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:-

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

- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council procedure rule;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (o) to give the consent of the Council where its consent is required by this Constitution.

#### 14. **RULES OF DEBATE**

##### 14.1 No Speeches until Motion Seconded

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

##### 14.2 Right to Require Motion in Writing

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

##### 14.3 Secunder's Speech

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

##### 14.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Except with the consent of the Council signified without comment the mover of a motion shall not speak for more than ten minutes (excluding the right of reply). No other person shall speak for more than five minutes.

#### 14.5 When a Member may Speak Again

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

- (a) to speak once on an amendment moved by another member;
- (a) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

#### 14.6 Amendments to Motions

(a) An amendment to a motion must be relevant to the motion and will either be:-

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under

discussion has been disposed of provided that the Mayor may permit two or more amendments to be discussed (but not voted upon) together if he/she thinks that this will facilitate the proper conduct of business.

- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 14.7 Alteration of Motion

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

#### 14.8 Withdrawal of Motion/Amendment

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

#### 14.9 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### 14.10 Motions which may be Moved during Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) a closure motion under Rule 14.11;
- (d) to exclude the public and press in accordance with the Access to Information Rules;
- (e) to not hear further a member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

#### 14.11 Closure Motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:-
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded, the Mayor will give the mover of the original motion a right of reply and then put the procedural motion to the vote; if that motion is carried the original motion shall lapse.



- (c) If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply; the original motion or remaining business shall then stand over as uncompleted business to the next meeting.

#### 14.12 Point of Order

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

#### 14.13 Personal Explanation

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

### 15. **PREVIOUS DECISIONS AND MOTIONS**

#### 15.1 Motion to rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 members.

15.2 Motion similar to one Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. **VOTING**

16.1 Majority

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

16.2 Mayor's Casting Vote

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

16.3 Method of Voting

Unless a recorded vote is demanded under Rule 16.4, the method of voting at Council and at Committees/Sub-Committees shall be by a show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 Recorded Vote

If one-third of the members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

16.5 Right to require Individual Vote to be Recorded

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

16.6 Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

#### 16.7 Recorded Vote at Budget Decision Meeting

- (a) Notwithstanding the provision of 16.4, in relation to any decision made at a meeting of the Council at which the Council's budget and the level of Council tax to be levied in the forthcoming year are determined ("a budget decision meeting") a recorded vote shall be taken in respect at the motion before the Council and any amendments put forward in respect of that motion. The details of the vote shall be recorded in the minutes of that meeting and the minutes shall include the names of the persons who cast a vote for the decision or against the decision or who abstains from voting.
- (b) For the avoidance of doubt "budget decision meeting" has the meaning prescribed by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 or any amendment made thereto.

### 17. **MINUTES**

#### 17.1 Signing the Minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only issue with regard to the minutes that can be discussed is their accuracy.

#### 17.2 No requirement to sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that

Paragraph) will be treated as a suitable meeting for the purposes of Paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

**18. EXCLUSION OF PUBLIC**

18.1 Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

**19. MEMBERS' CONDUCT**

19.1 Standing to Speak

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

19.2 Mayor Standing

When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

19.3 Member not to be heard Further

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

19.4 Member to Leave the Meeting

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

19.5 General Disturbance

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

20. **DISTURBANCE BY PUBLIC**

20.1 Removal of Member of the Public

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

20.2 Clearance of Part of Meeting Room

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

21. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

21.1 Suspension

All of these Council Rules of Procedure, except this Rule, Rule 16.6 and Rule 17.2, may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, be referred without discussion to the Standards Committee for consideration and report to the next ordinary meeting of the Council.

22. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. None of the Rules apply to meetings of the Cabinet. Only Rules 2.3, 6-8, 13-14,

16-17, 18-22 (but not Rule 19.1) apply to meetings of Committees/Sub-Committees.

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Commission, the Standards Committee and Regulatory Committees and public meetings of the Cabinet (together called meetings).

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

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

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

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

### **4. NOTICE OF MEETING**

The Council will give at least five clear days notice of any meetings by posting details of the meeting at the Town Hall, St. Helens.

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

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

A meeting may be called at shorter notice in exceptional circumstances, but the agenda and reports must be made available for public inspection from the time the meeting is convened.

6. **SUPPLY OF COPIES**

The Council will supply copies of any agenda, reports and background papers which are open to public inspection, to any person on payment of a charge for postage and any other costs.

7. **ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

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

8. **BACKGROUND PAPERS**

8.1 List of Background Papers

Every report will contain a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the officer responsible for the report:-

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10), and in respect of Cabinet reports, the advice of a political adviser.



## 8.2 Public Inspection of Background Papers

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

## 9. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### 9.1 Confidential Information - Requirement to Exclude Public

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

### 9.2 Exempt Information - Discretion to Exclude Public

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1988 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 9.3 Meaning of Confidential Information

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

### 9.4 Meaning of Exempt Information

Exempt information means information falling within the following 7 categories (subject to any condition):-

	<b>Category</b>	<b>Condition</b>
1.	Information relating to any individual	Information is not exempt unless it relates to, and is recognisable as, referring to a particular individual.
2.	Information which is likely to reveal the identity of an	Information is not exempt unless it is likely to be recognisable as referring

	<b>Category</b>	<b>Condition</b>
	individual	to a particular individual.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt if it must be registered under various statutes.
4.	Information relating to any consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Information within Paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the Authority in those or any other consultations or negotiations in connection with a labour relations matter.  "Labour relations matters" are as specified in Paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6.	Information which reveals that the authority proposes - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Information within Paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

Information falling within any of Paragraph 1-7 is not exempt by virtue of that Paragraph if it relates to proposed development for which the Local Planning Authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

## 9.5 EXEMPT ITEMS AT CABINET MEETINGS

- (a) At least 28 clear days before a Cabinet meeting is held which may exclude the public for all or part of its business, a notice must be published on the Council's web site stating the intention to hold a meeting in Private and giving the reasons for the meeting to be held in private. The notice will also be made available at the Town Hall Reception.

At least 5 clear days before a Cabinet meeting which may exclude the public is held, a further notice must be published on the Council's web site and made available at the Town Hall Reception stating the following:

- (i) the reasons for the meeting to be held in private;
  - (ii) details of any representations received about why the meeting should be open to the public; and
  - (iii) a statement of the response to any such representations.
- (b) Where the deadlines outlined above have not been met the Cabinet can only take an exempt item if:
- (i) the Chairman of the Overview and Scrutiny Commission has been informed;
  - (ii) in the absence of the Overview and Scrutiny Chair the Mayor must be informed;
  - (iii) in the absence of both listed in (i) and (ii) the Deputy Mayor must be informed

and if the relevant person referred to in (i), (ii) or (iii) has agreed that the matter is urgent and cannot reasonably be deferred.

A notice to that effect will be made available and published on the Council Website.

10. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the officer responsible for the report thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 9, the meeting is likely not to be open to the public. Such reports will be marked "Not for Publication" together with the category of information likely to be disclosed.

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

Rules 12-22 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1-10 unless Rule 14 (General Exception) or Rule 15 (Special Urgency) apply. If the Cabinet or its Committees meet to discuss a key decision to be taken collectively, with an officer present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-10 unless Rule 14 (General Exception) or Rule 15 (Special Urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

12. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 14 (General Exception) and Rule 15 (Special Urgency), a key decision may not be taken unless:-

- (a) a notice (called here a Public Notice of Key Decisions) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

### 13. PUBLIC NOTICE OF KEY DECISIONS

#### 13.1 Period of Public Notice

A Public Notice of Key Decisions will be given at least 28 clear days before a Key Decision is made.

#### 13.2 Contents of Public Notice

The Public Notice will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:-

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

14. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Public Notice of Key Decisions, then subject to Rule 15 (Special Urgency), the decision may still be taken if:-

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Public Notice;
- (b) the Chief Executive has informed the Chair of the Overview and Scrutiny Commission, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Chief Executive has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Chief Executive complied with (b) and (c).

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

15. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 14 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Commission/Committee that the taking of the decision cannot be reasonably deferred. If the Chair of the relevant Overview and Scrutiny Commission/Committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor, will suffice.

16. **REPORT TO COUNCIL**

16.1 When the Overview and Scrutiny Commission/Committee can require a Report

If the Overview and Scrutiny Commission/Committee thinks that a key decision has been taken which was not:-

- (a) included in the Public Notice of Key Decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Overview and Scrutiny Commission/Committee Chair, or the Mayor/Deputy Mayor of the Council under Rule 15

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Commission/ Committee.

16.2 Cabinet's Report to Council

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

16.3 Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 15 (Special

Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. **RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Chief Executive or, where he/she was not present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable and within five working days. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

18. **CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

19. **NOTICE OF PRIVATE MEETING OF THE CABINET**

Members of the Cabinet or its Committees will be entitled to receive five clear working days notice of a private meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

20. **ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

Cabinet Members

- (a) Only members of the Cabinet will receive notice of a private meeting of the Cabinet.
- (b) Only members of the Cabinet are entitled to attend the Cabinet unless otherwise invited by the Leader. Only members of the Cabinet may vote.
- (c) All members of the Cabinet are entitled to attend a private meeting of the Cabinet.



Overview and Scrutiny Commission/Committee Members

- (d) Members other than Cabinet Members will not be entitled to attend private meetings of the Cabinet.

Officers

- (e) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet and its Committees. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- (f) A private Cabinet meeting may only take place in the presence of the Chief Executive or his/her nominee with responsibility for recording and publicising the decisions.

In all of the above, the provisions of Rule 17 (Recording and Publicising Decisions) will apply.

**21. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

21.1 Reports intended to be taken into Account

Where an individual member of the Cabinet or officer receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after receipt of that report.

21.2 Provision of Copies of Reports to Overview and Scrutiny Commission

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Commission/Committee as soon as reasonably practicable and, where appropriate, make it publicly available at the same time.

21.3 Record of Individual Decision

As soon as reasonably practicable after a key decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Chief Executive to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (Inspection of Documents after Meetings) will also apply to the making of decisions by individual members of the Cabinet.

22. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

22.1 In addition to the rights of Members of the Council under Section 100F of the 1972 Act and under Regulations 16 and 17 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations

2012, but subject to paragraph 2 below, the following persons shall be entitled on application to the Chief Executive, to inspect any documents or have access to other information of the following descriptions:

- (a) any Member of the Council or other Member (whether voting or not) of any Committee or Sub-Committee; any document in the possession or under the control of the Authority in relation to which a Committee/ Sub-Committee of which he/she is a member may discharge a function of the Authority or advise a body which appointed them;
- (b) any Member of the Council; any document or other recorded information in the possession or under the control of the Authority, access to which is necessary for the proper discharge of his/her functions as a Member of the Council provided that:
  - (i) no person shall be entitled to inspect any document or have access to any information relating to any matter in which he/she has a personal

or prejudicial interest and which would have prohibited the Member(s) from speaking and voting on a matter at a meeting;

- (ii) a person may be refused the right to inspect a document which it is not necessary for him/her to inspect for the purposes of the proper discharge of his/her function as a Member of the Committee or Sub-Committee in question, if there is good reason why such inspection should be refused;
- (iii) access to information not in the form of a document need not be given where the cost of providing the access is unreasonably high or during such period as the giving of access would unreasonably disrupt the work of the Authority.

22.2 In the case of any document other than a document to which the rights under Section 100F of the 1972 Act apply and in any case of information which is not in the form of a document, if the Chief Executive considers that access to any document or other information is not necessary for the proper discharge of the functions (as a Member of the Council or as a Member of a Committee or Sub-Committee as the case may be) of the person requesting such access, and there is good reason why access should be refused, he/she may refuse the person concerned access to the document in question.

22.3 Where a person inspects a document under the rights conferred by Section 100F of the 1972 Act or this Procedure Rule and the Authority may lawfully make a copy of that document, he/she shall be entitled on request to be given a copy of that document provided that:

- a) a reasonable charge shall be made for the copy unless the Chief Executive otherwise directs;
- b) a copy may be refused if the Chief Executive considers that it is impracticable to make a copy.

- 22.4 A Member of the Council may attend, as an observer, any meeting of a Committee or Sub-Committee, of which he/she is not a member, whether in public or private business and the attendance of that member at that meeting may be recorded in the minutes.
- 22.5 With the agreement of the person presiding at a meeting of a Committee or Sub-Committee, any member attending as in 22.4 above may be allowed to speak on any item before the Committee/Sub-Committee, but not vote, such agreement to be sought prior to the commencement of that meeting.

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

### **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

### **2. PROCESS FOR DEVELOPING THE POLICY FRAMEWORK**

The process by which the policy framework shall be developed is:-

- (a) The Cabinet will publicise by including in the Public Notice of Key Decisions a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the policy framework and its arrangements for consultation after publication of such initial proposals.
- (b) The Chair of Overview and Scrutiny Commission/Committee will be notified of such proposals.
- (c) The consultation period shall, in each instance, be not less than 4 weeks and the appropriate Overview and Scrutiny Commission/Committee must be consulted.
- (d) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses to that consultation.
- (e) If the Overview and Scrutiny Commission or a relevant Committee wishes to respond to the Cabinet in that consultation period, then it may do so.
- (f) As the Overview and Scrutiny Commission/Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Commission/Committee to investigate,

research or report in detail with policy recommendations before the end of the consultation period.

- (g) The Cabinet will take any response from an Overview and Scrutiny Commission/Committee into account in drawing up firm proposals for submission to the Council and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (h) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.
- (i) Where the Authority, following consideration of the Cabinet's proposals, has any objections to them, the Authority must take the action set out in paragraph (j) below.
- (j) Before the Authority
  - (i) amends any draft plan or strategy;
  - (ii) approves for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy, it must inform the Cabinet Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (k) When the Authority gives instructions in accordance with (j), it must specify a period of at least five working days beginning after the day on which the Cabinet Leader receives the instructions on behalf of the Cabinet, within which the Cabinet Leader may

- (i) submit a revision of the draft plan or strategy, as amended, by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy to the Authority, for the Authority’s consideration; or
  - (ii) inform the Authority of any disagreement that the Cabinet has with any of the Authority’s objections and the Cabinet’s reasons for any such disagreement.
- (l) When the period specified by the Authority, referred to in paragraph (k), has expired, the Chief Executive will call an Authority meeting within a further five days when the Authority will make its decision.
- The Authority must, when
- (i) amending the draft plan or strategy or, if there is one, the revised draft or strategy;
  - (ii) approving for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (iii) adopting (with or without modification) the plan or strategy,
- take into account any amendments made to the draft plan or strategy that are included in any revised draft or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Authority’s objections and the Cabinet’s reasons for that disagreement, which the Cabinet Leader submitted to the Authority or informed the Authority of within the period specified.
- (m) The decision of the Authority will then be effective immediately.

### 3. **PROCESS FOR DEVELOPING THE BUDGET**

The process by which the budget shall be developed is:-

- (a) The Cabinet will publicise by including in the Public Notice of Key Decisions a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the budget and its arrangements for consultation after publication of such initial proposals.
- (b) The Chair of Overview and Scrutiny Commission/Committee will be notified of such proposals.
- (c) The consultation period shall, in each instance, be not less than 4 weeks and the appropriate Overview and Scrutiny Commission/Committee must be consulted.
- (d) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses to that consultation.
- (e) If the Overview and Scrutiny Commission or a relevant Committee wishes to respond to the Cabinet in that consultation period, then it may do so.
- (f) As the Overview and Scrutiny Commission/Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Commission/Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.
- (g) The Cabinet will take any response from an Overview and Scrutiny Commission/Committee into account in drawing up firm proposals for submission to the Council and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (h) Once the Cabinet has approved the firm proposals, the Chief Executive will refer them at the earliest opportunity to the Council for decision.



- (i) Subject to paragraph (m) below, where before the 8th February in any financial year the Authority's Cabinet submits to the Authority for its consideration in relation to the following financial year
  - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation; or
  - (iii) estimates of such a calculation,and following consideration of those estimates or amounts the Authority has any objections to them, it must take the action set out in paragraph (j).
- (j) Before the Authority makes a calculation (whether originally or by way of substitute) in accordance with any of the Sections referred to in paragraph (i) above, it must inform the Cabinet Leader of any objections which it has to the estimates or amounts and must give to him/her instructions requiring the Cabinet to reconsider in the light of those objections, those estimates and amounts in accordance with the Authority's requirements.
- (k) Where the Authority gives instructions in accordance with paragraph (j), it must specify a period of at least five working days beginning with the date on which the Cabinet Leader receives the instructions on behalf of the Cabinet, within which the Cabinet Leader may
  - (i) submit a revision of the estimates or amounts, as amended, by the Cabinet (revised estimates or amounts) which has been reconsidered in accordance with the Authority's requirements, with the Cabinet's reasons for any amendments made to the

estimates or amounts, to the Authority for the Authority's consideration; or

- (ii) inform the Authority of any disagreement that the Cabinet has with any of the Authority's objections and the Cabinet's reasons for any such disagreement.
- (l) When the period specified by the Authority, referred to in paragraph (k), has expired the Authority must, when making calculations (whether originally or by way of substitute) in accordance with the Sections referred to in paragraph (l)(i), take into account
- (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Cabinet's reasons for those amendments;
  - (iii) any disagreement that the Cabinet has with the Authority's objections; and
  - (iv) the Cabinet's reasons for that disagreement,

which the Cabinet Leader submitted to the Authority, or informed the Authority of within the period specified.

- (m) Paragraphs (i) to (l) shall not apply in relation to calculations or substitute calculations which an Authority is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992.
- (n) Where the Cabinet submits the estimates referred to in paragraph (i) above to the Authority for its consideration after the 8th February, then the Authority may either approve or amend the Cabinet's proposals without referring the matter back to the Cabinet.

4. **DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

Subject to the provisions of the Financial Procedural Rules on virement, the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any Officers, Area Committees or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Paragraph 5 below.

5. **URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

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

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Overview and Scrutiny Commission's consent to the decision being taken as a matter of urgency, must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Commission the consent of the Mayor, and in the absence of both the Deputy Mayor will be sufficient.

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

**6. IN-YEAR CHANGES TO THE BUDGET AND THE POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or Officers, Area Committees or joint arrangements discharging executive functions must be in line with it. No changes may be made to the budget by those bodies or individuals, except changes in accordance with the rules relating to virement contained within the Council's Financial Procedure Rules. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:-

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) which are necessary to ensure compliance with the law, ministerial direction or Government guidance;
- (c) which are in respect of a policy which would normally be agreed by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- (d) which relate to policy in relation to Schools, where the majority of School Governing Bodies agree with the proposed change;
- (e) specified by Council in approving the policy framework.

**7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where an Overview and Scrutiny Commission/Committee is of the opinion that an executive decision is, or if made would be, contrary to

the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall advise the Chief Executive of their concerns and seek advice from the Monitoring Officer and/or Chief Financial Officer.

- (b) In respect of functions which are the responsibility of the Cabinet, and where the decision has not yet been made, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's/Chief Financial Officer's report.
- (c) In the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, they shall prepare a report to Council.
- (d) In the event that the Monitoring Officer and/or the Chief Financial Officer conclude that the decision was not a departure, they shall prepare a report to the Overview and Scrutiny Commission/Committee.
- (e) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Commission/Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 15 days of the request by the Overview and Scrutiny Commission/Committee.

- (f) At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer.

The Council may either:-

- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

*or*

- (ii) amend the Council's Financial Regulations or Policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

*or*

- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Financial Officer.

## EXECUTIVE PROCEDURE RULES

### 1. HOW DOES THE EXECUTIVE OPERATE?

#### 1.1 Who may make Executive Decisions?

The Leader will decide how executive functions are to be discharged. Executive functions may be discharged by:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual member of the Cabinet;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

#### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (i) the names of the members appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- (v) the nature and extent of any delegation to officers with details of any limitation on that delegation.

### 1.3 Sub-delegation of Executive Functions

- (a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) If the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 1.4 Amendment of Delegations

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.



1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest in a matter this should be dealt with in accordance with the Council's Code of Conduct for Members.
- (b) If every Member of the Cabinet has a conflict of interest in a matter this should be dealt with in accordance with the Council's Code of Conduct for Members.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member or an officer, and should that committee/person have a conflict of interest in the matter, then the function will be exercised by the person or body by whom the delegation was made.

1.6 Cabinet Meetings - when and where?

The Cabinet will meet at least 15 times per year unless agreed by the Leader.

The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

1.7 Public or Private Meetings of the Cabinet

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

1.8 Quorum

The quorum for a meeting of the Cabinet shall be 3, including the Cabinet Leader.

1.9 How are Decisions to be taken by the Cabinet?

- (a) executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.

- (b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

### 2.1 Who presides?

The Cabinet Leader will preside at any meeting of the Cabinet at which he/she is present. In his/her absence, the Deputy Leader shall preside. In the absence of both the Cabinet Leader and the Deputy Leader, then unless the Leader has appointed a Cabinet Member to preside at the meeting, the other Cabinet Members shall choose one of their number to preside.

### 2.2 Who may attend?

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

### 2.3 What business?

At each meeting of the Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by an overview and scrutiny commission or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from overview and scrutiny commission; and

- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

#### 2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework, must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committee, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

- (a) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.
- (b) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to

consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.5 Voting at Cabinet Meetings

Matters before the Cabinet shall be decided by a show of hands. In the case of an equality of votes, the Chair shall have a second or casting vote.

3. **URGENT CABINET DECISIONS**

3.1 Who may take Urgent Cabinet Decisions?

In the event that an urgent Cabinet decision is required, and the Council's normal decision-making processes could not be complied with without seriously prejudicing the Council's or the public's interests, an urgent decision report shall be prepared in writing setting out the reasons for the urgency and the decision to be taken. The Leader shall have delegated to him/her all relevant powers to take urgent decisions on matters which fall within the Executive functions of the Cabinet, subject to any such decisions being reported to the next Cabinet meeting for information.

## OVERVIEW AND SCRUTINY PROCEDURE RULES

### 1. OVERVIEW AND SCRUTINY ARRANGEMENTS

- (a) The Council will have one Overview and Scrutiny Commission, which will perform all overview and scrutiny functions on behalf of the Council.
- (b) The Overview and Scrutiny Commission will consist of:  
12 elected Members – comprising a chair, the chairs of the 3 scrutiny committees and 8 additional members with a view to providing political balance on the Commission.
- (c) The Commission will appoint 3 sub-committees, which are referred to as Scrutiny Committees, to fulfil such overview and scrutiny functions as may be delegated by the Commission. The Scrutiny Committees will consist of 10 elected Members.
- (d) The Overview and Scrutiny Commission and Scrutiny Committees will, where appropriate, form joint Scrutiny Committees to maximize the exchange of information and views, to minimize bureaucracy and make best use of the time of Members, Officers and of other bodies and agencies.
- (e) The membership of the Children and Young People’s Services Scrutiny Committee shall also include the following voting representatives:
  - (i) 1 Church of England diocese representative
  - (ii) 1 Roman Catholic diocese representative
  - (iii) 3 Parent-Governor representatives

This requirement applies where the functions of an overview and scrutiny body relate wholly, or in part, to education functions. If the Committee deals with other matters, these representatives shall not

vote on those other matters, but they may remain in the meeting and speak.

The membership of the Overview and Scrutiny Commission shall also include:

- (i) 1 Church of England diocese representative
- (ii) 1 Roman Catholic diocese representative

These representatives may speak on any issue, but may only vote on those issues which relate to education functions.

- (e) All elected Members, except members of the Cabinet, may be members of an Overview and Scrutiny Commission/ Committees. No member, however, may be involved in scrutinising a decision in which he/she has been directly involved.
- (f) The Overview and Scrutiny Commission or a Scrutiny Committee shall be entitled to recommend the Council to appoint a number of people as non-voting co-optees, as appropriate.
- (g) The Council will appoint the Overview and Scrutiny Commission and Committees on the terms of reference identified below.

## 2. **MEETINGS OF THE OVERVIEW AND SCRUTINY COMMISSION/ COMMITTEES**

There shall be at least six ordinary meetings of the Overview and Scrutiny Commission at least five ordinary meetings of the Place Services Scrutiny Committee, and at least four ordinary meetings of the other Scrutiny Committees, except that meetings may be cancelled in consultation with the Chair of the Commission/Committee as appropriate.

In addition, extraordinary meetings may be called from time to time, as and when appropriate, by the Chair of the relevant Overview and Scrutiny Commission/Committee, or by the Chief Executive if he/she considers it necessary or appropriate.

3. **QUORUM**

The quorum for an Overview and Scrutiny Commission/Committee meeting shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

4. **WHO CHAIRS OVERVIEW AND SCRUTINY MEETINGS?**

- (a) The Overview and Scrutiny Commission will be chaired by the Councillor who is appointed by the elected members of the Overview and Scrutiny Commission.
- (b) The Chairs of two Scrutiny Committees will be held by members of the group/groups which form the administration. The Chair of the third Scrutiny Committee will be held by the largest opposition group on the Council provided that this group holds 15% (rounded up) of the total number of seats on Council. In the event that no opposition group holds 15% (rounded up) of the total number of seats on Council, the third Chair will be held by a member of the group/groups which form the administration.
- (c) Chairs of the Scrutiny Committees will be drawn from members of the relevant Committee. No member, however, may be appointed as Chair of an Overview and Scrutiny Committee if their spouse, civil partner, a person who they are living with as a spouse or civil partner, sibling, son or daughter is a Cabinet member/portfolio holder for which the relevant Scrutiny Committee will be scrutinising decisions relating to that portfolio/department.

5. **WORK PROGRAMME**

The Overview and Scrutiny Commission and Scrutiny Committees will be responsible for the development and monitoring of their own individual work programmes with the Overview and Scrutiny Commission having oversight of the work programmes of the Scrutiny Committees.

The Commission and Committees in the development of the work programme will liaise on a regular basis with the Cabinet. The Commission and Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the Commission/Committee shall report their findings and any recommendations back to the Cabinet and/or Council. Council and/or the Cabinet shall consider the report of the Commission/Committee within one month of receiving it.

6. **AGENDA ITEMS**

Any member of an Overview and Scrutiny Commission or Committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the Commission or Committee to be included on the Agenda for the next available meeting of the Commission or Committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available Agenda.

7. **POLICY REVIEW AND DEVELOPMENT**

- (a) The role of the Overview and Scrutiny Commission in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Commission or Committees may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Commission/ Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public



surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.

They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

8. **REPORTS FROM THE OVERVIEW AND SCRUTINY COMMISSION/ COMMITTEES**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Commission/Committee will prepare and formally approve at a public meeting a formal report and submit it to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendations would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Commission/Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

9. **RESPONSES TO OVERVIEW AND SCRUTINY REPORTS BY THE CABINET**

- (a) The Cabinet shall provide a written response to the Overview and Scrutiny Commission/Committee's report and the Leader will nominate a member of the Cabinet to attend a future meeting of the Overview and Scrutiny Commission/Committee to present the Cabinet's response. The reports of the overview and Scrutiny Commission/Committees referred to the Cabinet and the Cabinet's

responses shall be included together in the Agenda of a Cabinet meeting under an item entitled 'Issues arising from Overview and Scrutiny' (unless the reports of Overview and Scrutiny and responses from the Cabinet have been considered in the context of the Cabinet's deliberations on a substantive item on the Agenda). The reports of the Overview and Scrutiny Commission/Committees and the Cabinet's response must be included on the Agenda for a Cabinet meeting within two months of the report being submitted to the Chief Executive.

- (b) Where the Overview and Scrutiny Commission or a Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision-making power to another individual member of the Cabinet or to an officer, then the Overview and Scrutiny Commission/ Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Overview and Scrutiny Commission shall serve a copy on the Chief Executive. The member/officer with delegated decision-making power must consider the report and respond in writing to the Overview and Scrutiny Commission/ Committee within two months of receiving it. A copy of his/her written response to it shall be sent to the Chief Executive and the Leader. The member/officer will also attend a future meeting of the Overview and Scrutiny Commission/ Committee to present their response
- (c) The Overview and Scrutiny Commission/Committees will in any event have access to the Cabinet's Public Notice of Key Decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Commission or a Committee following consideration of possible policy/service developments, the Commission/Committee will at least be able to

respond in the course of the Cabinet's consultation process in relation to any key decision.

**10. RIGHTS OF OVERVIEW AND SCRUTINY COMMISSION/COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Commission/Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Commission/Committees as appropriate depending on the particular matter under consideration.

**11. MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) The Overview and Scrutiny Commission or a Committee, insofar as it is authorised to do so by the Commission, may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any Senior Officer to attend before it to explain in relation to matters within their remit:-
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance

and it is the duty of those persons to attend if so required.
- (b) Where any member and/or officer is required to attend an Overview and Scrutiny Commission/Committee under this provision, the Chair of

that Commission/Committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least 5

working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Commission/ Committee. Where the account to be given to the Commission/ Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Commission/ Committee shall, in consultation with the member or officer, arrange an alternative date for attendance to take place within a maximum of 15 days from the date of the original request.

12. **ATTENDANCE BY OTHERS**

An Overview and Scrutiny Commission/ Committee may invite people other than those people referred to in Paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

13. **CALL-IN**

- (a) When a decision is made by the Cabinet, an individual member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council within 5 working days of

being made. All Members of the Council will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify either that the decision has come into force and may be implemented, or that it will come into force, and may then be implemented on the expiry of 5 working days after the publication of the decision, unless an Overview and Scrutiny Commission/Committee objects to it and calls it in.
- (c) During that period, the Chief Executive shall call-in a decision for scrutiny by the Commission/ Committee, if so requested, by any 3 Members of the Council who are not on Cabinet giving reasons for their request, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Commission/ Committee on such date as he/she may determine, where possible after consultation with the Chair of the Commission/ Committee, and in any case within 15 working days of the decision to call-in except if an already scheduled Commission/Committee meeting is due to take place within 20 working days of the decision to call-in, in which case the call-in can be considered at this meeting alongside the regular business of the Commission/Committee.
- (d) If, having considered the decision, the Overview and Scrutiny Commission/ Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision-maker, he/she shall then reconsider within a further 15 working days, amending the decision or not, before adopting a final decision.

- (e) If following an objection to the decision, the Overview and Scrutiny Commission/ Committee meets, but does not refer the matter back to the decision-making person or body, the decision shall take effect from the date of the Overview and Scrutiny Commission/ Committee meeting.
- (f) If the matter was referred to full Council, the Chief Executive shall call a meeting of the Council on such date as he/she may determine, where possible after consultation with the Mayor and in any case, within 20 working days of the date of the Overview and Scrutiny Commission/ Committee's decision to refer the matter to full Council.
- (g) If, following consideration, the Council does not object to a decision which has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council request.
- (h) If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the relevant Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair of the relevant Scrutiny Committee the Chair of the Overview and Scrutiny Commission must agree to the changes. In the absence of the Chair of the Overview and Scrutiny Commission, the consent of the Mayor, or the Deputy Mayor in the absence of the Mayor, shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

#### Summary of Criteria for Call-in

- Any three Members of the Council, who are not on the Cabinet, may invoke the call-in procedure
- Call-in requests must be submitted to the Chief Executive within five working days of the publication of the executive decision notice
- Any key decision, whether made by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet, or an officer with delegated authority, may be called in
- A request for call-in shall be justified on one or more of the following grounds:
  - the decision is outside the budget and policy framework
  - there has been inadequate consultation prior to the decision

- relevant information was not considered in making the decision
- a viable alternative to the decision was not considered
- the justification for the decision is open to challenge on the basis of the evidence considered

14. **THE PARTY WHIP**

When considering any matter in respect of which a member of the Overview and Scrutiny Commission or a Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the Commission's/Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

15. **PROCEDURE AT OVERVIEW AND SCRUTINY COMMISSION/  
COMMITTEE MEETINGS**

- (a) The Overview and Scrutiny Commission and Committees shall consider the following business: -
- (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) declarations of Party Whip
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Commission/Committee; and
  - (v) the business otherwise set out on the Agenda for the meeting.
- (b) Where the Overview and Scrutiny Commission/Committee conducts investigations (e.g. with a view to policy development), the Commission/ Committee may also ask people to attend to give evidence at Commission/ Committee meetings which are to be conducted in accordance with the following principles:-



- (i) that the investigation be conducted fairly and all members of the Commission/ Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- (ii) that those assisting the Commission/ Committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Commission/ Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

Terms of Reference

<u>Committee</u>	<u>Scope</u>
Overview and Scrutiny Commission	<p>The Commission is responsible for all overview and scrutiny functions on behalf of the Council, and in particular:</p> <ul style="list-style-type: none"> <li>• To appoint and work with the individual Overview and Scrutiny Committees to develop and agree the annual Overview and Scrutiny work programme.</li> <li>• Hold regular discussions with Scrutiny Chairmen, Cabinet Members and Executive Directors to identify priority topics for consideration by Scrutiny.</li> <li>• Identify and take responsibility for items that transcend the terms of reference of, or that fall outside the remit of, the individual Committees.</li> <li>• Consider the Council's Budget Strategy and budget proposals made by the Cabinet and recommend if consultation or representations need to be made.</li> <li>• Consider strategic Council policy decisions and recommend if consultation or representations need to be made.</li> <li>• To make representations to the Cabinet, and Council if necessary, on any issues or areas of concern arising from the overview</li> </ul>

	<p>and scrutiny process.</p> <ul style="list-style-type: none"> <li>• To monitor the achievement of the “Be a modern efficient and effective Council” Council Priority as set out in the Council Plan.</li> <li>• Produce an Annual Overview and Scrutiny Report detailing all scrutiny activity for the year.</li> <li>• Co-ordinate the Members’ Overview and Scrutiny learning programme to facilitate continuous improvement of the overview and scrutiny function.</li> <li>• To receive regular updates on the activities of the Liverpool City Region Combined Authority Scrutiny Committee.</li> <li>• To receive relevant reports on a regular basis in order to review and scrutinise the financial performance of the Council.</li> <li>• To review and scrutinise the Council’s Annual Statement of Accounts prior to approval by the Audit and Governance Committee.</li> <li>• In undertaking this role, the Commission is able to question members of the Cabinet, and/or Chief Officers, regarding their decisions in relation to the financial performance and financial health of the Council.</li> <li>• To exercise the right following call-in to review and, where appropriate, ask for re-consideration of decisions made by, but not yet implemented by, the Cabinet or Council.</li> <li>• To receive and have regard for Councillor Calls for Action within the remit of the Commission.</li> </ul>
<p>Adult Social Care and Health Scrutiny Committee</p>	<p>The Committee shall undertake the functions delegated by the Commission, and in particular:</p> <ul style="list-style-type: none"> <li>• To consider and scrutinise items relating to the provision of adult social care in the Borough</li> <li>• To consider and scrutinise items relating to the provision of health services including</li> </ul>

	<p>public health in the Borough, in accordance with relevant legislation.</p> <ul style="list-style-type: none"> <li>• To review items relating to the operation of adult social care and health services identified in 1 and 2 and their performance, as selected by members of the Committee, or referred to them by the Overview and Scrutiny Commission or the Cabinet.</li> <li>• To engage with, and respond to, formal and informal NHS and St. Helens Clinical Commissioning Group (CCG) or relevant health providers' consultations in relation to any proposal for a substantial development of the Health Service in St. Helens or for a substantial variation to such services.</li> <li>• To monitor the achievement of the "Promote good health, independence and care across our communities" Council Priority as set out in the Council Plan.</li> <li>• In undertaking this role, the Committee is able to question members of the Cabinet and/or Chief Officers, and/or representatives of relevant Health bodies, including CCG representatives and the People's Board regarding their decisions, performance in relation to service operations and targets.</li> <li>• To contribute to Joint Health Scrutiny Committees reviewing consultations by NHS bodies or Health Service providers on cross border changes to services.</li> <li>• To exercise the right following call-in to review and, where appropriate, ask for reconsideration of decisions made but not yet implemented by, the Cabinet or Council.</li> <li>• To receive and have regard for Councillor Calls for Action within the remit of the Committee.</li> <li>• To receive and respond to referred items from Healthwatch in accordance with national regulations.</li> <li>• To provide regular updates on the Committee's work programme to the Overview and Scrutiny Commission.</li> <li>• To produce final reports of all reviews undertaken and monitor and evaluate</li> </ul>
--	--

	<p>progress of recommendations as appropriate.</p> <ul style="list-style-type: none"> <li>• To make representations to the Cabinet, and Council if necessary, on any issues or areas of concern arising from the overview and scrutiny process.</li> </ul>
<p>Children and Young People's Services Scrutiny Committee</p>	<p>The Committee shall undertake the functions delegated by the Commission, and in particular:</p> <ul style="list-style-type: none"> <li>• To consider and scrutinise items relating to the provision of Children and Young People's Services in the Borough.</li> <li>• To review and scrutinise items relating to the operation of Children and Young People's Services and their performance, as selected by members of the Committee or referred to them by the Overview and Scrutiny Commission or the Cabinet.</li> <li>• To monitor the achievement of the "Ensure Children and Young People have a positive start in life" Council Priority as set out in the Council Plan."</li> <li>• In undertaking this role the Committee is able to question members of the Cabinet, and/or Chief Officers, regarding their decisions, performance in relation to service operations and targets.</li> <li>• To receive and have regard for Councillor Calls for Action within the remit of the Committee.</li> <li>• To exercise the right following call-in to review and, where appropriate, ask for re-consideration of decisions made by, but not yet implemented by, the Cabinet or Council.</li> <li>• To provide regular updates on the Committee's work programme to the Overview and Scrutiny Commission.</li> <li>• To produce final reports of all reviews undertaken and monitor and evaluate progress of recommendations as appropriate.</li> <li>• To make representations to the Cabinet, and Council if necessary, on any issues or areas of concern arising from the overview and scrutiny process.</li> </ul>

Place Services Scrutiny Committee	<p>The Committee shall undertake the functions delegated by the Commission, and in particular:</p> <ul style="list-style-type: none"> <li>• To be designated as the responsible Committee for review and scrutiny of crime and disorder issues, pursuant to the Police and Justice Act 2006, and in this context: <ul style="list-style-type: none"> <li>i) to review and scrutinise decisions made, or action taken by, the People’s Board and the responsible authorities which comprise it insofar as their activities relate to the board itself;</li> <li>ii) to make reports or recommendations to Council with respect to the discharge of crime and disorder functions (including CONTEST Prevent and Channel);</li> <li>iii) to consider any local crime and disorder matter which is referred to it by any Member of the Council;</li> <li>iv) to operate in accordance with the powers contained in the Crime and Disorder (Overview and Scrutiny) Regulations 2009 with regard to co-opting of members, frequency of meetings, obtaining information, requiring attendance at meetings and making reports and recommendations.</li> </ul> </li> <li>• To consider and scrutinise items concerning: borough-wide economic development, environment, regeneration, housing, culture, tourism, leisure and libraries.</li> <li>• To be designated as the responsible Committee for flood risk management, and shall undertake its responsibilities under the Flood and Water Management Act 2010 as follows: <ul style="list-style-type: none"> <li>(a) may review and scrutinise any matter relating to the planning, provision and operation of flood risk management in the area of the Borough of St. Helens;</li> <li>(b) may invite those authorities responsible for flood risk management to comment on the matter;</li> <li>(c) request information from them to enable it to carry out its responsibilities; and</li> </ul> </li> </ul>
-----------------------------------	--

	<p>(d) make reports or recommendations and request a response from flood risk management authorities.</p> <ul style="list-style-type: none"> <li>• To monitor the achievement of the “Support a strong, diverse and well-connected local economy”, “Create safe and strong communities for our residents”, and “Create a green, thriving and vibrant place to be proud of” Council Priorities as set out in the Council Plan.</li> <li>• To review items relating to the operation of the functions outlined above and their performance, as selected by members of the Committee, or referred to them by the Overview and Scrutiny Commission or the Cabinet.</li> <li>• In undertaking this role the Committee is able to question members of the Cabinet, and/or Chief Officers, and/or the Chair of the People’s Board, regarding their decisions, performance in relation to service operations and targets.</li> <li>• To exercise the right following call-in to review and, where appropriate, ask for re-consideration of decisions made by, but not yet implemented by, the Council.</li> <li>• To receive and have regard for Councillor Calls for Action within the remit of the Committee.</li> <li>• To provide regular updates on the Committee’s work programme to the Overview and Scrutiny Commission.</li> <li>• To produce final reports of all reviews undertaken and monitor and evaluate progress of recommendations as appropriate.</li> <li>• To make representations to the Cabinet, and Council if necessary, on any issues or areas of concern arising from the overview and scrutiny process.</li> </ul>
--	---

The Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011 enables any Councillor to refer to an Overview and Scrutiny Committee any matter which is relevant to the functions of the Committee and is not an excluded matter. The matter will then be included on an overview and scrutiny agenda discussion at the meeting.

This will be the ultimate destination for items referred to as Councillor Calls for Action: these will be related to services for which the local authority is responsible, except in the case of crime and disorder issues.

For these purposes a “matter” is one which:-

- relates to the discharge of any function of the authority;
- affects all or part of the electoral area for which the referring member is elected or any person who lives or works in that area; and
- is not an excluded matter

Under the Police and Justice Act 2006, referrals regarding crime and disorder issues are given provision. In effect, these calls for action will be treated in the same way as local authority matters. Crime and disorder issues will be referred to the overview and scrutiny body responsible for the overview and scrutiny of those matters.

On receiving the referral, the Overview and Scrutiny Committee will decide whether or not to take action within its powers on the matter after considering: -

- whether the referral is valid;
- whether the referring member has any powers in relation to the matter; and
- representations made by the referring member as to why it would be appropriate for the Committee to exercise its powers.

Before such a referral to overview and scrutiny the Councillor must have tried to resolve the problem him/herself. This would include using resources at an area/ward level. In pursuit of resolving the matter, the ward Councillor should:

- discuss with his/her other ward councillors and agree action;
- request the assistance of area or neighbourhood officers who have responsibility to support local councillors;
- request action by the Department responsible for the service or issue;
- in the case of crime and disorder issues, request the responsible authority to take appropriate action on the matter.

If the problem is still not resolvable, the Councillor can refer it to the Overview and Scrutiny Committee which will determine what, if any, action may be taken. The Overview and Scrutiny Committee will inform the Councillor what action, if any, is to be taken and, if no action is to be taken, the reason why. It must also provide the Council with any reports or recommendations which are made on the matter.

#### Overview and Scrutiny Task and Finish Groups – Protocol

##### Selection Criteria

At the outset of any review, the timeframe of the review needs to be considered. If a review is likely to take longer than six months, it will be designated 'full task and finish' review and work will be carried out by an ad-hoc task and finish group.

Reviews that are likely to take less than three months will be designated as 'spotlight' reviews also carried out via an ad-hoc task and finish group.

##### Terms of Reference

Terms of Reference for the Task and Finish Group should be determined and agreed by the Parent Overview and Scrutiny Commission/Committee, and should fully cover



the aims, approach and indicative timescales of the Task and Finish Group in carrying out the review.

### Membership

Membership of the Task and Finish Group will be between 3-6 members. The Parent Overview and Scrutiny Commission / Committee should nominate as many members of the Commission/ Committee to the Task and Finish Group as wish to participate (up to the limit of the size of the Task and Finish Group), preferably on a cross party basis.

Membership of the Task and finish Group is not limited to members of the Parent Overview and Scrutiny Commission/Committee and can contain any non-Cabinet member of the Council who has an interest in the specific area. Details of the review and Terms of Reference will be distributed to all other non-Cabinet members to determine those who are interested in being a part of the Task and Finish Group. Group leaders will liaise with interested members from their own group and forward the names of interested members to the Overview and Scrutiny Manager. If there are more than six nominations in total, group leaders will determine their nominations.

Cross-party membership is strongly encouraged.

Members not directly involved in the Task and Finish Group are not excluded from the work carried out, and can still be involved, for example, through giving evidence and information at meetings.

Task and Finish Groups are free to identify any external representatives with specialist knowledge and invite them to take part in the review, possibly co-opted onto the Task and Finish Group as external representatives.

A Chair of the Task and Finish Group should be agreed to act as the lead member for the Task and Finish Group.

### Working Arrangements

Task and Finish Groups will arrange informal meetings as and when work requires it. Support arrangements for the meetings will be provided by the Overview and Scrutiny Manager and Scrutiny Support Officer.

Members of the Task and Finish Group will carry out fieldwork for the review as and when appropriate.

#### Reporting Arrangements

A final report will be produced by the Task and Finish Group and presented to the Parent Overview and Scrutiny Commission/Committee at the end of the review.

Interim reports will be presented where necessary for lengthier reviews. Reports will be agreed by the Commission/Committee in the normal reporting procedure.

The Chair of the Parent Overview and Scrutiny Commission/Committee or the Task and Finish Group Chair will present the report to the Cabinet. Once the report is presented to, and accepted by the Cabinet, the Task and Finish Group will cease to exist (unless Cabinet request further information or work).

#### Monitoring Arrangements

Monitoring of the implementation and impact of any recommendations made in the report, and accepted by the Cabinet, will be the responsibility of the Parent Overview and Scrutiny Commission/Committee.



This page is intentionally left blank

FINANCIAL PROCEDURE RULESCONTENTS

- A. FINANCIAL MANAGEMENT
  - 1. General
  - 2. The Role of the Chief Financial Officer
  - 3. Executive Directors
  - 4. Financial Management Standards
  - 5. Managing Expenditure
  - 6. Accounting Policies, Records and Returns
  
- B. FINANCIAL PLANNING
  - 1. Performance Plans
  - 2. Budgeting
  - 3. Maintenance of Reserves
  
- C. RISK MANAGEMENT AND CONTROL OF RESOURCES
  - 1. Risk Management
  - 2. Internal Controls
  - 3. Audit Requirements
  - 4. Preventing Fraud and Corruption
  - 5. Assets
  - 6. Treasury Management
  - 7. Staffing
  - 8. Financial Guarantees
  
- D. FINANCIAL SYSTEMS AND PROCEDURES
  - 1. General
  - 2. Income and Expenditure
  - 3. Taxation
  - 4. Trading Accounts and Business Units
  
- E. EXTERNAL ARRANGEMENTS
  - 1. Partnerships
  - 2. External Funding
  - 3. Work for Third Parties

## FINANCIAL PROCEDURE RULES

### A. FINANCIAL MANAGEMENT

#### 1A GENERAL

- 1.1 The full Council is responsible for approving the annual budget, any amendments thereto (subject to any delegated responsibilities) and the determination of the rate of Council Tax to be levied.
- 1.2 Where, under the Education Act 1998, these Rules do not apply in their entirety, appropriate variations shall be issued by the Chief Financial Officer.
- 1.3 Further instructions are included in the Financial Instructions issued to staff.

#### 2A THE ROLE OF THE CHIEF FINANCIAL OFFICER

- 2.1 The Chief Financial Officer shall be the officer under Section 151 of the Local Government Act 1972 and he/she, or officers nominated by him/her where appropriate, shall be responsible for advising the Council, Cabinet Committee and all other Committees and Members on all financial matters, and for issuing instructions for safe and efficient arrangements for the receipt of monies payable to, and for payments made by, the Council.
- 2.2 All the principal accounting and costing records of the Council shall be determined and compiled by the Chief Financial Officer or under his/her direction. He/she shall exercise overall supervision and control over the form and standard of all financial records, statements and accounts kept by the Council and in its Departments, and will determine the period for which such documents shall be kept.
- 2.3 The Chief Financial Officer (together with the Monitoring Officer) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy

- committing expenditure in future years to above the budget level
- incurring intra-portfolio transfers above virement limits

### 3A EXECUTIVE DIRECTORS

3.1 Executive Directors are responsible for:

- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer
- signing contracts on behalf of the Authority relating to their service areas, subject to the requirements of the Council's Contract Procedure Rules.

3.2 It is the responsibility of Executive Directors to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.

### 4A FINANCIAL MANAGEMENT STANDARDS

4.1 The Chief Financial Officer shall ensure the proper administration of the financial affairs of the Authority and shall set the financial management standards and monitor compliance with them. This will include the provision and regular review of Financial Instructions to staff dealing with financial matters.

4.2 The Chief Financial Officer shall ensure proper professional practices are adhered to and will act as head of profession in relation to the standards, performance and development of finance staff throughout the Authority.

4.3 Executive Directors shall promote the financial management standards set by the Chief Financial Officer in their departments and shall monitor adherence to the standards and practices. This shall include ensuring full compliance with the Council's Financial Instructions.

### 5A MANAGING EXPENDITURE

5.1 The overall budget shall be agreed by the Cabinet and approved by the full Council.

5.2 Executive Directors shall arrange for the implementation of effective budgetary control and shall designate relevant accountable officers to manage all elements of

the budget. Together with the Cabinet Member, they will be responsible for the monitoring of income and expenditure against their Revenue and Capital budgets. Executive Directors and budget managers are authorised to incur expenditure in accordance with the estimates that make up the budget.

- 5.3 The Cabinet and/or individual members and officers discharging executive functions may only take decisions which are in line with the budget. Any decisions which are contrary to or not wholly in accordance with the budget approved by full Council may only be taken by the Council unless the decision is deemed to be a matter of urgency.
- 5.4 Decisions deemed to be a matter of urgency may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the chair of the Overview and Scrutiny Commission agrees that the decision is a matter of urgency.

#### Scheme of Virement

- 5.5 The Council shall have the following Budget Heads:-
- (i) Functions which are the responsibility of the Cabinet:
    - such functions as are listed in Part 3 of the Constitution
    - Other Operating Expenditure/Income
    - Contingency Items
    - Contributions to/from Reserves
    - Contributions from Government Grants and Local Taxpayers
  - (ii) Functions which are the responsibility of the Council:
    - Elections and Electoral Registration
    - Members Allowances
    - Development Control
    - Licensing & Registration
- 5.6 Steps taken by the Cabinet, an individual member or officer discharging executive functions to implement Council policy shall not exceed those budgets allocated to



each budget head. However, such bodies or individuals shall be entitled to vire across budget heads where such virement:-

- (i) arises from the need to conform with recognised accounting standards and practices and has no overall budgetary implication;
- (ii) arises from the reorganisation or rationalisation of internal management arrangements which has no direct impact on service delivery or standards;
- (iii) involves the allocation or distribution from Contingency Items or Reserves previously earmarked by the Council for specific purposes.

All such virement shall only be effected after consultation with, and approval by, the Chief Financial Officer and, in the case of (iii) above in accordance with the established process for use of earmarked balances. All other virement across budget heads shall require the approval of full Council.

5.7 Budget Heads will be sub-divided into “Service Estimates” and “Capital Schemes” as reflected in the Council's Revenue Estimates and Capital Programme respectively. Executive Directors may exercise virement between Service Estimates and/or Capital Schemes on budgets within their control, subject to the following:-

- (i) any decision requiring variations to approved Service Estimates/Capital Schemes must only be taken in accordance with the Scheme of Delegation to Officers;
- (ii) such virement does not create additional overall budget liability;
- (iii) for Operational decisions, virement up to an aggregate value of £100,000 can be undertaken in accordance with the Scheme of Delegation to Officers.

Executive Directors should, in consultation with the relevant Cabinet Member, identify those officers whom they wish to delegate authority for approving such virement. Executive Directors should determine limits that they wish to place on individual officers' authority.

The Chief Financial Officer should be fully informed of all such delegations;

- (iv) virements between £50,000 and £100,000 must be reported to, and approved by, the Chief Financial Officer;
- (v) virement from a service estimate should not be approved if it will result in that service estimate being overspent during the budget period;
- (vi) virement should not involve the transfer of resources from revenue to capital or vice versa without the approval of the Chief Financial Officer;
- (vii) Executive Directors should ensure that suitable documentation is maintained for all decisions in order to demonstrate compliance with agreed procedures and in order to provide evidence for audit purposes.

5.8 Executive Directors are expected to exercise their discretion in managing their budgets responsibly and prudently and should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Executive Directors must plan to fund such commitments from within the Service Estimates within their control.

#### Treatment of Year End Balances

- 5.9 All overspendings and underspendings on Service Estimates/Capital Schemes shall be reported to Council. Any overspending on Service Estimates/Capital Schemes in total (i.e. Budget Heads) will constitute the first call on Budget Heads in the following year.
- 5.10 Underspendings (other than slippage on Capital Schemes or any specific initiative for which approval for funding by way of earmarked balances has been previously granted), shall be retained for the benefit of the Authority and their application shall require the approval of the Council.

#### 6A ACCOUNTING POLICIES RECORDS AND RETURNS

- 6.1 The Chief Financial Officer will be responsible for the selection of suitable accounting policies and will ensure that they are applied consistently.

- 6.2 Executive Directors will adhere to the accounting policies and guidelines as approved by the Chief Financial Officer.
- 6.3 The Chief Financial Officer will determine the accounting procedures and records for the Authority and will arrange for the compilation of all accounts and accounting records under his/her direction.
- 6.4 The Chief Financial Officer will:-
- (i) draw up the timetable for final accounts preparation;
  - (ii) prepare the Authority's statement of accounts in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom and other proper practices and publish the audited accounts in accordance with the Accounts and Audit Regulations;
  - (iii) make proper arrangements for the audit of the Authority's accounts in accordance with the provisions of the Accounts and Audit Regulations;
- 6.5 Executive Directors will be responsible for having all appropriate arrangements in place to ensure that claims for funds, including grants, are made by the due date and shall arrange for any associated audit of claims, returns or assurance statements with the Chief Financial Officer
- 6.6 Executive Directors will maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements, and will supply information required to enable the statement of accounts to be completed in accordance with the guidelines and timetable issued by the Chief Financial Officer. This will include the provision of working papers and other records in the format and quality prescribed by the Chief Financial Officer.

**B. FINANCIAL PLANNING**

**1B PERFORMANCE PLANS**

- 1.1 The Chief Financial Officer will be responsible for advising on and ensuring the supply of financial information that needs to be included as part of the Authority's

corporate planning processes, in accordance with agreed timetables and any statutory requirements.

- 1.2 Executive Directors will be responsible for contributing to the development of performance plans; corporate and service targets; objectives and performance information, and the provision of financial information as required to satisfy these requirements.

## 2B BUDGETING

### Format of the Budget

- 2.1 The Chief Financial Officer will advise the Cabinet on the format of the budget to be approved by full Council.

### Budget Preparation, Monitoring and Control

- 2.2 The Chief Financial Officer will establish an appropriate framework of budgetary management and control that ensures that:-
- (i) budget management is exercised within annual cash limits unless the full Council agrees otherwise;
  - (ii) each Executive Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - (iii) expenditure is committed only against an approved budget head;
  - (iv) all officers responsible for committing expenditure comply with relevant guidance, instruction and Procedure Rules;
  - (v) each cost centre/capital project has a single named manager, determined by the relevant Executive Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure;
  - (vi) significant variances from approved budgets are investigated and reported by budget managers regularly.

2.3. The Chief Financial Officer will administer the Authority's scheme of virement and will prepare and submit reports on the Authority's projected income and expenditure compared to budget on a regular basis.

2.4 Executive Directors shall make arrangements:-

- (i) to maintain budgetary control within their departments, in adherence to the principles outlined in 2.2 above, and to ensure that all income and expenditure is properly recorded and accounted for;
- (ii) to ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Executive Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure;
- (iii) to ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast;
- (iv) to ensure that resources are only used for the purposes for which they were intended;
- (v) to ensure that a monitoring process is in place to review performance levels/ levels of service in conjunction with the budget and is operating effectively;
- (vi) to prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Chief Financial Officer.

2.5 In relation to Capital Schemes, Executive Directors will:-

- (i) comply with guidance concerning capital schemes and controls as issued from time to time by the Chief Financial Officer;
- (ii) ensure that all capital proposals comply fully with the requirements of all the Council's approved Strategies and Plans;

- (iii) ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Financial Officer.

#### Budgets and Medium-Term Planning

##### 2.6 The Chief Financial Officer will:-

- (i) prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate;
- (ii) determine the detailed form of revenue estimates and the methods for their preparation, consistent with the requirements of the full Council, and after consultation with the Cabinet and Executive Directors;
- (iii) prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied;
- (iv) advise on the medium-term implications of spending decisions;
- (v) encourage the best use of resources and value for money by working with Executive Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning;
- (vi) advise the full Council on Cabinet proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

##### 2.7 Executive Directors will:-

- (i) prepare estimates of income and expenditure, in consultation with the Chief Financial Officer, to be submitted to the Cabinet;
- (ii) prepare budgets that are consistent with any relevant cash limits, with the Authority's annual budget cycle and with guidelines issued by the Cabinet.

The format should be prescribed by the Chief Financial Officer in accordance with the full Council's general directions;

- (iii) integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures;
- (iv) in consultation with the Chief Financial Officer in accordance with the laid-down guidance and timetable, prepare detailed draft revenue and capital budgets for consideration by the Cabinet;
- (v) when drawing up draft budget requirements, have regard to:
  - (a) spending patterns and pressures revealed through the budget monitoring process;
  - (b) legal requirements;
  - (c) policy requirements as defined by the full Council in the approved policy framework;
  - (d) initiatives already under way.
- (vi) identify opportunities to improve efficiency, economy and effectiveness and ensure any action to deliver efficiency targets prescribed by Council or the Cabinet are approved, monitored and reported on a frequent basis.

#### Resource Allocation

- 2.8 The Chief Financial Officer will advise on methods available for the funding of resources, such as grants from central government and borrowing requirements, and will assist in the allocation of resources to budget managers.
- 2.9 Executive Directors will work within budget limits and utilise resources allocated in the most efficient, effective and economic way and will continually endeavour to identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

#### 3B MAINTENANCE OF RESERVES

- 3.1 The Chief Financial Officer will advise the Cabinet and/or the full Council on prudent levels of reserves for the Authority.

**C. RISK MANAGEMENT AND CONTROL OF RESOURCES**

**1C RISK MANAGEMENT**

- 1.1 The Chief Financial Officer shall be responsible for the preparation of the Authority's risk management policy statement and insurance strategy, and for identifying all potential liabilities.
- 1.2 The Chief Financial Officer shall be responsible for effecting all insurance cover as is considered necessary as a result of that strategy, and for negotiating claims and maintaining appropriate records. The Chief Financial Officer shall at such time as he/she considers necessary review all insurances in consultation with other Executive Directors.
- 1.3 Executive Directors shall submit any claims on the appropriate form to the Chief Financial Officer for processing to the Council's insurers.
- 1.4 Executive Directors shall take responsibility for risk management and shall ensure that
- there are regular reviews of risks within their Departments and notify the Chief Financial Officer of all new risk that require insurance or alteration to existing insurances.
- 1.5 Executive Directors shall ensure that all projects within their sphere of responsibility are subject to sound planning and control to avoid financial and reputational risks associated with their management. Such controls need to be consistently applied across all projects where the Council has significant involvement or takes the lead and in these circumstances it is the policy that the PRINCE 2 project management methodology or an appropriate equivalent methodology will be used.



## 2C INTERNAL CONTROLS

2.1 The Chief Financial Officer shall ensure that an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations are put in place.

2.2 Executive Directors shall:-

- (i) manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risk;
- (ii) review existing controls in the light of changes affecting the Authority and to establish and implement new ones in line with guidance from the Chief Financial Officer. Executive Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective - for example, because of duplication;
- (iii) ensure staff have a clear understanding of the consequences of lack of control.

## 3C AUDIT REQUIREMENTS

### Internal Audit

3.1 The Chief Financial Officer be responsible for maintaining an independent continuous audit of the financial records, operations and systems of control as laid down in the Accounts and Audit Regulations and the UK Public Sector Internal Audit Standards.

3.2 In undertaking his/her responsibility the Chief Financial Officer, or his/her authorised representative, shall have authority:-

- (i) to enter any premises or land without prior notification to examine all records, documents and correspondence relating to any financial and other transactions of the Council;

- (ii) to require and receive such explanations as he/she deems necessary in order to satisfy him/herself on any matter under consideration;
- (iii) to require production of any information or items deemed necessary for the efficient and effective conduct of the audit.

3.3 Whenever any matter arises which involves, or is thought to involve, or which may suggest the involvement of fraud, corruption or irregularities in the exercise of the functions of the Authority, or any instances of material error or non-compliance the Executive Director concerned shall immediately inform the Chief Financial Officer, who shall take such steps as he/she considers necessary by way of investigation and report.

3.4 Executive Directors shall consider and respond promptly to recommendations in audit reports and ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

#### External Audit

3.5 The Chief Financial Officer will ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work and will ensure that there is effective liaison between external and internal audit.

3.6 Executive Directors will ensure that all records and systems are up-to-date and available for inspection.

#### 4C PREVENTING FRAUD AND CORRUPTION

4.1 The Chief Financial Officer will develop and maintain relevant anti-fraud and anti-corruption policies and monitor the effectiveness of internal control arrangements.

4.2 Executive Directors will ensure that all suspected irregularities and financial improprieties are reported to the Chief Financial Officer.

#### 5C ASSETS

##### Acquisition, Enhancement and Improvement

5.1 The Executive Directors are responsible for:-

- (i) determination of the Council's capital and asset management plans/strategies;
- (ii) the development of corporate prioritisation methodologies to assist the Council in determining the Capital Programme within defined resource limitations.

### Security

- 5.2 Executive Directors will ensure that an asset register is developed and available to record details of all land and building assets held by the Council in order to provide information about those assets and to ensure that they are:-
- (i) safeguarded;
  - (ii) used efficiently and effectively;
  - (iii) adequately maintained.
- 5.3 Executive Directors shall be responsible for the constant upkeep of data held in the land and buildings register.
- 5.4 In relation to land and buildings Executive Directors will:-
- (i) ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Executive Director in consultation with the Chief Financial Officer and Head of Legal and Democratic Services, has been established as appropriate;
  - (ii) ensure the proper security of all buildings and other assets under their control; and take the appropriate action in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
  - (iii) identify land or buildings which are surplus to requirements;

- (iv) pass title deeds to the appropriate Executive Director who is responsible for custody of all title deeds;
- (v) ensure that no Council owned land or building is subject to personal use or any other use other than in pursuance of approved service delivery without proper authority, and where appropriate, documentation identifying terms, responsibilities and duration of use;
- (vi) arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Financial Officer.

Additionally, and in relation to all other assets, Executive Directors will, as appropriate:-

- (i) ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority, including regalia and heritage assets;
- (ii) ensure that the Department maintains a register/inventory of moveable assets in accordance with arrangements defined by the Chief Financial Officer;
- (iii) ensure that assets are identified, their location recorded and that they are appropriately marked and insured;
- (iv) undertake regular checks of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Authority;
- (v) ensure that no Council owned assets are subject to personal use or any other use other than in pursuance of approved service delivery without proper authority, and where appropriate, documentation identifying terms, responsibilities and duration of use;

- (vi) ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion;
- (vii) investigate and remove from the Authority's records (i.e. write off) any stock discrepancies, or redundant stocks, as necessary, or to obtain Cabinet approval if they are in excess of £2,000;
- (viii) ensure cash holdings on premises are kept to a minimum and within relevant insurance limits;
- (ix) ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Financial Officer as soon as possible;
- (x) ensure that the disposal or part exchange of assets is in accordance with corporate disposal procedures;
- (xi) ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

#### Intellectual Property

- 5.5 The Chief Financial Officer will develop and disseminate good practice in relation to the Authority's intellectual property procedures.
- 5.6 Executive Directors will ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

#### Asset Disposal

- 5.7 The detailed procedures for the disposal of land and property are contained within the Council's "Procedure for Disposal" and should be adhered to.

5.8 The procedure for the disposal of other assets shall be such as to ensure proper recording and that the benefits to the Council are authorised and comply with the requirements of the Authority's "Procedure for Disposal".

6C TREASURY MANAGEMENT

6.1 All Treasury Management activity shall be undertaken in full compliance with CIPFA's Code of Practice: Treasury Management in the Public Services. In particular, this will entail that:-

- (i) the Chief Financial Officer will create and maintain, as the cornerstones for effective Treasury Management:
  - a treasury management policy statement, stating the policies and objectives of its treasury management activities
  - suitable treasury management practices (TMP's), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities;
- (ii) the Council will receive reports on its Treasury Management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, an interim report and an annual report after its close, in the form prescribed in its TMP's;
- (iii) the implementation and monitoring of Treasury Management policies and practices shall be the responsibility of the Cabinet and the execution and administration of Treasury Management decisions shall be delegated to the Chief Financial Officer who will act in accordance with the Council's Policy Statement and Treasury Management Practices.

6.2 Executive Directors shall ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without specific Council/Cabinet approval.

- 6.3 The Chief Financial Officer shall make all arrangements for the opening and operation of bank accounts in the name of the Council, for the ordering and issue of cheques, and shall be authorised to operate such bank accounts as he/she considers necessary including variations in the Council's banking terms and overdraft arrangements. All cheques drawn on behalf of the Council shall be signed in accordance with the mandate rules specified by the Chief Financial Officer.
- 6.4 Executive Directors shall ensure that each bank account held within their area of responsibility has a nominated Officer responsible for bank reconciliations, cheque control, accounting for transactions, preparing reimbursement claims, security, and submitting request changes for variations to the mandate.
- 6.5 Any indemnity required by the Council's bankers regarding the signature of cheques by a computer or where the services of a security firm are used for the deposit or receipt of cash at the bank shall be given by the Chief Financial Officer or other duly authorised officer.
- 6.6 The Chief Financial Officer shall make such advances as he/she considers necessary after consultation with the Executive Director, to meet petty cash payments and for use as change floats. Payments from petty cash imprests shall be limited to such maximum value and type of expenditure as may be directed by the Chief Financial Officer. The current maximum value shall be as prescribed in the existing Financial Instructions issued to staff.
- 6.7 The Chief Financial Officer shall make all arrangements for the management of Business Card facilities and all card holders shall comply with those instructions issued governing their use.
- 6.8 Executive Directors shall:-
- (i) arrange for all trust funds and monies managed via appointeeships to be held, wherever possible, in the name of the Authority. All Officers acting as trustees by virtue of their official position shall deposit securities, etc., relating to the trust with the Chief Financial Officer, unless the deed otherwise provides;

(ii) arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Financial Officer and to maintain written records of all transactions;

(iii) ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

## 7C STAFFING

### 7.1 Executive Directors shall:-

(i) produce an annual staffing budget;

(ii) ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads);

(iii) monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff;

(iv) ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided;

(v) ensure that the Chief Financial Officer is immediately informed if the staffing budget is likely to be materially over or under spent.

## 8C FINANCIAL GUARANTEES

8.1 Executive Directors have a responsibility to ensure that no Financial Guarantees be given in relation to any third party without the express approval of the Chief Financial Officer and without having secured appropriate Council/Cabinet approval.

## D **FINANCIAL SYSTEMS AND PROCEDURES**

### 1D GENERAL

1.1 The Chief Financial Officer will determine the Authority's accounting systems and ensure that financial systems are sound. The approval of the Chief Financial Officer is required prior to the introduction of new financial systems or changes to existing systems.



- 1.2 Executive Directors will ensure that all financial transactions have management trails which allow tracing from accounting records to original documents.
- 1.3 Executive Directors will arrange for the documentation of systems and relevant staff training and will ensure that effective contingency arrangements exist for computer systems within their scope of activity.
- 1.4 Executive Directors will ensure that due regard is had to planning and committing expenditure through commissioning and procurement processes to enable compliance with both internal requirements and external regulations/statute.

## 2D INCOME AND EXPENDITURE

### Income

- 2.1 The arrangements for the collection of all Monies due to the Council shall be subject to the approval of the Chief Financial Officer.
- 2.2 No cash payments in excess of that sum specified in the Council's Financial Instructions shall be accepted in a single transaction or series of transactions by cashiers without the approval of the Authority's nominated Money Laundering Reporting Officer.
- 2.3 Details of charges for work done, goods supplied or services rendered on behalf of the Council and of all other income due to the Council, shall be promptly notified by the Chief Financial Officer in a form approved by him/her. Such form shall include provision, as necessary, for the allocation of income to the relevant head of account. Value Added Tax should be accounted for separately, where applicable.
- 2.4 All monies received on behalf of the Council shall be acknowledged at once by the issue of an official receipt, voucher or ticket or by other agreed method, and shall be paid intact to the Chief Financial Officer or his/her collecting officer or, subject to his/her instructions, be banked in the Council's name at such intervals as he/she may determine. Executive Directors shall ensure that there is a prompt and comprehensive reconciliation of all monies received and banked.

- 2.5 All accounts, statements or letters requiring monies to be paid to the Council shall specify that payment must be made to the Chief Financial Officer unless agreed otherwise by him/her.
- 2.6 Sums deemed to be irrecoverable shall only be approved for write off in accordance with the requirements of the Scheme of Delegation to Officers.
- 2.7 All receipt forms, books, tickets, licences and other documents representing receipts for money shall be in a form approved by the Chief Financial Officer.
- 2.8 Executive Directors shall establish a charging policy for the supply of goods and services, including the appropriate charging of VAT and shall ensure that the levels of fees and charges relating to services under their control shall be reviewed annually and reports shall be forwarded to the Cabinet for approval, after consultation with the Chief Financial Officer or his/her nominated representative or dealt with under the Delegated Executive Decision system.
- 2.9 Executive Directors shall ensure that the requirements of the Council's Debt Recovery Policy are fully complied with at all times.

Ordering and Paying for Work, Goods & Services

- 2.10 The Executive Director or senior persons nominated by him/her shall be responsible for the examination, verification and certification of requisitions for payment and for the allocation of expenditure to the relevant head of account. Value Added Tax should be accounted for separately where applicable.
- 2.11 All requisitions for payment shall be signed by the Executive Director or authorised designated officer and shall include responsibility for verifying, prior to passing to the Chief Financial Officer for payment, that:-
- (a) the goods or services to which the invoice relates have been received;
  - (b) the prices, calculations, trade discounts, other allowances and VAT are correct, and the invoice has not previously been passed for payment;
  - (c) the expenditure is lawful;

- (d) the expenditure complies with Financial Procedure Rules, Contract Procedure Rules and Financial Instructions.
- 2.12 The Chief Financial Officer may examine, so far as he/she considers necessary, all accounts passed to him/her for payment and shall be entitled to receive such information and explanations as he/she may require. The Chief Financial Officer shall pay all accounts which he/she is satisfied represent legal payments and are in order.
- 2.13 Executive Directors shall, as soon as possible after 31 March each year and not later than a date specified, notify the Chief Financial Officer, or agent, of all outstanding expenditure relating to his/her department for the previous financial year. Executive Directors shall ensure that all such expenditure relates only to work, goods or services that has been completed or delivered on or before 31 March.
- 2.14 Invoices shall be passed to the Chief Financial Officer in sufficient time to enable payment to the supplier within the agreed payment period. Variations to standard Council payment terms shall only occur where express approval has been issued by the Chief Financial Officer.
- 2.15 Proposals to take advantage of early payment discounts require approval of the Chief Financial Officer prior to such discounts being taken.
- 2.16 Executive Directors must ensure that credit notes, refunds, or other appropriate redress is obtained when payment has been made and goods/services are subsequently deemed to be unsatisfactory.

#### Payments to Employees and Members

- 2.17 Executive Directors shall notify or consult the Head of People Management in the appropriate manner of all appointments, promotions, regradings, resignations, redundancies, dismissals, retirements, suspensions, secondments and absences from duty or any other circumstances affecting the salaries, wages or emoluments of any employee in the Council and shall consult the Head of People Management on matters relating to the application of salaries and wages scales.

2.18 Timesheets or other pay documents, in a form approved by the Head of People Management in consultation with the Chief Financial Officer shall be prepared as necessary and certified by the authorised representative of the Executive Director.

2.19 The Head of People Management, or other officer designated by him/her, shall be responsible for the payment of all payrolls from information supplied by Departments. The Executive Directors shall provide the Head of People Management with all information necessary to maintain records of service, superannuation, income tax, national insurance, statutory sick pay, etc. Executive Directors shall ensure that all requests to pay employees are:-

- (i) in respect of employees within authorised establishments or approved redeployments or in respect of temporary or casual employees engaged for periods of sickness or emergency;
- (ii) at salary and wage rates in accordance with nationally negotiated rates except where otherwise approved.

Grants to be Awarded by the Council

2.20 Executive Directors shall ensure that all grants awarded by the Council to third parties are subject to robust and fully documented processes and procedures to compliance with approved objectives and full accountability for the sums awarded.

These processes and procedures should include, where appropriate:-

- (i) advertisement of grant opportunities;
- (ii) application processes and timescales;
- (iii) defined eligibility criteria;
- (iv) assessment of application;
- (v) decision making processes;
- (vi) approval processes;
- (vii) notification procedures;
- (viii) monitoring and reporting procedures;
- (ix) repayment and clawback arrangements;

- (x) an assessment of any other funding awarded by the Council to the party concerned.

- 2.21 Full documentation should be available at all times to support actions taken during the grant award process and retained in accordance with the Council's Retention Policy.
- 2.22 Decisions shall be made in compliance with the Council's Constitutional provisions for Decision Making and Responsibility of Functions.

### 3D TAXATION

- 3.1 The Head of People Management will complete all returns to Her Majesty's Revenue & Customs (HMRC) regarding PAYE.
- 3.2 The Chief Financial Officer will complete a monthly return of VAT inputs and outputs to HMRC and will provide details to the HMRC regarding the Construction Industry Tax Deduction scheme.
- 3.3 The Chief Financial Officer will maintain up-to-date guidance for employees on taxation issues.
- 3.4 Executive Directors will:-
  - (i) ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC Regulations;
  - (ii) ensure that, where construction and maintenance works are undertaken, the Authority's arrangements for the proper recording of all Construction Industry Tax Deductions are satisfied;
  - (iii) ensure that all persons employed by the Authority are added to the Authority's payroll and tax deducted from any payments, except where the individuals may be paid without the deduction of tax in accordance with those procedures specified by the Head of People Management;

- (iv) follow the guidance on taxation issued by the Chief Financial Officer in the Authority's VAT Manual and Construction Industry Tax Deductions guidance documents.

#### 4D TRADING ACCOUNTS AND BUSINESS UNITS

4.1 The Chief Financial Officer will advise on the establishment and operation of trading accounts and business units.

4.2 Executive Directors will:-

- (i) observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged;
- (ii) ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units;
- (iii) ensure that each business unit prepares an annual business plan.

#### E **EXTERNAL ARRANGEMENTS**

##### 1E PARTNERSHIPS

1.1 The Council has specific responsibilities when establishing partnership arrangements with external companies, other public organisations and community and voluntary groups. Partnership arrangements are defined as any arrangement with another organisation which places responsibility for the carrying out duties on behalf of the Council.

- The nature of the partnership should be clearly stated in a partnership agreement and should include formal agreement and acceptance of each partners roles and responsibilities.
- The agreement should be subject to a risk management process to establish and manage all known risks including relevant exit strategies.
- Standards of financial administration should be consistent with those operated by

the Council. This may mean that Financial and Contract Procedure Rules will need to be shared with the partner organisations. However this requirement needs to be considered in the context of risks and potential loss.

- A performance monitoring framework will need to be established to ensure the objectives of the partnership are met.
- A formal reporting procedure should be established to report to the Council both the financial and performance position.
- Access protocols to records and documents should be established to ensure effective Audit and Inspection processes.

1.2 The Chief Financial Officer will advise on effective controls to ensure that resources are not wasted and that accounting arrangements are satisfactory.

1.3 Executive Directors will maintain a register of all contracts entered into with external bodies after prior consultation with the Head of Legal and Democratic Services and Chief Financial Officer and ensure full consideration is given to appropriate partnership protocol.

1.4 Executive Directors will ensure that all partnership agreements are properly documented in a form prescribed by the Executive Director Group, do not impact adversely upon the services provided by the Authority and that a risk assessment appraisal has been undertaken, in conjunction with the Chief Financial Officer prior to entering such agreements.

## 2E EXTERNAL FUNDING

2.1.1 Executive Directors shall liaise with the Chief Financial Officer when notified of any new or additional external funding from Government Departments or other grant-making body where that new or additional grant has not been subject to an initial grant application or submission from the Council. Approval as to the purposes for which such grant may be used must be secured in accordance with the requirements of the Budget & Policy Framework.

2.1.2 Executive Directors shall liaise with the Chief Financial Officer when considering, and prior to undertaking, any submissions to Government Departments or other grant-awarding body for new or additional external funding. Approval for any such submissions must be secured in accordance with the requirements of the Budget & Policy Framework.

2.3 Executive Directors shall ensure that applications are in accordance with the agreed plans, policies and priorities of the Council; that all risks associated with the completion of applications and claims for grant monies are fully considered; and that there are proper procedures in place to ensure that applications and claims are processed in an appropriately controlled manner. This risk assessment shall include:-

- (i) Consideration of impact on service delivery;
- (ii) Any match funding and/or potential clawback requirements;
- (iii) Revenue and resource implications for future years, including planned exit strategies;
- (iv) Any constraints and restrictions of the grant conditions and the ability to deliver within those conditions;
- (v) Ability to comply with record keeping arrangements;
- (vi) Ability to implement appropriately robust processes for progress monitoring and reporting.

2.4 Executive Directors must ensure that requirements prescribed by the approval letter, grant conditions and grant claiming instructions are understood and complied with, and that all claims for funds are made by the due date, and that all expenditure is properly incurred and recorded.

### 3E WORK FOR THIRD PARTIES

3.1 The Chief Financial Officer will provide advice with regard to the financial aspects of third party contracts and other arrangements.

3.2 Executive Directors will:-



- (i) ensure that any necessary approvals are obtained before any negotiations are concluded to work for third parties;
- (ii) maintain a register of all contracts/arrangements entered into with third parties in accordance with the requirements of the Chief Financial Officer;
- (iii) ensure that appropriate insurance and other risk management arrangements are made;
- (iv) ensure that the Authority is not put at risk from any bad debts;
- (v) ensure that no contract/arrangement is subsidised by the Authority without having obtained prior approval;
- (vi) ensure that, wherever possible, payment is received in advance of the delivery of the service;
- (vii) ensure that the Department/Unit has the appropriate capacity and expertise to fulfil its obligations under the contract/arrangement;
- (viii) ensure that such contracts/arrangements do not impact adversely upon the services provided for the Authority;
- (ix) ensure that all contracts/arrangements are properly documented;
- (x) provide appropriate information to the Chief Financial Officer to enable the compilation of the Statement of Accounts in accordance with proper practices.

This page is intentionally left blank

# Contract Procedure Rules

June 2022

## 1.0 GENERAL

- 1.1 These Contract Procedure Rules (issued in accordance with Section 135 of the 1972 Local Government Act) are intended to promote good procurement practice and public accountability, as well as providing best value for the Council.
- 1.2 The rules are intended to ensure that all Council contracts are entered into following a transparent, lawful, and fair procurement process.
- 1.3 There must be no exception from compliance with the rules unless explicitly stated within them.
- 1.4 Each contract entered into by the Council shall be in pursuant to, or in connection with, the Council's functions and shall comply with:
  - 1.4.1 Relevant statutory provisions,
  - 1.4.2 Relevant procurement legislation and regulation,
  - 1.4.3 TUPE rules and implications, and,
  - 1.4.4 The council's constitution, strategic objectives, and relevant policies.
- 1.5 Officers responsible for procurement must:
  - 1.5.1 Comply with these rules,
  - 1.5.2 Comply with the Council's code of conduct,
  - 1.5.3 Consider and implement the principles of non-discrimination, equal treatment, and transparency during the procurement process,
  - 1.5.4 Ensure that any agents, consultants, and contractual partners, acting on their behalf also comply with these rules, and are made aware of

all relevant council policies and procedures, such as the whistleblowing policy, information governance requirements, etc.

## **2.0 SCOPE AND EXEMPTIONS**

- 2.1 The rules apply to all contracts;
  - 2.1.1 Relating to the supply of services,
  - 2.1.2 Relating to the purchase, leasing, and hiring of goods, and,
  - 2.1.3 Relating to the execution of works.
  - 2.1.4 Where funding is provided by the Council, either partially or in full, or where the Council is lead authority in any collaborative procurement arrangements.
- 2.2 These rules do not apply to 'absolute' exemptions, such as the following;
  - 2.2.1 Contracts of employment,
  - 2.2.2 Contracts relating to the disposal of interests in land or property, including stocks and equipment,
  - 2.2.3 Contracts relating to the disposal of furniture, goods, vehicles, plant, and equipment which are deemed surplus to requirements,
  - 2.2.4 The execution of work or the supply of services which must be carried out by a particular public utility undertaking, statutory undertaker, local authority, or similar body,
  - 2.2.5 The supply of goods, materials, or services by a central or local government purchasing organisation or by any consortium, association, or similar body of which the Council or school with a delegated budget is a member, providing the supply is in accordance with the method prescribed by that body and that this method is of an equivalent standard to these contract procedure rules,
  - 2.2.6 Treasury Management activity, other than Banking Services, and,

- 2.2.7 Emissions trading, subject to the requirements of the Government's Carbon Reduction Commitment.
- 2.3 These rules do not apply to 'qualified' exemptions, such as the following, which must be approved by an Operational or Executive Decision, dependent on the contract value, prior to contract award;
- 2.3.1 Contracts where the service or works to be provided, or the goods or materials are proprietary articles which (and any acceptable substitutes for which) are supplied only by one person or firm, or are sold at a fixed price and where the relevant Director is satisfied that there is no reasonable satisfactory alternative,
- 2.3.2 The execution of works of a specialised nature which are carried out only by one contractor and where the relevant Director is satisfied that there is no reasonable satisfactory alternative,
- 2.3.3 Contracts where the price of the goods or materials is wholly controlled by government order or otherwise and no reasonably satisfactory alternative is available,
- 2.3.4 Where the contract is required to maintain continuity of care and support, where a change in provider could potentially be harmful to service users and their families (where the aggregate value of contracts awarded to a single provider does not exceed the relevant FTS threshold),
- 2.3.5 For other reasons there would be no genuine competition, or where the requirements of competition as required by statute have already been met,
- 2.3.6 The work to be executed, or the goods or services to be supplied, constitutes an extension to an existing contract or the approval extension of a contract, subject to the original award methodology and subject to the Director deciding that it would not be in the interest of the Council to tender the contract. Extension to a contract should only

be sought if available extension options exist and once appropriate due diligence has been undertaken,

- 2.3.7 The contract is for the execution of work, or the supply of goods or services, certified by the appropriate Director to be required so urgently as to preclude a competitive exercise. The urgency shall only apply to unforeseen and unforeseeable events and not failure to act in a manner which would have permitted a full competitive exercise to take place,
- 2.3.8 The purchase of a named or proprietary product required to be compatible with an existing installation, and,
- 2.3.9 The appropriate Director determines that it would not be in the best interest of the Council to tender the contract due to any other reason, including, but not limited to; the risk associated with not having a contract in place, the risk associated with changing supplier, the overly complex nature of the procurement process or associated product or service. The total value of any contract must be for intermediate contract thresholds or less, and value for money must still be demonstrable.

### **3.0 ROLES AND RESPONSIBILITIES**

- 3.1 The contracting manager is the person responsible for;
  - 3.1.1 Consulting the procurement service, and where appropriate Legal Services, in advance of undertaking procurement activity,
  - 3.1.2 Undertaking the necessary pre-procurement activities and obtaining the necessary approvals,
  - 3.1.3 Agreeing the procurement approach with the Procurement Service, and all documents required within it,
  - 3.1.4 Leading the relevant decision-making process and gaining necessary approvals for awarding the contract, and,

- 3.1.5 Overseeing any contract management arrangements.
- 3.2 The procurement service are the professional experts and are responsible for;
  - 3.2.1 Providing advice, guidance, and support
  - 3.2.2 Advising on, and monitoring, compliance with these rules and relevant legislation,
  - 3.2.3 Administering the process as required, including the use of Frameworks, and,
  - 3.2.4 Undertaking the procurement activity for, and effectively manage, designated corporate contracts.

#### **4.0 PRE-PROCUREMENT**

- 4.1 Determine if the procurement activity is needed;
  - 4.1.1 Consider if it can be delivered in a different way (e.g.; shared-service, bring into the council, or use an existing contract) or if it can be decommissioned.
  - 4.1.2 Undertake market engagement or research where beneficial to clarify the requirements and determine the favoured procurement approach.
- 4.2 Inform the Procurement Service as soon as the need for procurement is identified, and ensure sufficient time is given to conduct an appropriate procurement exercise.
- 4.3 Determine the best approach for the specific procurement, seeking advice from the Procurement Service as required, such as;
  - 4.3.1 Open Procurement - where anyone can tender,
  - 4.3.2 Restricted Procurement - where specific suppliers are selected to tender,

- 4.3.3 Competitive Procedure with Negotiation - a selection is made of those who can tender, and open negotiations are then undertaken to seek improved offers,
- 4.3.4 Competitive Dialogue Procedure - a selection is made of those who respond to an advertisement before entering a dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender,
- 4.3.5 Innovation Partnership Procedure - a selection is made based on a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing “product” on the market. The award can be to more than one supplier, or,
- 4.3.6 Frameworks or Dynamic Purchasing Systems.
- 4.4 Consider the opportunity to obtain social value through the contract (see Section 5).
- 4.5 Consider the opportunity to obtain greater interest from local suppliers or small to medium enterprises (SMEs) (see Section 5).
- 4.6 Determine the contract value;
  - 4.6.1 Determine the likely annual cost and multiplying it by the number of years the contract is needed for, and any options to extend, which may be an estimate where this is for a series of transactions for anticipated goods, services or works,
  - 4.6.2 Use a period of 5 years as the contract length where there is no clearly defined end date or contract period,
  - 4.6.3 Add in all associated costs (such as; maintenance, support, or consumables), where these can only be provided by the same supplier, or where it would likely provide reduced overall costs,



- 4.6.4 Consider breaking down larger contracts into defined lots, where they can be provided by one or more suppliers, so increasing the opportunity for more potential suppliers, local suppliers, and small to medium enterprises (SMEs),
  - 4.6.5 Ensure that contracts are not disaggregated to avoid these rules, approvals, or legislation,
  - 4.6.6 The contract value will identify which threshold is relevant and so the procurement process to follow.
- 4.7 Obtain necessary approvals;
- 4.7.1 Ensure there is sufficient budget available to meet the commitments of any contract,
  - 4.7.2 Ensure the appropriate approvals processes have been followed and approval has been granted to undertake the procurement exercise (and where necessary, delegation obtained to award the contract).
- 4.8 Ensure all potential issues have been considered;
- 4.8.1 Discuss potential procurement routes with the procurement service, to ensure the best option is taken to obtain value for money,
  - 4.8.2 Discuss staffing implications of the potential contract, and in particular Transfer of Undertakings (Protection of Employment) regulations (TUPE) are discussed with Human Resources,
  - 4.8.3 Discuss any contracts for external marketing, communications, or web-related services (such as web design) with the communications service,
  - 4.8.4 Discuss any contracts relating to the provision of ICT systems, software, or equipment, with the ICT service,

- 4.8.5 Discuss any contracts relating to equipment or services that have health and safety implications (such as working at height, noise, vibration, etc.) with the health and safety service.
- 4.8.6 Discuss any contracts where there are Information Management or GDPR considerations, with the Data Protection Service.
- 4.8.7 Discuss any contract where there may be implications for our existing insurance cover, with the Insurance Service.

## **5.0 SOCIAL VALUE**

- 5.1 The council is required to consider how the services they commission and procure might improve the economic, social, and environmental well-being of the area.
- 5.2 Before the procurement activity begins, consideration must be given to;
  - 5.2.1 How the proposed procurement activity can improve the economic, social, and environmental wellbeing of the relevant area,
  - 5.2.2 How, in conducting the procurement process, these economic, social, and environmental improvements can be secured, and,
  - 5.2.3 Whether to consult with stakeholders and service users about this.
- 5.3 It is expected that all relevant procurement activities will incorporate social value as part of the tender documentation and assessment criteria, treating it as part of the value for money assessment.
- 5.4 Social value responses within the tenders are expected to be measured and monitored through contract management arrangements.

## **6.0 PROCUREMENT THRESHOLDS**

- 6.1 The thresholds are outlined in the matrix below with a summary of the key requirements within each;

<b>Contract Threshold</b>	<b>Total Contract Value (exclusive of VAT except where highlighted*)</b>	<b>Procurement Route</b>	<b>Advertisement</b>	<b>Approval &amp; Authority to Sign Contract</b>
Very Low	£0 - £4,999	Value for money assessment or single quotation	None required. If requesting a quote this should be done through e-proc.	Budget Manager (Authorised Signatory)
Low	£5,000 - £24,999	2 quotes or tenders, or framework	Contract register	Budget Manager (Authorised Signatory)
Intermediate	£25,000 – FTS** (£213,476*)	3 quotes or tenders, or framework	Contract Register, and Contract Finder	Budget Manager (Operational Decision)
High	FTS** (£213,477*) and above	FTS procedures	Contract Register, Contract Finder, and FTS	Executive Director (Executive Decision)***

\*\* This refers to the Find a Tender Service (FTS) threshold for supplies and services and is applied to all contracts including; concession, works, and light touch regime contracts. FTS thresholds are reviewed every two years and are inclusive of VAT. There are separate thresholds for Works and Concession Contracts (£5,336,937), as well as for the Light Touch Regime for Health and Social Services (£663,540).

\*\*\* For contract valued of £200,000 (net VAT) and above, a Delegated Executive Decision (DED) is required, while for contract values of £500,000 (net VAT) and above, a Cabinet Decision will be required as this will be a Key Decision.

## **7.0 CONTRACT PROCEDURES (FOR ALL PROCUREMENTS)**

7.1 Where possible, goods, services, or works, should be obtained from existing contracts or arrangements, including;

7.1.1 Our own services,

7.1.2 Established contracts,

7.1.3 Existing dynamic procurement systems (DPSs) and e-procurement systems (EPROC), and frameworks, or,

- 7.1.4 Public sector purchasing consortia (frameworks) where the council is a member, or has access, such as Yorkshire Purchasing Organisation (YPO).
- 7.2 Where appropriate, a specification should be created that will form the basis of the contract, and should consider all relevant impact assessments, such as; equalities, sustainability, and health and safety.
- 7.3 Where appropriate, performance indicators or quality standards should be included in the contract documentation as these will be used to monitor the success of the contract.
- 7.4 Where possible e-tendering platform should be used.
- 7.5 Undertake an assessment of the risks associated with the contract, and where this is deemed high, maintain a risk register for the contract. The risk assessment should include;
  - 7.5.1 The impact and severity of the contract failing,
  - 7.5.2 The ease of replacing the supplier,
  - 7.5.3 The reputational risk of poor contract performance
  - 7.5.4 The risk of the contract to our local economy and supply chain.

## **8.0 CONTRACT PROCEDURES (VERY LOW VALUE)**

- 8.1 For very low value procurements (below £5,000) it is preferred that existing corporate contracts, frameworks, or suppliers are used where possible.
- 8.2 Where this is not possible, 'value for money' must be obtained either through;
  - 8.2.1 A comparison of prices from several sources (this can include sales brochures, the internet, etc.),
  - 8.2.2 Obtaining informal quotes,
  - 8.2.3 Benchmarking prices with other organisations,

8.2.4 Comparing prices to those previously paid, or,

8.2.5 Obtaining a professional perspective on the value for money of the proposed price.

8.3 Value for money must be obtained and sufficient evidence retained to demonstrate this.

## **9.0 CONTRACT PROCEDURES (LOW VALUE)**

9.1 For low value procurements (from £5,000 to £24,999) it is preferred that existing corporate contracts, frameworks, or suppliers are used where possible.

9.2 Where corporate contracts or frameworks cannot be used, or do not provide value for money, two separate quotes or tenders should be sought.

9.3 Where two quotes or tenders are sought but less than two are received, more quotes or tenders can be sought unless there is sufficient information to establish value for money and award the contract.

9.4 A clear specification of requirements should be produced regardless of the procurement process selected.

9.5 The invitation to quote or tender shall specify the supplies, services, or works to be provided and outline the terms and conditions of contract including the terms of payment.

9.6 All documentation must be retained in line with Procurement Records and Information Management (Section 21).

9.7 The procurement must be added to the Contract Register.

## **10.0 CONTRACT PROCEDURES (INTERMEDIATE VALUE)**

10.1 For intermediate value procurements (from £25,000 to the FTS threshold) existing corporate contracts or frameworks can be used.

- 10.2 Where corporate contracts or frameworks cannot be used, or do not provide value for money, three separate quotes or tenders should be sought.
- 10.3 Where three quotes or tenders are sought but less than three are received, more quotes or tenders can be sought unless there is sufficient information to establish value for money and award the contract.
- 10.4 A clear specification of requirements should be produced regardless of the procurement process selected.
- 10.5 The invitation to quote or tender shall specify the supplies, services, or works to be provided and outline the terms and conditions of contract including the terms of payment.
- 10.6 The procurement must be advertised on, and contract award added to the Government's Tender Portal (Contract Finder).
- 10.7 An Operational Decision will be needed to award the contract.
- 10.8 All documentation must be retained in line with Procurement Records and Information Management (Section 21).
- 10.9 The procurement must be added to the Contract Register.

#### **11.0 CONTRACT PROCEDURES (HIGH VALUE)**

- 11.1 For high value procurements (contract above the FTS threshold) existing corporate contracts or frameworks can be used.
- 11.2 Where corporate contracts or frameworks cannot be used, or do not provide value for money, then Procurement should be contacted to discuss and agree an appropriate FTS compliant process such as, Open Procurement, Restricted, Competitive Dialogue or Innovation Partnership.
- 11.3 A clear specification of requirements should be produced regardless of the procurement process selected.

- 11.4 The invitation to quote or tender shall specify the supplies, services, or works to be provided and outline the terms and conditions of contract including the terms of payment.
- 11.5 The procurement must be advertised on, and contract award added to the Government's Tender Portal (Contract Finder) and FTS (Find a Tender Service).
- 11.6 Consideration should be given to advertisement of the procurement in other appropriate media, such as professional journals.
- 11.7 An Executive Decision will be needed to award the contract up to £500,000, and Cabinet Approval required for contracts above this amount. It should be noted that delegation to award the contract should be obtained when obtaining approval to allocate the budget or undertake the procurement exercise.
- 11.8 All documentation must be retained in line with Procurement Records and Information Management (Section 21).
- 11.9 The procurement must be added to the Contract Register.

## **12.0 RECEIPT AND ASSESSMENT OF TENDERS**

- 12.1 All tender documents must be issued through the e-procurement platform.
- 12.2 All tenders will be opened by Democratic Services.
- 12.3 Late tenders may be opened if no other tender for that contract has been opened and there is an acceptable explanation for late delivery of the tender. The tenderer will be informed where a late tender is not to be considered.
- 12.4 All tenders should be anonymous until formal receipt and opening has been undertaken in accordance with the rules established above.
- 12.5 Tenders received for contracts will be evaluated in accordance with the regulations related to the procurement exercise and the agreed and shared

evaluation criteria. Evaluation criteria cannot be subsequently applied where it was not included in the tender information.

- 12.6 The evaluation panel will discuss their individual scores with a view to reaching agreement on a final score and justifying comments. Where agreement cannot be reached a moderation matrix should be agreed and maintained showing all individual scores and the moderated score.
- 12.7 Due diligence must be undertaken as part of the tender assessment, which will be proportionate to the contract value and risk, and may include;
  - 12.7.1 The supplier's economic and financial standing,
  - 12.7.2 Insurance and indemnity levels,
  - 12.7.3 Technical and professional ability
  - 12.7.4 The supplier's performance in respect of recent contracts providing similar works services and supplies,
  - 12.7.5 The educational and professional qualifications of the supplier and/or its managerial staff or those providing the services or managing the work, and,
  - 12.7.6 Quality management systems in respect of human resources, health and safety, and environmental considerations.

### **13.0 ERRORS, CLARIFICATIONS, AND COMMUNICATION WITH BIDDERS**

- 13.1 All communications, including clarification questions, with bidders during procurement process must be conducted via the secure messaging service which forms part of the e-tendering system or, if not possible, through email to all bidders.
- 13.2 Verbal communication should not be carried out except to provide instruction on using the e-tendering system or in exceptional circumstances and preferably in the presence of a member of the procurement service.



- 13.3 Where a tender has an error or discrepancy which may affect the tender figures, the tenderer shall be given details of the error or discrepancy and be offered an opportunity to confirm or withdraw the offer. If the tender is to be amended in any other way, this must be approved by the procurement service and details recorded in the decision notice accepting the tender. If the tenderer withdraws, the remaining tenders shall be considered for acceptance in the normal manner.
- 13.4 Should a supplier elect to amend their offer and the revised tender submission is no longer the highest ranked score, the offer by the (previously) second highest ranked bidder should be examined based on the same rules and a decision made on which to award to.

#### **14.0 COLLUSION IN THE TENDER PROCESS**

- 14.1 Bidders must confirm in their tenders that they are submitting a bona fide tender and include an anti-collusion statement.
- 14.2 If anti-competitive activity is suspected, it must be raised with the procurement service.

#### **15.0 AWARDING A CONTRACT**

- 15.1 The Council shall only award a contract where it meets the defined award criteria, this being either;
- 15.1.1 It represents the Most Economically Advantageous Tender (MEAT),
- 15.1.2 It is the lowest price, or,
- 15.1.3 It is the highest (where payment is to be made to the Council).
- 15.2 Contracts will only be awarded to suppliers who pass the required 'due diligence' checks, including obligations under Money Laundering Legislation.
- 15.3 Acceptance shall be in writing by the appropriate officer.
- 15.4 A debriefing shall be provided to unsuccessful bidders on written request.

- 15.5 A contract award notice will be published, where required.
- 15.6 Contracts shall not be formalised until any 'Alcatel' or 'standstill' period has been observed.
- 15.7 The council will look to use its own Terms and Conditions. Where this is not appropriate, any proposed contract terms should be included within the tender documentation, and these, along with any final contract, must be reviewed and agreed by Legal Services, including those issued when using a Framework or when working with a Grant Funding Body.
- 15.8 Where there is an urgent need for the execution of works, or the supply of goods, materials, or services, which does not permit time for the execution of a written contract, then a contract must be put into writing as soon as practicable.
- 15.9 Contracts shall be under seal where they have a value over £1m, and;
- 15.9.1 The contract is such that Legal Services consider that the extended limitation period of 12 years would be of value, or,
- 15.9.2 Where it is required by statute, or an external funding body, that it is executed under seal, or,
- 15.9.3 Where the price paid, or received, under the contract does not reflect the value of the good, services or works, or,
- 15.9.4 Where the contract relates to construction or works.
- 15.10 Contracts must be signed by both parties, which can be done using e-signatures where possible and in line with appropriate legislation and regulation.
- 15.11 A final copy of the signed contract must be retained in line with Section 21, Procurement Records, and Information Management.

## **16.0 NON-COMPLIANCE**

- 16.1 Proceeding with a non-compliant procurement without the appropriate approvals will be the responsibility of the contracting manager.
- 16.2 All non-compliance with these rules will be noted and reported on by the Procurement Service.
- 16.3 Serious breaches can lead to disciplinary or legal action.

## **17.0 FRAMEWORK AGREEMENTS AND PUBLIC BUYING CONSORTIA**

- 17.1 The council promotes the use of Framework Agreements and Public Buying Consortia wherever possible, albeit there is often a nominal fee for using such services.
- 17.2 The use of such procurement routes replaces the need to run a separate procurement activity but does not replace any other element of these rules.
- 17.3 Procurement undertaken through these routes must use the prescribed processes and procedures of the Framework or Public Buying Consortia.
- 17.4 The letting of Framework Agreements should comply with the requirements of relevant regulations.

## **18.0 E-AUCTIONS AND DYNAMIC PURCHASING SYSTEMS**

- 18.1 The council promotes the use of e-auctions and dynamic purchasing systems (DPS), where they are of benefit and comply with all relevant regulations.
- 18.2 All potential suppliers must complete all 'due diligence' to be able to offer services through e-auctions or DPS.
- 18.3 All submissions must still be evaluated against the agreed award criteria.
- 18.4 E-auctions cannot be used for procuring services that will be directly provided to service users.

## **19.0 PROCEDURES FOR THE PROCUREMENT OF CARE SERVICES AND EDUCATION**

- 19.1 It is recognised that either because of service user choice, or the nature of the market for specialist placements, that competitive procurement processes are not possible for some types of care contracts, including (but not limited to);
- 19.1.1 Residential Care,
  - 19.1.2 Supported Living Schemes
  - 19.1.3 Social Care Frameworks (such as Foster Care Placements), and,
  - 19.1.4 Educational Services.
- 19.2 The procurement or commissioning of care services should still ensure value for money is obtained.
- 19.3 Contracts for care services can be awarded without competition where approval is obtained from the relevant Executive Director or Director, and;
- 19.3.1 A placement is sought for an individual with a care provider of their choice, or,
  - 19.3.2 The particular needs of an individual (either adult or child) require a particular social care package or SEN.
- 19.4 The decision-process concerning where an individual is placed should involve more than one person and the process, together with the names of the officers concerned, and reasons for the choice of provider, should be evidenced in the individual's case records.

## **20.0 CONTRACT MANAGEMENT, EXTENSION, VARIATION AND NOVATION**

- 20.1 All contracts must be managed by the service responsible for them through the identification of an officer who will act as contract manager.

- 20.2 For higher value and more complex agreements, a contract management plan should be created.
- 20.3 Reporting and monitoring processes appropriate to the size and nature of the contract must be put in place to ensure that all obligations are fulfilled by the contracted parties.
- 20.4 Where the obligations are not being fulfilled, the contract manager should use the relevant clauses within the contract to rectify the issues or terminate the contract.
- 20.5 Contracts may only be varied to implement minor changes either increasing or decreasing the service and for services of a similar nature. As an example, minor changes can be seen as 10% of the overall contract value.
- 20.6 Contracts should only be extended if options for extensions were included in the original contract. If there are no such provisions then an Exemption will be required (see Section 2)
- 20.7 Contract variations and extensions must follow the appropriate authorisation processes.
- 20.8 If the value of the original contract plus the sum of any extension or variation exceeds the original thresholds, then a different procurement process should have been used and so an Exemption will need to be requested (see Section 2).
- 20.9 Contract can be novated to another supplier where the provision is outlined within the terms and conditions of the contract, or in the event of succession due to the initial provider undertaking a corporate restructuring (including; takeover, merger, acquisition, or insolvency). The new provider must fulfil the requirements of the original contract. Legal Services should be engaged to support the process.
- 20.10 Before the end of the contract term, plans should be made to undertake a new procurement where needed, and to manage any transfer of responsibilities, equipment, or data, to another provider or back to the

council. It is important that sufficient time is available to undertake the exercise and potentially transfer to another supplier.

## **21.0 PROCUREMENT RECORDS AND INFORMATION MANAGEMENT**

- 21.1 Procurement documents relating to successful tenders, quotations, and contracts, must be retained for 6 years from the completion or expiry of the contract unless they are awarded under seal.
- 21.2 Contracts awarded under seal must be kept for 12 years from the date of final delivery or completion or expiry of the contract.
- 21.3 Documents relating to unsuccessful tenders must be retained for 12 months from contract award but can be disposed of after this time if there is no dispute about the award.
- 21.4 Documents should be held in electronic format wherever possible, and include;
  - 21.4.1 A copy of the specification,
  - 21.4.2 All quotations or tenders,
  - 21.4.3 A copy of the evaluation process, records, and reasons for the decision as to the acceptance or rejection of a supplier's quotation or tender,
  - 21.4.4 The award letter,
  - 21.4.5 A signed copy of the final contract,
  - 21.4.6 Ongoing review and monitoring documentation,
  - 21.4.7 Appropriate records of any decisions, and,
  - 21.4.8 The Contract Register Reference Number (where applicable).
- 21.5 The council must maintain fairness and transparency, and so, in line with the relevant legislation and regulation, will maintain a contract register and publicise tender opportunities on relevant platforms.

## **22.0 EQUALITY AND MODERN SLAVERY**

- 22.1 The Council must comply with its duties under equalities legislation, and consider equality and diversity when procuring goods, works, or services from external providers.
- 22.2 An Equality Impact Assessment must be undertaken on the proposed contract prior to the tender being issued, except where such an assessment would not be relevant.
- 22.3 The Council's Procurement Equality Standard requires all suppliers to operate at a minimum standard with regards to Equality.
- 22.4 Where relevant, the supplier may be required to report on Equality as part of contract management arrangements.
- 22.5 The council must comply with its duties regarding Modern Slavery.
- 22.6 The council will expect suppliers to comply with the Modern Slavery Act and any relevant policies, and disclose any investigations, offences, or prosecutions, under the Modern Slavery Act by them or their supply chain.

This page is intentionally left blank



## LAND AND PROPERTY DISPOSAL PROCEDURE RULES

### 1. INTRODUCTION

Land and Property dealings by Local Authorities attract wide public interest. Suspicions are easily aroused and are fostered when procedures used are not clearly defined or transactions are not supported by documented evidence. The Council, therefore, needs to have a clear code of practice underpinned by procedural guidelines which are adhered to by both members and officers when dealing with such matters.

### 2. SCOPE

- 2.1 These Procedure Rules apply to the disposal, by way of sale or lease, of interests in land and property including fixtures and fittings etc., incidental thereto which has been agreed by the relevant Portfolio Holder and the Corporate Assets Group as surplus to operational requirements. The power for the Council to sell and the conditions which attach to the sale may be governed by the legislation under which the land or property was acquired. These Procedure rules relate to Land or Property which the Council is in a position to sell or lease under Section 123 of the Local Government Act 1972.
- 2.2 All dealings with land and property will be conducted in accordance with the Property Management Procedures (PMP's) which comprise the detailed procedures to be followed by officers in every case.
- 2.3 Disposals of items of furniture, goods, vehicles, plant and equipment which are not incidental to any interest in land or property and are deemed surplus to the requirements of the Council, are exempt from this procedure as these transactions are covered by the Procedure for Disposals as approved by Council.

- 2.4 Where these Procedure Rules make reference to a specific Portfolio Holder, Group, Department or Officer these may change from time to time and should be taken as that which has most recently been approved by the Council for undertaking the responsibilities identified.

### 3. **COUNCIL POLICY/OBJECTIVES**

Whenever an interest in land or property is to be disposed of, the following shall apply:-

- (a) the disposal should maximise the benefit to the Council in accordance with Section 123(2) of the Local Government Act 1972 which states that with the exception of a disposal by way of a short tenancy (the grant or assignment of a lease of a period of seven years or less) :-

*A Council shall not dispose of land for a consideration less than the best that can reasonably be obtained without the permission of the Secretary of State.*

Whilst disposals by way of a short tenancy (the grant or assignment of a lease of a period of seven years or less) are excepted from the Act such disposals will be conducted as if they were not excepted from the Act. If it is proposed that any such disposals are conducted at an undervalue the reasons for this will be included in a report to be considered by Cabinet or under the Scheme of Delegation.

- (b) The General Disposal Consent (England) 2003 recognises that there may be certain specified circumstances where an authority considers it appropriate to dispose of land at an undervalue and gives local authorities autonomy to carry out their statutory duties and functions and to fulfil such other objectives as they consider to be necessary or desirable. When disposing of land at an undervalue authorities are reminded that they need to be aware of the need to fulfil their fiduciary duty in a way which is accountable to local people. The specified circumstances in the Consent are:

*a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident or present in its area;*

*i) The promotion or improvement of economic well-being;*

*ii) The promotion or improvement of social well-being*

*iii) The promotion or improvement of environmental well-being; and*

*b) The difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).*

If a disposal is to be conducted within the terms of the Consent then a report detailing the reasons and prepared in accordance with the Consent will be considered by Cabinet or under the Scheme of Delegation.

- (c) Subject to (a) above, the disposal should be in accordance with other relevant policies of the Council;
- (d) The interests of the Council and its duties to the local community should be considered at all times;
- (e) The method of disposal must be legal, fair and equitable and the records maintained to support the disposal decision should provide clear evidence of that.

#### **4. COMPLIANCE WITH PROCEDURE RULES**

- 4.1 No exception from Procedure Rules shall be made otherwise than by the direction of the Cabinet.
- 4.2 Where any person has any doubt about the interpretation or application of these Procedure Rules they should seek the advice of the Monitoring Officer.
- 4.3 Any known contravention of these Procedure Rules shall be the subject of a special report to Cabinet by the Executive Director, Place Services

5. **LEGISLATION/EXTERNAL CONTROLS.**

Disposals will be in accordance with prevailing legislation and/or Government Department directives. Wherever such legislation or directives appear to conflict with Council procedure, the requirements of the legislation or directives will be applied.

Examples of legislation which should be noted are:

Misrepresentation Act 1967

Localism Act 2011

Estate Agents Act 1979 (if the Council acts as an agent)

Property Misdescriptions Act 1991

Officers employed in a professional capacity will comply with the professional standards and regulations of their professional body and will undertake the disposal in accordance with all statutory consents that may be required in each case.

6. **METHODS OF DISPOSAL**

6.1 Unless otherwise agreed by the or under the Scheme of Delegation, disposal shall be by one of the four principal methods of selling or leasing land and property which are:-

(i) Private Treaty (to include Option Agreements)

(ii) Public Auction

(iii) Formal Tender

(iv) Invitation of (sealed) offers

6.2 Depending on the circumstances of a particular disposal, any one of the above may be suitable. It is, however, expected that (iii) and (iv) will be preferred for disposals of an estimated value which makes them subject to approval by Cabinet or by way of a Delegated Executive Decision.

6.3 The method used in each case should, however, be the most appropriate in the circumstances and the reasons for using it will be demonstrated and justified in a report to be approved under the Council's Scheme of Delegation prior to the commencement of any disposal. A detailed procedure for conducting sales by each

method is contained in the procedural document entitled Selection of Disposal Method (PMP1).

6.4 A brief description of each disposal method is given below:-

6.4.1 Private Treaty

(i) This is the most common and simplest method and is widely used for the sale of properties in the private sector where a sale value is reasonably easy to predict.

As such it is the method best known to the general public.

(ii) The major disadvantage is that the proceedings cannot always overcome suspicions or allegations of unfair practice. It should, therefore, be used with caution and consideration by the Executive Director, Place Services should be given to obtaining a valuation from an appropriately qualified independent valuer to support the financial terms of any transaction dependent upon the individual circumstances of each case.

(iii) It is not an appropriate method for the disposal of development land or property unless the particular circumstances are such that it is in the Council's financial interests to deal with a single purchaser who by virtue of their position would be a special purchaser and therefore would be prepared to pay an enhanced value e.g. ownership of land adjoining, a ransom situation etc.

(iv) Except in unusual circumstances an appropriate asking price will be specified and the sale advertised.

6.4.2 Public Auction

(i) An auction may bring about a quick conclusion to a sale where there is likely to be keen interest from a wide market of cash buyers or where the property is unusual but is likely to have a ready market. It is also a method to be considered where it is in the Council's interests to conclude an early sale for example where a building may deteriorate if left vacant for the longer period it often takes to conclude

a sale by another method. The successful bidder signs a binding contract to acquire the property at the sale with an agreed completion date and pays a deposit.

(ii) As auctions are conducted in public they may overcome potential suspicions or accusations of unfair practice. A reputable Auctioneer should

be appointed (subject to the Council's Contracts Procedure Rules) with a reserve price, set by one of the Council's Valuer's and approved under the Scheme of Delegation, confirmed in writing to the Auctioneer.

(iii) Public Auction is unlikely to be appropriate for the sale of development land or property as it does not readily allow the flexibility to accept offers on a conditional basis subject to clarification of issues such as ground conditions, contamination and planning consent. Particular difficulties also exist in relation to the sale of land held on charitable trust.

#### 6.4.3 Formal Tender

(i) Under a formal tender conditions of sale and legal documentation are prepared in advance and sealed offers are sought on the basis that acceptance by the Council will form a binding contract. In order to limit the conditionality of bids and aid comparison a comprehensive package of information is forwarded to each bidder which may include an outline planning consent, a ground condition report, a site investigation report etc. The assembly of such information is time consuming and costly and this can lead to abortive costs if little or no interest arises. It does, however, minimise the risk of, or accusations of, impropriety.

(ii) It is a method appropriate for disposals in the open market, or when using Pre-determined shortlists of potential tenderers, particularly for development land and property with restricted use, for example where sites have been cleared and planning consent for a particular use is available.

#### 6.4.4 Invitations to submit sealed offers or Informal Tender

(i) This method is similar to formal tender in that sealed offers are invited however the acceptance of an offer does not form a binding contract. It is relatively

simple as less detailed information is required at the outset and therefore consumes less officer time and monetary outlay than formal tendering. It also allows some flexibility through post offer negotiations but needs to be kept under control by the imposition of time limits.

(ii) It is appropriate for disposals in the open market, or when inviting offers from a pre-determined shortlist of potential bidders, particularly for development land and property where several uses might be possible and negotiation would be required to achieve the best scheme from the Council's perspective.

## 7. DISPOSAL PARTICULARS

7.3 Details of what is to be included within the particulars for each method of disposal and the process for obtaining approval thereto are contained in the PMP Document entitled – PMP1 (Selection of a Disposal Method)

## 8. ADVERTISING

8.1 Unless prior approval under Procedure Rule 6.3 to deal with a special purchaser has been obtained then all disposals will be advertised.

8.2 Advertising will be of sufficient intensity and direction to effectively canvass potential buyers. An outline of advertising proposals and a cost ceiling should be established on a scale in keeping with the estimated value of the land or property for disposal.

8.3 The advertising proposals will be included within the report referred to at 6.3 and will provide for a minimum of fourteen days' notice of any specified closing date for offers with appropriately longer notice periods for more complex and higher value land or properties. The advertising media will be appropriate and cost effective in order to fully expose the property to the intended market.

8.4 Where appropriate, consideration will be given to advertising a number of similar disposals at the same time with a view to minimising costs.

9. **PRE-TENDER SHORTLISTING OF APPLICANTS**

- 9.1 In some circumstances (apart from auction) it may be appropriate to use a shortlist of applicants. The shortlist may be formed after advertising for expressions of interest in a particular disposal or where it is known that there are a number of special purchasers.
- 9.2 Wherever a shortlist is proposed to be used the reasons for using a shortlist and the basis for identifying and shortlisting the applicants will be specified in the report referred to at 6.3.
- 9.3 When a shortlist is used each applicant will be required to provide evidence of their financial standing, references and details of their experience of similar projects before they are accepted onto the shortlist. The shortlist must be approved under the Scheme of Delegation prior to offers being invited.

10. **INVITATION/RECEIPT OF TENDERS AND SEALED OFFERS**

- 10.1 In these Procedure Rules the term sealed bid applies to both Formal Tenders and Sealed Offers/Informal Tenders.
- 10.2 Letters inviting sealed bids shall indicate the last day and time for their return. The Council's standard pre-printed label addressed to the Monitoring Officer followed by the last date for return and bearing the word "TENDER....." followed by the disposal to which it refers shall be enclosed with all letters inviting sealed bids. Those submitting the bids should be advised that envelopes must not bear any other distinguishing marks.
- 10.3 Envelopes shall be returned to and remain in the safekeeping of the Monitoring Officer or that officer's authorised representative, until the appointed time for their opening. That officer will keep a record of all sealed bids returned, together with the date and time of their receipt. The receiving officer will mark each envelope with the date and time of its receipt by him/her.



## 11. **OPENING OF TENDERS/SEALED OFFERS**

11.1 Two members will need to be present at the opening of tenders/sealed offers, one of whom shall be from an opposition party. Also present at the opening shall be the Monitoring Officer and the Executive Director, Place Services or their authorised representatives. The Monitoring Officer will keep a record of sealed bids opened, listing the name of each bidder, the sum offered and the details of the offer. The names of the members and officers will also be recorded and each of them will sign the record.

11.2 Late receipt of sealed bids may be considered only at the discretion of the Monitoring Officer. Late bids will only be considered if all bids can be opened at the same time.

## 12. **ELECTRONIC TENDERING**

12.1 Tender documents may be transmitted by electronic means. Responses to an invitation to Tender may be submitted by electronic means provided that:-

(a) Evidence that the transmission was successfully completed is obtained and recorded.

(b) Electronic tenders are kept in a separate secure electronic folder under the control of the Monitoring Officer or Chief Officer which is not opened until the deadline has passed for receipt of tenders.

(c) Electronic Tenders are to be opened at the same time and by the same Members as hard copy documents.

## 13. **ACCEPTANCE OF TENDERS/SEALED OFFERS**

13.1 The Executive Director, Place Services may accept the best offer for those disposals which fall within his authority under the Scheme of Delegation. In such cases an Operational Decision report will be submitted which details all offers received, makes a recommendation as to which offer, if any, to accept and gives a reasoned justification for such recommendation, referring to the

Pre-marketing valuation. In circumstances where the offers received are below the level of the pre-marketing valuation consideration will be given as to whether it is in the Council's interests to accept any of the offers received. Any such consideration will be supported by a valuation justifying the decision to accept a lower offer.

- 13.2 Where the highest offer exceeds the delegated authority of the Executive Director, Place Services a delegated executive decision report will be submitted which includes the items referred to at 13.1. Once approved Executive Director, Place Services may accept the offer.
- 13.3 Once an offer has been accepted all unsuccessful bidders will be notified, in writing, that their bid has not been accepted. The notification will not provide any information about other bidders or the offers received. Such information will at all times be treated as confidential so far as the Council is able under the Freedom of Information Act 2000.

#### 14. **NEGOTIATION/COMMUNICATION WITH BIDDERS**

- 14.1 For disposals dealt with by invitations to submit sealed offers after opening (in accordance with Procedure rule 11.1) the Executive Director, Place Services or authorised representative shall be authorised to scrutinise the documents and to communicate with bidders in order to obtain information on technical or contractual matters or to seek clarification on proposed developments. A record will be kept of all such communication whether it was written, oral, or by any other means. That record will provide the date and names of those contacted and a summary of the points discussed. All points of clarification should be confirmed in writing. A time limit for this exercise shall be agreed with the Executive Director, Place Services and progress against that limit reported to the Director.
- 14.2 The Executive Director, Place Services in conjunction with the Executive Director, Corporate Services will carry out the technical and financial vetting necessary to establish that the bidders with whom discussions are taking place are prima facie in a position to complete the transaction. Where vetting indicates that a bidder is not in a

position to complete, a report will be submitted under the Scheme of Delegation for approval that the bid is not accepted and the bidder be advised in writing that his/her bid is not acceptable and no further exploration of their proposal will take place.

- 14.3 The purpose of negotiation/discussion of bids is to seek clarification and to ensure that development proposals are suitable. There should not be any attempt to negotiate to increase the basic offers submitted nor to accept increased offers from otherwise unsuccessful bidders. It is, however acceptable to seek an increase in the offer if conditions are fulfilled which would create more value than the original offer envisaged. Such instances and the reasons why should be included in the final report seeking approval under the Scheme of Delegation.
- 14.4 Under no circumstances should details of a bidder or their offer be divulged to any other bidder or agent.
- 14.5 Meetings will only take place at the offices of the Council or at the offices of the bidder and will be conducted only during normal working hours. In complex or high value disposals or where a number of different proposals are being considered meetings with the bidder or their representative shall be attended by two officers of the Council, those officers being nominated by the Executive Director, Place Services. All meetings will be recorded and the record signed by each of the officers all points of discussion/agreement will be confirmed to the bidder in writing within three working days of the meeting.
- 14.6 Where it is appropriate, the proposals for potential developments for a particular disposal may be presented by the bidders to the Cabinet and to any other Members deemed appropriate. On occasion it may also be beneficial for Members to undertake group site visits in the presence of potential developers. Other than in these circumstances elected Members shall have no contact with any bidder or their representatives. Presentations to, or site visits by, Members shall only take place if they are approved by Cabinet and organised by the Executive Director, Place Services. Such events shall only take place in the presence of the Executive

Director, Place Services and the Chief Legal Officer or their authorised representatives. The offer submitted by that bidder, or that of any other bidder, will not be discussed. A written record of such events will be maintained.

- 14.7 Under no circumstances, other than those in 14.6 above, will Elected Members, either individually or collectively, be involved in any negotiation, dialogue, communication or contact by any other means, with actual or potential bidders, or any person representing them, in relation to any disposal of land or property.

## 15. **VALUATIONS**

- 15.1 For every disposal an estimate of the value will be made by one of the Council's valuers or, where necessary, by a suitably-qualified independent valuer. The valuation and the assumptions/comparisons, together with any other relevant information, used in arriving at the valuation will be recorded on a valuation sheet signed by the valuer. The valuation sheet will be countersigned by the Executive Director, Place Services or his authorised representative to confirm that the valuation has been properly arrived at and will be included with the report recommending the method of disposal in accordance with PMP1 – Selection of Method of Disposal.
- 15.2 In some circumstances, for example, for disposals which are unusual, exceptionally complex or known to be controversial, it may be desirable to obtain the opinion of the District Valuer or a specialist consultant. The Executive Director, Place Services will determine whether or not the requisite knowledge to undertake a particular valuation is available within the Council.

## 16. **EXCEPTIONS**

- 16.1 The only exceptions to these Procedure Rules are:-
- (i) Any disposal for which there are stated special circumstances and which has been excepted by the Cabinet or by the Executive Director, Place Services acting under delegated powers. It shall be the responsibility of the Executive Director, Place Services to ensure that the reasons for any exemption are properly stated;

(ii) Such delegations which the Council shall from time to time give to the Executive Director, Place Services and which, but for this exception would need to be exempted from these Procedure rules.

**17. FORM OF CONTRACT/CLAUSES IN TENDER DOCUMENTATION, ETC.**

17.1 Subject to this Procedure rule the Contract of Sale for each disposal will be as determined by the Chief Legal Officer in conjunction with the Executive Director, Place Services.

17.2 Contracts for development sites will include clauses which stipulate that:-

(i) Any building or development will be in accordance with the plans and specifications approved by the Council;

(This is to prevent the purchaser being the sole beneficiary from any subsequent change in planning permission which might increase the value of the property);

(ii) The development will commence and be completed within defined periods of time;

(iii) The buyer will not dispose of the property as an undeveloped site without first offering to resell it to the Council at the purchase price.

17.3 All bidders will be advised in writing that the Council will reject any offer and withdraw from the sale or lease at any time prior to completion and may seek to recover from that person the amount of any loss the Council may have incurred as a result, if the bidder shall have offered, or given, or agreed to give, to any person any gift or consideration, of any kind, as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any action in relation to the contract; or for showing any favour or disfavour to any other person in relation to the contract or if the like acts shall have been done by any person employed by or acting on behalf of the bidder (whether with or without the knowledge of the bidder) or if the bidder or any person acting on their behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972.

- 17.4 All bidders will be required to assist the Council in providing any information or assistance required in respect of any complaint, claim or representation or reference to the Commission for Local Administration in England received by it in connection with the disposal.
- 17.5 Any other clause which the Executive Director, Place Services and/or the Chief Legal Officer considers appropriate.

## **OFFICER EMPLOYMENT PROCEDURE RULES (updated July 2021)**

### **1. RECRUITMENT AND APPOINTMENT**

#### **1.1 Declarations**

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the partner or close family relative of a serving Member or employee of the Council. This statement will be included in appropriate recruitment literature.
- (b) Every Councillor and officer graded PO or above shall disclose to the Council any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware.
- (c) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **1.2 Seeking Support for Appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (b) No Councillor will seek support for any person for appointment. Councillors must not stand as referees for any person for such appointment.

### **2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

- 2.1 Where the Council proposes to appoint a Chief Officer and it is not

proposed that the appointment be made exclusively from among their existing officers, the Council will:-

- (a) draw up a statement specifying:-
  - (i) the duties of the officer concerned; and
  - (i) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for a copy of the statement mentioned in Paragraph (a) to be sent to any person on request; and
- (d) consider and determine the amount of any salary which it is proposed to offer to any new appointment where that salary package is £100,000 or above

2.2 For the purposes of these Officer Employment Procedure Rules,

- (a) “Chief Officer” means a statutory or non-statutory chief officer within the meaning of Sections 2(6) and (7) of the Local Government and Housing Act 1989
- (b) “Deputy Chief Officer” means a deputy chief officer within the meaning of Section 2(8) of the Local Government and Housing Act 1989

### 3. **APPOINTMENT OF HEAD OF PAID SERVICE**

The full Council will approve the appointment of the Head of Paid Service before an offer of appointment is made to him/her, following the recommendation of such an appointment by a Committee of the Council. That Committee must include at least one member of the Cabinet.



#### 4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

4.1 Where a Committee is discharging on behalf of the Authority the appointment of a Chief Officer as defined below, it must include at least one member of the Cabinet.

4.2 For the purposes of sub-paragraph 4.1 above, Chief Officer means the following posts:

Chief Executive/Head of the Paid Service

Executive Director of Corporate Services

Executive Director of Place Services

Executive Director People (Adult Social Care, Children & Young People and Public Health)

Director of Children and Young People's Services

4.3 In all other cases, the appointment of a Chief Officer or Deputy Chief Officer is delegated to the Head of the Paid Service/Chief Officer or his/her nominee.

4.4 An offer of an appointment as a Chief Officer or as a Deputy Chief Officer (appointed to deputise for an Executive Director listed in paragraph 4.2) must not be made by the officer responsible for making the appointment (the appointer) until

(a) the appointer has notified the Chief Executive of the name of the person to whom the appointer wishes to make the offer, and any other particulars which the appointer considers are relevant to the appointment;

(b) the Chief Executive has notified every member of the Cabinet of the Authority of

- (i) the name of the person to whom the appointer wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointer has notified to the Chief Executive; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Cabinet Leader on behalf of the Cabinet to the Chief Executive; and
- (c) either
- (i) the Cabinet Leader has within the period specified in the notice under sub-paragraph (b)(iii) notified the appointer that neither he/she nor any other member of the Cabinet has any objection to the appointment;
  - (ii) the Chief Executive has notified the appointer that no objection has been received by him/her within the period from the Cabinet Leader; or
  - (iii) the appointer is satisfied that any objection received from the Cabinet Leader within that period is not material or is not well-founded.

## 5. OTHER APPOINTMENTS

5.1 **Officers below Chief Officer.** Appointment of officers below Deputy Chief Officer, as defined in these Rules (other than Assistants to Political Groups), is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

5.2 **Assistants to Political Groups.** Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that

Political Group.

6. **DISCIPLINARY ACTION IN RESPECT OF HEAD OF PAID SERVICE, MONITORING OFFICER, CHIEF FINANCE OFFICER**

- 6.1 The Head of Paid Service, Monitoring Officer and Chief Finance/s151 Officer may be suspended by the Investigation and Disciplinary Committee (IDC) whilst an investigation takes place into alleged misconduct. Any suspension will normally be on full pay and must be reviewed by the Committee after two months, in consultation with the Independent Investigator and after taking into account any representations by the Officer.
- 6.2 If a decision on suspension is required at very short notice (for example the Officer's presence at work poses a serious risk to the health and safety of others or to the resources, information or reputation of the Council) then the Head of Paid Service and the Chief Finance/ section 151 Officer may be temporarily suspended by the Chair of the Investigation and Disciplinary Committee (IDC) following consultation with the Monitoring Officer. The Chair of the IDC may temporarily suspend the Monitoring Officer after consultation with the Deputy Monitoring Officer. Any such suspension will be reviewed by the IDC as soon as practicable.
- 6.3 Any disciplinary action in respect of the Authority's Head of the Paid Service, its Monitoring Officer or its Chief Finance/s151 Officer, must be dealt with in accordance with the Local Authorities (Standing Orders) Regulations 2001 (as amended) and the JNC Model Disciplinary Procedure and Guidance, together with the Procedure Note approved and adopted by the Council in July 2021 ([see link](#)). This includes:
- (a) the appointment of an Independent Investigator

- (b) consideration of any conclusions and recommendations in the report submitted by the Independent Investigator
- (c) where the IDC is recommending dismissal the Council must invite relevant independent persons to be considered for appointment to Independent Persons Panel (IPP) with a view to appointing at least two such persons to the Panel;
- (d) full Council will consider whether or not to approve such a dismissal but before doing so must take into account:
  - (i) any advice, views or recommendations of the Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal;
  - and
  - (iii) any representations from the relevant officer.

**[Explanatory Note:** a relevant independent person is a person appointed by the Authority in accordance with Section 28(7) of the Localism Act 2011, or where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Authority considers appropriate. His or her role as a member of the Panel is to give advice, views or recommendations to full Council in respect of a disciplinary process relating to the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer before any conclusion on disciplinary action is reached. The Council must appoint any Panel at least 20 working days before the relevant Council meeting]

6.4 Where the IDC is recommending action short of dismissal then the Officer has a right of appeal to the Disciplinary Appeals Committee which will act as the final internal appeal body.

7. **DISCIPLINARY ACTION AND DISMISSAL OF, OTHER, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

7.1 Councillors will only be involved in disciplinary action against all other Chief Officers and Deputy Chief Officers where such involvement is necessary for any investigation or inquiry into alleged misconduct through the Council's disciplinary, capability and related procedures.

7.2 Except as outlined in 7.1 above, the Head of the Paid Service or an officer nominated by him/her will discharge the functions of dismissal of, and taking disciplinary action against those Chief Officers and Deputy Chief Officers which are not referred to in paragraph 6 above.

7.3 Notice of the dismissal of any Chief Officer or Deputy Chief Officer must not be given by the dismissor, being the Committee or officer discharging the function of dismissal, until

- (a) the dismissor has notified the Chief Executive of the name of the person who the dismissor wishes to dismiss or any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the Chief Executive has notified every member of the Cabinet of the Authority of
  - (i) the name of the person whom the dismissor wishes to dismiss;
  - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the Chief Executive; and

- (iii) the period within which any objection to the dismissal is to be made by the Cabinet Leader on behalf of the Cabinet, to the Chief Executive; and
- (c) either
  - (i) the Cabinet Leader has, within the period specified in the notice under sub-paragraph (b)(iii) above, notified the dismissor that neither he/she nor any other member of the Cabinet has any objection to the dismissal;
  - (ii) the Chief Executive has notified the dismissor that no objection was received by him/her within that period from the Cabinet Leader; or
  - (iii) the dismissor is satisfied that any objection from the Cabinet Leader within that period is not material or is not well-founded.

**Note:** where the IDC is recommending dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance/s151 Officer Cabinet must be notified according to the process set out in the approved Procedure Note referred to at paragraph 6 and given the opportunity to make objections. Any such objection will be considered by the IDC.

8. **DISMISSAL OF, AND DISCIPLINARY ACTION OF, OTHER OFFICERS**

Councillors will not be involved in the dismissal of any officer, or the taking of any disciplinary action against officers below Deputy Chief Officer.

9. **APPEALS**

Nothing in these Officer Employment Procedure Rules shall prevent a Councillor from serving as a member of any Committee or Sub-Committee established by the Authority to consider an appeal by

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

This page is intentionally left blank



**Part 5**  
**Codes and Protocols**

This page is intentionally left blank

**ST. HELENS BOROUGH COUNCIL****CODE OF CONDUCT FOR ELECTED AND CO-OPTED MEMBERS****Introduction**

This Authority and those across the Liverpool City Region have adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members. It is adapted from the Local Government Association (LGA) Model Councillor Code of Conduct 2020 published on 19 January 2021.

The LGA Model Code was introduced by a Joint Statement from the political groups that:

*“The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.*

*As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*

*Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.*

*This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”*

The Code sets out general obligations about the standards of conduct expected of Members and co-opted members of the authority, together with provisions about registering and declaring interests. It has been adopted under section 27 of the Localism Act 2011 by the Authority on 21 July 2021.

The LGA Model Code is to be reviewed annually and is supported by Guidance issued in July 2021.

**Definitions**

For the purposes of this Code of Conduct, a “Member” means a member or co-opted member of a local authority. A “co-opted member” is

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

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

For the purposes of this Code of Conduct, “local authority” includes the upper tier councils, town or parish councils and the combined authorities across the Liverpool City Region.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, 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 Members, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members 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 Member and local government.

### **General principles of Member Conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Members and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

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

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

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Member.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Member.

This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

- you misuse your position as a Member; or
- 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 Member.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

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 Members are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Member conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## General Conduct

### 1. Respect

#### As a Member:

**1.1 I treat other Members and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

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 Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member-officer protocol.

### 2. Bullying, harassment and discrimination

#### As a Member:

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on

social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members 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.

### **3. Impartiality of officers of the local authority**

**As a Member:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

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

### **4. Confidentiality and access to information**

**As a Member:**

#### **4.1 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**

- i. I have received the consent of a person authorised to give it;
- ii. I am required by law to do so;
- iii. 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
- iv. the disclosure is:
  1. reasonable and in the public interest; and
  2. made in good faith and in compliance with the reasonable requirements of the local authority; and
  3. I have consulted the Monitoring Officer prior to its release.

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

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

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

## **5. Disrepute**

**As a Member:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Member, 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 Members 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.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes



undertaken by the local authority whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a Member:**

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

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

## **7. Use of local authority resources and facilities**

**As a Member:**

**7.1 I do not misuse local authority resources.**

**7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member 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.

## 8. Complying with the Code of Conduct

**As a Member:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Member 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.

## Protecting your reputation and the reputation of the local authority

### 9. Interests

**As a Member:**

**9.1 I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow Members 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 Members when making or taking part in decisions, so that decision

making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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

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

## 10. Pre-Determination or Bias

**As a Member I:**

**10.1 Never place myself under any financial or other obligation to outside individuals or organisations who might seek to influence me in the performance of my official duties.**

**10.2 Consider all matters with an open mind and make decisions based upon weighing the best evidence before me, fairly and on merit.**

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your role as Member. However, you must ensure that your integrity is not compromised.

You may be pre-disposed to a number of outcomes to a decision, based upon your, philosophy, beliefs or political allegiance (including any application of a Group whip), but this must not predetermine your actions or the outcome of a decision you are to make. You must always remain open to the potential for further evidence or argument to alter any previously expressed or held viewpoint at the time of making your decision. For this reason, particularly in relation to contractual matters or those affecting individuals' civil rights, it is often best to be cautious about how or if your views are expressed before coming to make a decision.

## 11. Gifts and hospitality

**As a Member:**

**11.1 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.**

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

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

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. 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 Member, 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 Member. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Annex B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“**Disclosable Pecuniary Interest**” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

“**Partner**” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

“**Standard Dispensation**” means a dispensation that has been granted by the Authority relieving the member or co-opted member from the restrictions or obligations under this Code as detailed in **Table 3** below.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Disclosure and Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation or a Standard Dispensation applies. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Disclosure of Other Registerable Interests and Non-Registerable Interests (Personal and Prejudicial Interests)

### Personal Interests

6. Where a matter arises at a meeting which **affects**:
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a financial interest or wellbeing of a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing the interest the following test should be applied

### Prejudicial Interests

7. In the following instances, you must disclose the interest and you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

- a. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**).
- b. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate.
- c. Where a matter **affects** the financial interest or well-being:
  1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

2. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest
8. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

## **Overview and Scrutiny Committees**

9. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
  - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's Cabinet, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and
  - (b) at the time the decision was made or action was taken, you were a member of the Cabinet, board, committee, sub-committee, joint committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.
10. Paragraph 9 does not prevent you attending and participating in a meeting if you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers.



**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the local authority) made to the Member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Member's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the Member, or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or his/ her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management.

**Table 3: Standard Dispensations**

1. You will not be regarded as having a prejudicial interest in any business of your authority in respect of any Other Registerable Interest:
  - (a) where that business relates to:
    - (i) another local authority of which you are also a member;
    - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
    - (iii) a body to which you have been elected, appointed or nominated by your authority, but only in the circumstance where the sole purpose of participating is to make representations, answer questions or give evidence relating to the business at the request of the [elected mayor, cabinet, cabinet member or] Committee meeting
    - (iv) your role as a school governor, unless it relates particularly to the school of which you are a governor; or
    - (v) your role as a member of a National Health Service board or governing body;
  - (b) except that no dispensation described in sub-paragraph (a) above will apply where the business to be transacted at the meeting is the determination of any regulatory approval, consent, licence, permission or registration (*for example, determination of an application for planning permission or consent or licence under the Licensing Act 2003*).

2. You will not be regarded as having a prejudicial interest in any business where that business relates to:
  - (a) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (b) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (c) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (d) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
  - (e) any ceremonial honour given to one or more Members; or
  - (f) the setting of the authority's council tax requirement, council tax, levy or a precept under the Local Government Finance Act 1992 (except that this dispensation does not apply if you are two months or more in arrears with their Council Tax you must declare this to the meeting and must not vote on budget recommendations, as to do otherwise can be a criminal offence).

# Members ICT Protocol



St. Helens  
Council

---

**Version: 5.0**

## Version Control

Date	Version	Comments
07/02/2017	DRAFT 5.0	
16/05/2018	5.0	Approved by Council

## Table of Contents

1	Introduction .....	3
2	Support for IT problems and lost ICT Equipment.....	3
3	Guidance: Information Security and IT Network Security .....	4
3.1	<i>Information Security</i> .....	4
3.2	<i>IT Network Security</i> .....	4
4	Member Responsibilities - ICT Equipment.....	5
4.1	<i>General:</i> .....	5
4.2	<i>Password Authentication:</i> .....	5
4.3	<i>Protecting your device:</i> .....	5
4.4	<i>Mobile connectivity</i> .....	6
4.5	<i>Removable Media</i> .....	6
4.6	<i>Personal Use:</i> .....	6
4.7	<i>Use of Mobile Devices Abroad</i> .....	7
5	Guidance: Online Participation, Internet and Email .....	7
5.1	<i>General</i> .....	7
5.2	<i>Online Participation Principles</i> .....	7
5.3	<i>Defamation</i> .....	8
5.4	<i>Tainting of Decision Making through Biased/Closed Minds</i> .....	8
6	Member Responsibilities - Online Participation, Internet and Email .....	9
6.1	<i>General Responsibilities applying to all forms of Online Participation</i> .....	9
6.2	<i>Internet and Email</i> .....	9
6.3	<i>Council Website and Your Councillor Webpage</i> .....	10
6.4	<i>Social Media</i> .....	11
7	Data Protection and Freedom of Information .....	11
7.1	<i>The Information Commissioner's Office</i> .....	11
7.2	<i>Data Protection</i> .....	11
7.3	<i>Notification and Use of Personal Data</i> .....	11
7.4	<i>Data Protection Principles</i> .....	<b>Error! Bookmark not defined.</b>
7.5	<i>Freedom of Information</i> .....	12
	Appendix A: Declaration.....	13

## 1 Introduction

- 1.1 St Helens Council will provide you with ICT equipment to enable you to undertake your duties as an elected member. You will normally be offered:
  - a) a tablet computer to access: e-mail, electronic papers for council meetings, calendar, documents, applications and council systems; and
  - b) a smartphone for: voice, text messaging, email, applications and data tethering.
- 1.2 In addition, you may have retained an existing local authority issued desktop / laptop computer, broadband connection or been issued with a printer for your occasional printing needs.
- 1.3 This Protocol sets out both guidance and your responsibilities to minimise the risk to both you and the Council, in respect of the following areas:
  - a) Information Security in respect of handling both official Council and personal information.
  - b) Your responsibilities in respect of using local authority issued ICT equipment.
  - c) Online participation - the appropriate use of email, internet, social media and the restrictions on the use of your Council hosted webpage.
  - d) Your responsibilities under data protection and freedom of information legislation.
- 1.1.3 This Protocol should be read in conjunction with Code of Conduct for Elected and Co-opted Members which can be viewed in Part 5 of the Constitution. Failure to comply with this Protocol may constitute a breach of the Code of Conduct.
- 1.4 As a condition of being provided with ICT equipment, you must comply with the terms of this Protocol and sign the undertaking at Appendix A.

## 2 Support for IT problems and lost ICT Equipment

- 2.1 If you experience a problem, with your Council issued ICT equipment, you should contact the IT Service Desk on **01744 676525** (8.00am to 5.15pm, Monday-Friday) or log a call via IT Service Desk Portal.
- 2.2 If your device is damaged, lost or stolen you must contact the IT Service Desk immediately on **01744 676525**.
- 2.3 If your device contains a data SIM card, and your device is lost or stolen outside normal office hours, then you should contact Telefonica (O<sub>2</sub>) direct on **0844 826 0288**. Telefonica will terminate the connection on your device. Please record any reference number provided by Telefonica (O<sub>2</sub>) and report the matter to the IT Service Desk on the next available working day.

### 3 Guidance: Data Security and IT Network Security

#### 3.1 Data Security

- 3.1.1 The Council has a duty to protect the data it collects, in particular the personal information it holds in respect of residents and service users. The Council must comply with data protection legislation.
- 3.1.2 A data breach (whereby personal data is lost, stolen or disclosed inappropriately) has the potential to cause widespread reputational damage to an organisation.
- 3.1.3 The Information Commissioner's Office (ICO) has wide ranging powers to investigate breaches of data protection legislation, including the power to fine Data Controllers and Data Processors. *[Further information concerning the role of the ICO and your responsibilities under data protection legislation are contained in section 7 below].*
- 3.1.4 It is everyone's responsibility to remain vigilant to risks associated with failing to maintain security of data. As such, care should be taken when dealing with data to consider the impact that a breach may have on either you, the Council and/or data subjects. You should take particular care with regard to electronic communication and data, such as email and social media, and ensure that Council data is not stored outside the Council's IT network.

#### 3.2 IT Network Security

- 3.2.1 The extension of mobile technology and the rise in cybercrime increases the risks for all organisations to protect the data that it holds. Mobile devices, such as tablet and smartphones, provide additional security vulnerabilities due to their portability and the way that data is transmitted remotely over wireless networks.
- 3.2.2 As an elected member you will have access to the Council's computer network. The Council must ensure that it has adequate controls in place to ensure that only authorised users have access to the computer network and the information contained within it.
- 3.2.3 The Public Services Network (PSN), which enables the council to communicate securely with central and local government, places further restrictions on how computer devices are set up and are able to connect to a local authority's computer network. The Council is subject to an annual audit to ensure that it complies with these requirements. You are provided with devices that have been locked down in accordance with these requirements.
- 3.2.4 All computers that communicate outside of a network, e.g. via the internet or email, are subject to additional security vulnerabilities. Viruses and malware software can make equipment inoperable, destroy data or allow an unscrupulous hacker to take control of a computer and the information contained within it.
- 3.2.5 The Council has installed an internet firewall to ensure the safety and security of its network and information. All internet and email access is recorded, logged and interrogated for performance and capacity monitoring purposes and to ensure compliance with policies and procedures. The monitoring of an individual's usage will only be undertaken by authorised officers as part of a formal investigation into allegations of misuse.
- 3.2.6 All incoming emails are scanned for viruses and malware and an email filtering system has been put in place to ensure that only emails that satisfy set criteria, including appropriate content, are passed through to the Council's email system. Emails are retained for a period of two years.



## 4 Member Responsibilities - ICT Equipment

### 4.1 General:

- 4.1.1 ICT equipment is provided to you to facilitate your official functions as an elected member and will remain the property of the local authority. You are responsible for its safe custody and its return on ceasing to be a member.
- 4.1.2 Tablet and smartphones will be provided with an appropriate voice and / or data allowance to enable you to undertake your official duties. Any additional charges generated through private use must be re-paid to the Council.
- 4.1.3 The Council reserves the right to inspect ICT equipment to allow for the service, maintenance or repair of equipment. You are required to give officers from Business IT access to the equipment to enable this function to be carried out either in person or remotely at a suitable convenient time.
- 4.1.4 You must not use the device, or permit its use, in any manner that may bring the Council or yourself into disrepute.

### 4.2 Password Authentication:

- 4.2.1 You will be required to use a strong password to access both your device and the Council's IT network. Further advice can be provided should you require assistance in creating and remembering strong passwords.
- 4.2.2 You must not reveal your password to anyone or write it down other than to authorised members of St. Helens Council ICT staff for the purposes of addressing your IT needs and thereafter change your password so only you know it.
- 4.2.3 You should avoid setting passwords that are easily guessable or that you use to access other systems and websites.
- 4.2.4 You should be vigilant for spoof email or website login pages which may trick a user into providing their log-in credentials.
- 4.2.5 If you forget your password you should contact the IT Service Desk ([see section 2](#)) to enable it to be reset. **Note that the content on some devices may be wiped after a number of failed attempts, which varies depending on the device, but as a minimum is three. As such, you are strongly advised to contact the IT Service Desk prior to the third attempt. This is to prevent additional inconvenience as the device will need to be rebuilt and you will lose any information stored locally on the device.**
- 4.2.6 If you have logged a call with Business IT for an issue to be resolved there may be exceptional occasions when Business IT may need to reset your password to complete the work. You will be advised of this and notified of the password. Once the work has been completed you will be required to reset your password.

### 4.3 Protecting your device:

- 4.3.1 You should take adequate precautions to protect the device from theft or damage and lock your screen when it is not in use.
- 4.3.2 You must notify the IT Service Desk (01744) 676525 immediately of the loss or theft of any equipment (see section 2). This will enable the Council to either track or remotely wipe the device to protect unauthorised access to any data held upon it.

- 4.3.3 You should not remove or disable any equipment or software unless notified to do so by Business IT.
- 4.3.4 To prevent viruses and copyright implications, you are restricted from installing unauthorised software on your device.
- 4.3.5 The charging of your mobile device should be by way of the charger provided direct into the electric mains or appropriate car charger. You should not charge your device using the USB port attached to an untrusted computer.

#### **4.4 Mobile connectivity**

- 4.4.1 Data tariffs are provided on mobile devices to enable you to access data remotely and securely.
- 4.4.2 In addition, you can connect your device to trusted Wi-Fi networks, including Council supplied Wi-Fi and your password protected home broadband.
- 4.4.3 You should apply extreme caution when joining other (untrusted) Wi-Fi sources such as those found in cafes, bars and other retail outlets. Unscrupulous providers or hackers, posing as a legitimate Wi-Fi hotspot, may be able to intercept data between your device and its final destination. You should take appropriate precautions to ensure that you are only connecting to a trusted Wi-Fi network. It is recommended that Wi-Fi connectivity is routinely turned off to prevent you in-advertently joining an untrusted network.
- 4.4.4 You should be mindful that there are significant security vulnerabilities with using short-range connectivity products, such as Bluetooth, Air Drop or pairing, particularly within public places. Such vulnerabilities can allow hackers to eavesdrop on conversations, access data traffic or apply a virus or malicious code to a device when the functionality is switched on.

#### **4.5 Removable Media**

- 4.5.1 It is the Council's policy to prohibit the use of all removable media devices (e.g. USB drives, CD's, SD cards) to store data. Exceptions will be considered on a case by case basis and will be subject to a valid business case and compliance with the following requirements:
  - a) Only council issued encrypted removable media devices should be used.
  - b) The use of non-council devices is prohibited and must never be used to store Council information or be connected to Council owned IT equipment.
  - c) If the use of removable media has been approved, you should ensure that a scan of the device is carried out using the Council's approved anti-virus software.
  - d) Removable media should never be the only place where information is stored
  - e) Care should be taken to physically protect the device from loss, theft or damage.
  - f) Removable media devices that are no longer required or have become damaged must be returned to the Democratic Services Manager who will arrange for their secure disposal.

#### **4.6 Personal Use:**

- 4.6.1 You may use the device for appropriate personal use.
- 4.6.2 Any additional charges generated through private use must be re-paid to the Council.

- 4.6.3 You may download applications onto your Council provided tablet or smartphone from the St Helens Apps Store. Requests for the inclusion of additional apps should be made via the Democratic Services Manager.
- 4.6.4 You may set up a personal email account on your mobile device using an email client downloaded from the St Helens App Store. You are however prevented from using the device's own email client for creating additional and/or personal accounts, as this feature is exclusively set up for official email only.
- 4.6.5 Personal email accounts must not be used for Council business

## **4.7 Use of Mobile Devices Abroad**

- 4.7.1 The usage of Council issued smartphones and tablet devices abroad should be for Council purposes only.
- 4.7.2 Data roaming will only be approved for Council business and must be agreed prior to the device being taken abroad. You should notify the IT Service Desk before you go abroad to ensure that the correct data tariff is in place.
- 4.7.3 To reduce unnecessary costs, you should ensure that 'mobile data' and 'data roaming' are switched off when not required. These options can be switched off by selecting Settings and Mobile.
- 4.7.4 You should take similar precautions when connecting to Wi-Fi as you would in the UK.

# **5 Guidance: Online Participation, Internet, Email and Social Media**

## **5.1 General**

- 5.1.1 Websites and social media provide many opportunities to engage and communicate with people in new and innovative ways.
- 5.1.2 This section provides advice in respect of the use of the internet, Council email, your Councillor webpage and the use of social media sites, blogs, 'wikis' or any other online publishing format.
- 5.1.3 Emails and social media posts are a quick and easy way to communicate but they are not like telephone calls or face-to-face conversations. Such content has the potential to have both a longer life span and wider audience than intended. Emails and posts have the same legal bearing as any written document and could be used in legal proceedings.
- 5.1.4 Care should be taken that your actions do not directly or indirectly bring the Council or yourself into disrepute. This includes posts or email you make in a personal capacity where there is a link to your role as a Councillor.
- 5.1.5 Although social media sites such as Facebook and Twitter are external to the Council, the way in which they are used or content that is submitted, may still lead to a breach of the Code of Conduct for elected members.

## 5.2 Online Participation Principles

5.2.1 Remember, you should participate in the same way as you would with other media or public forum.

### **Be responsible**

- When using third-party websites (such as Facebook), know and follow their terms of use
- Do not publish any information which is not already in the public arena

### **Be credible**

- Be accurate, fair, and thorough and make sure you are doing the right thing
- Be transparent
- Encourage constructive criticism and deliberation

### **Be Respectful**

- Be polite, open and respectful
- Respect people's confidentiality
- Be cordial, honest and professional at all times

### **Be consistent**

- Wherever possible, align online participation with other offline communications
- When you make a reference, link back to the source where possible

### **Be professional**

- Be mindful that what you publish may be public for a long time
- Think before you publish

## 5.3 Defamation

5.3.1 You must not use online participation to publish defamatory statements or material. Anyone who believes that a member has defamed them will be able to take legal action directly against the member concerned. The relevant legislation is the Defamation Act 1996.

5.3.2 A defamatory statement is one that causes an adverse effect on a person's reputation. It must be published to a third person and refer to the defamed individual. Libel, which is a form of defamation, is the publication of a statement which exposes a person to hatred ridicule or contempt, or which causes them to be shunned, or avoided or which has a tendency to injure them in their office, trade or profession in the estimation of right-thinking members of society generally.

## 5.4 Tainting of Decision Making through Biased/Closed Minds

5.4.1 Members who are in positions of determining quasi-judicial processes, particularly planning and licensing applications or determining the outcome of consultation exercises, must exercise care to keep an open mind on issues which he or she may be required to make decisions.

5.4.2 The use of online participation to set out a clear position on a particular issue could well provide evidence of bias based on a particular personal interest or view, or a closed mind. This would demonstrate the artificiality of the member then purporting to consider openly all issues in the determination of that matter.

5.4.3 Members must give an accurate and even-handed account of discussions or processes that lead to decisions being taken. For example, they must not give a one-sided account of the reasons for a planning application being refused.

## 6 Member Responsibilities - Online Participation, Internet, Email and Social Media

### 6.1 General Responsibilities applying to all forms of Online Participation

- 6.1.1 The Code of Conduct for elected members applies to online participation in the same way it does to other written or verbal communication. Councillors should comply with the general principles of the Code in what they allow others to publish.
- 6.1.2 Online participation must not be used in a way that brings you or the Council into disrepute.
- 6.1.3 Online participation must not be used for the promotion of personal financial interests or commercial ventures or personal campaigns where you are identified as being an elected member.
- 6.1.4 Online participation must promote equality by not discriminating unlawfully against any person. You should never use language which promotes: religious hatred, racist, sexist, homophobic, transphobic, disablist, ageist, or other unlawful discriminatory content.
- 6.1.5 You should not make derogatory remarks or express derogatory opinions regarding the Council, its officers or Members or communicate extreme views that could be to the detriment of the Council or its reputation.
- 6.1.6 You should not use online participation to harass, intimidate or bully.
- 6.1.7 You should treat others with respect and not to do anything that compromises the impartiality of those who work for or on behalf of the authority. You must treat Local Government Officer's recommendations or known views impartially.
- 6.1.8 You must not use online participation to disclose information that the Council has considered in an exempt session, or which they are on notice is confidential for any other reason.
- 6.1.9 You must not publish content that may result in actions for defamation or other claims for damages (see section 5.3)
- 6.1.10 You must not process or publish personal data other than for the purpose stated at the time of capture (see section 7.2 - Data Protection).

### 6.2 Internet and Email

- 6.2.1 Your council Internet and email account is provided to assist you to fulfill your duties as an elected member. You must not create, download, access, display, transmit or engage in the following using your council internet or email account:
  - a) Create, download, upload, display or knowingly access websites that contain pornography or other "unsuitable" material that might be deemed illegal, obscene or offensive. ("Unsuitable" material include data, images, audio files or video files, the transmission of which is either illegal under British Law or is against the rules, essence and spirit of this and other Council policies).

*[Accidental access to such internet sites should be reported to the Democratic Services Manager on ext. 3219 who will record the Members name, the date, time and site(s) accessed. This information will be reported to Internal Audit.];*

- b) Subscribe to, or use online gaming or betting sites;
- c) Subscribe to or enter “money-making” sites or use “ money-making” programs;
- d) Subscribe to, enter or use peer-to-peer networks or install software that allows the sharing of music, video or image files;
- e) Run a private business;
- f) Break through or disable security controls, such as hacking;
- g) Participate in chain emails including, jokes or ‘joke’ chains and conversational email.

The above list gives examples of “unsuitable” usage but is neither exclusive nor exhaustive.

- 6.2.2 The forwarding of emails to personal email accounts presents additional information security risks to the Council and should be avoided. The Council has implemented controls to prevent the auto-forwarding of emails.
- 6.2.3 Emails, sent to external users, containing personal or sensitive information must be kept secure which means they should be sent using appropriate encryption. You will need to include OFFICIAL-SENSITIVE in the subject field to ensure your mail is encrypted. If the message cannot be delivered encrypted for any reason, you will receive a message delayed or undelivered notice. In these circumstances, you should re-send the message using PGP. If in doubt, please contact the Democratic Services Manager on ext. 3219 for advice
- 6.2.4 You should take care when receiving unsolicited email, as it could be a vehicle for introducing computer viruses. If you receive what you believe to be an unsolicited mail and are concerned or suspicious of the content you should not reply to it and report it to the Democratic Services Manager.
- 6.2.5 Personal use is permitted provided that:
- a) all usage is governed by this document and access to internet is restricted to those sites which will not breach the Council’s policies; and
  - b) it does not interfere with the performance of the email system and the corporate network.

### **6.3 Council Website and Your Councillor Webpage**

- 6.3.1 You may not use your Member’s page on the Council website to promote political campaigns, advocate political stances on issues, nor use the site to promote a political party or persons identified with a political party.
- 6.3.2 You are responsible for the content of your own online participation. For the avoidance of any doubt, the Council does not authorise or in any way sanction the publication of statements that might be construed as defamatory (see section 5.3)
- 6.3.3 You are only permitted to publish information in the context of your official role in respect of matters of general public interest.
- 6.3.4 You must not breach copyright or intellectual property rights
- 6.3.5 During election time (from the ‘notice of an election’ to the election itself), parts of Members’ web pages may be suspended. Visitors will still, however, be able to contact them through their web pages.
- 6.3.6 Members must not use the Council Website to secure personal advantage or secure use for themselves or others of the resources of the authority (for instance, by advertising a commercial service or by using the pages to encourage the Local Authority to purchase a particular item or service).

## 6.4 Social Media

- 6.4.1 The appropriate use of social media by Members is governed by the Code of Conduct for Elected Members and Co-opted Members. Supplementary guidance on the use of social media by elected members has been developed to support the effective use and management of social media and to minimise risk.
- 6.4.2 When using social media, either using Council or personal IT facilities, you should ensure that you do not publish anything, which may have the potential, through association, to bring the Council into disrepute, as set out in section 6.1 above.

## 7 Data Protection and Freedom of Information

### 7.1 The Information Commissioner's Office

- 7.1.1 The Information Commissioner's Office (ICO) is the UK's independent supervisory authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. Complaints relating to Data Protection and Freedom of Information can be escalated to the ICO.

The ICO has the power to fine controllers and processors for serious infringements (breaches) of the General Data Protection Regulations (GDPR), up to:

- 2% of worldwide turnover, or 10m EUR; or
- 4% of worldwide turnover, or 20m EUR

dependent on the nature of the breach.

### 7.2 Data Protection

- 7.2.1 Elected members have a legal obligation to comply with data protection legislation, which aims to protect all personal data which is collected, processed, stored and disposed of. The data protection legislation gives enforceable rights to individuals (data subjects) and places obligations on those legal persons who control the manner and the purpose of the processing of personal data (data controllers).

### 7.3 Fees and Use of Personal Data

- 7.3.1 A person or organisation, which processes personal data, is defined as a Data Controller. Each Data Controller must pay the required fee to the ICO. Democratic Services will make arrangements to pay the required fee to the ICO on behalf of each elected member. Further information can be found on the ICO's website at [www.ico.gov.uk](http://www.ico.gov.uk).
- 7.3.2 Elected members must be aware of in which capacity they are processing personal data, by considering the context in which that information was received and processed.
- a) As an elected member of the Council you may have access to and process personal data in the same way as employees. In this case the Data Controller is the Council rather than the elected member, e.g. a member of a Planning Committee. The member may have access to information in planning files for the purposes of considering whether or not the Council should proceed with a development. In this case the member is processing personal data on behalf of the Council.

Information that is held by the Council may not be used for political or representational purposes unless the individuals to whom the data relate (the data subjects) have agreed.

- b) When as an elected member you represent residents of your ward, you are processing personal data in your own right, and are therefore the Data Controller. Examples include, the processing of personal data in order to timetable ward surgery appointments or progress complaints made by local residents.

This means that you are accountable for ensuring data protection legislation is adhered to.

- c) When an elected member is acting on behalf of a political party, the party is the Data Controller, and the party determines how and why the personal information is processed for the purpose of their individual campaigns.

Individuals, who are not part of any political party but campaign to be an independent elected member to a particular ward, are their own Data Controller, and will need to arrange any required payment to the ICO.

- 7.3.3 Elected members are advised to refer to the ICO for advice and guidance for elected representatives and political parties:

<https://ico.org.uk/for-organisations/political/>

- 7.3.4 Elected members should also be familiar with the Council's Data Protection Policy.

## 7.4 Freedom of Information

- 7.4.1 The Freedom of Information Act (FOIA) gives a general right of public access to all types of recorded information held by public authorities.

- 7.4.2 In relation to the FOIA:

- a) Elected members are not authorities for the purposes of the FOIA.
- b) Correspondence between elected members or information held by an elected member for their own private, political or representative purposes will not usually be covered.
- c) Information received, created or held by an elected member on behalf of the Council will be covered, for example, where an elected member is acting in an executive role as part of Cabinet. Information created or received by an elected member both in electronic or manual form will only be covered if it is held for the Council's own business.

- 7.4.3 Elected members are advised to read the ICO's document 'Information produced or received by Councillors':

[http://ico.org.uk/~media/documents/library/Freedom\\_of\\_Information/Detailed\\_specialist\\_guides/information\\_held\\_by\\_a\\_public\\_authority\\_for\\_purposes\\_of\\_foia.ashx](http://ico.org.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/information_held_by_a_public_authority_for_purposes_of_foia.ashx)



## Appendix A: Declaration

### Undertaking

I have read the Members' ICT Protocol.

I agree to be bound by the terms set out within it.

Signature:

Print Name:

Date:

**2 copies of this document must be provided and signed by the Member.  
1 copy to remain with the Member, the other to be retained on file by Democratic  
Services, Town Hall.**

This page is intentionally left blank



## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **1. INTRODUCTION**

- 1.1 The aim is to guide Members and Officers of St Helens Borough Council in their relations. It is hoped the protocol will help build good working relationships between Officers and Members as they work together. A strong, constructive and trusting relationship between Members and Officers is essential to the modern, effective and efficient working of the Council. The protocol forms a key part of the Council approach to corporate governance and its commitment to uphold standards in public life.
- 1.2 The relationship between Councillors (including co-opted members) and Officers is an essential ingredient that goes into the successful working of the organisation. This relationship within St Helens Borough Council is characterised by mutual respect, informality and trust. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is to help Councillors and Officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of the Paid Service and the Monitoring Officer.
- 1.3 Both Councillors and Officers are required to observe the Nolan Principles – the ‘Seven Principles of Public Life’ in their dealings with each other, namely:
- selflessness
  - integrity
  - objectivity
  - accountability
  - openness
  - honesty
  - leadership
- 1.4 The Protocol must be read and operated in the context of any relevant legislation and local codes of conduct.
- 1.5 Officer for the purposes of this Protocol includes all employees of the Council except Teachers in Schools and employees of School Governing Bodies.

### **2 ROLES OF MEMBERS AND OFFICERS**

- 2.1 Members are accountable to the electorate who determine the people they wish to represent them on the authority. Therefore, this protocol recognises



**ST HELENS**  
BOROUGH COUNCIL

that Members are elected to serve the people of St Helens.

- 2.2 Members as politicians, may express the values and aspirations of their party-political groups but they must recognise that in their role as Members they have a duty to act in the public interest.
- 2.3 The respective roles of Members and Officers can be summarised as follows:

*Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and to the Authority, and to carry out the Authority's work under the direction and control of the Council, the Cabinet and relevant Committees, Boards, etc.*

*Mutual respect between Councillors and Officers is essential to good local government.*

#### 2.4 Members

2.4.1 Members are mainly responsible for:

- the political direction and leadership of the Authority;
- the determination of policies, plans and strategies;
- performing the Council's regulatory functions;
- monitoring and reviewing, primarily through the Executive and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and in delivering services;
- participation in partnership working;
- representing the Council on national, regional and local bodies and organisations;
- representing the views of their communities and individual constituents

2.4.2 It is not the role of Members to involve themselves in the day-to-day management of the Authority's services.

#### 2.5 Members of the Cabinet, Chairs and Members with Special Responsibility Allowances

2.5.1 Members of the Cabinet, Chairs of Committees and those Members with a Special Responsibility Allowance have additional responsibilities. Because of those responsibilities, their relationships with Officers may be different from, and be more complex than, those of Members without those responsibilities.



2.5.2 However, it must be remembered that officers within a service are accountable to their Director, and whilst Officers should always seek to assist a Chair (or indeed any Member) they must not go beyond the bounds of whatever authority they have been given by their Director.

2.5.3 Members of the Cabinet, Chairs and Members with Special Responsibility Allowances must respect the impartiality of Officers and must not ask them to undertake work of a party-political nature.

## 2.6 Opposition Members

2.6.1 As individual Members, all Members have the same rights and obligations in their relationship with Officers and should be treated equally.

2.6.2 However, where a political group forms an administration it is recognised that the interactions between Officers, particularly those at a senior level in the organisation, and the administration will be differentiated.

## 2.7 Officers

- The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Council.
- Officers are responsible for day-to-day managerial and operational decisions of the Council. Members should avoid inappropriate involvement in such matters.
- In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Members view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his/her professional judgement or views.
- The role of Officers is to give advice and information to Members and to implement the policies determined by the Authority.
- In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. No Member should seek to pressure an Officer to make a recommendation contrary to the Officer's professional view.

2.7.1 Statutory Officers have responsibilities in law over and above their obligations to the Authority and to individual Members. Members must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging their



responsibilities.

- 2.7.2 There may be occasions when a Statutory Officer's responsibilities may conflict or not wholly correspond with a strategy, policy, decision or course of action proposed or taken by the Council or a Member. In those circumstances, Members should acknowledge the primacy of the statutory responsibilities and treat the Statutory Officer with the same courtesy and respect shown to them and to other Officers in all other dealings.

### 3 **EXPECTATIONS**

a. What Members can expect from Officers:

- i. A commitment to the Authority as a whole, and not to any political group;
- ii. A working partnership;
- iii. An understanding of, and support for, respective roles, workloads and pressures;
- iv. Timely response to enquiries and complaints;
- v. Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers;
- vi. Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their role, having regard to any individual responsibilities that they have and positions that they hold;
- vii. Awareness of, and sensitivity to, the political environment;
- viii. Respect, dignity and courtesy;
- ix. Training and development in order to carry out their role effectively;
- x. Integrity, mutual support and appropriate confidentiality;
- xi. Not to have personal issues raised with them by Officers;
- xii. That Officers will not use their interactions with Members to advance their personal interests or to influence decisions improperly;
- xiii. That Officers will not try to persuade individual Members to make a decision in their personal favour or raise issues relating to their employment. Nor should they approach individual Members with allegations about other Officers. They should discuss such issues with their line manager and where



appropriate, use the Council's grievance, whistle blowing and disciplinary procedures.

xiv. That Officers will at all times comply with the relevant Code of Conduct for Employees; and

xv. Support for the role of Members as the local representatives of the Authority.

b. What Officers can expect from Members:

- i. To act within the policies, practices, processes and conventions established by the Council;
- ii. To work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities;
- iii. To understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting line to recognise that Officers work to the instructions of their Senior Officers and not to individual Members;
- iv. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the potential vulnerability of Officers, particularly at junior levels;
- v. A working partnership;
- vi. An understanding of, and support for, respective roles, workloads and pressures;
- vii. Political policy direction and leadership;
- viii. Respect, dignity and courtesy;
- ix. Integrity, mutual support and appropriate confidentiality;
- x. Not to be subject to bullying, harassment, discrimination, victimisation or intimidation or to be put under undue pressure;
- xi. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the power relationship between Members and Officers, and the potential vulnerability of Officers, particularly at junior levels;
- xii. That Members will not use their position or relationship with Officers to



advance their personal interests or those of others, or to influence decisions improperly;

- xiii. That Members should generally restrict their discussion on strategic or significant issues to senior officers (Chief Executive, Strategic Directors or Directors);
- xiv. That Members will use regular briefings and/or normally make appointments before visiting Officers in order to try to avoid frequent unscheduled interruptions;
- xv. Members should not pressure Officers to work excessive hours or to do anything they are not authorised to do or that is not part of their normal work;
- xvi. Members should not make detrimental remarks about individual Officers during meetings, in public, on social media or to the media; and
- xvii. That Members will at all times comply with the relevant Code of Conduct.

c. Limitations upon Behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- i. Close personal relationships between Members and Officers can confuse these separate roles and get in the way of the proper discharge of the Authority's functions;
- ii. The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party-political issues;
- iii. Personal friendships or relationships should be avoided. Where they do exist the Officer concerned must notify his or her manager;
- iv. Relationships with particular individuals or party groups should not be such as to create public suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered below;
- v. When attending official civic events, members and officers should dress and behave in a manner in keeping with the occasion and their position.





#### **4. DECISIONS UNDER DELEGATED POWERS**

- i. The Scheme of Delegation in Part 3 of the Constitution sets out those functions which have been delegated to Senior Officers to carry out. Members should not seek to improperly influence decisions taken by Officers under delegated powers and should not ask them to exercise discretion which involves acting outside the Council's policies and procedures.

#### **5. POLITENESS AND RESPECT**

- i. Members and Officers should show each other politeness and respect. Members have the right to challenge Officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.
- ii. Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

#### **6. APPOINTMENT OF OFFICERS BY MEMBERS**

Members must not take any part in the appointment of anyone to whom they are:

- i. Married/ a partner;
- ii. otherwise related;
- iii. a friend;
- iv. a business associate.

Members must ensure that Officers are appointed only on merit in line the Council's recruitment policies, with a view to appointing those who will best serve the whole Council.

#### **7. SUPPORTING MEMBERS IN THEIR WARD ROLE**

- i. In order to fulfil their community leadership role, Members should be provided with support and access to information and reports affecting matters in their wards. (see Ward and Member Protocol)
- ii. Members representing an area where a meeting is being organised on behalf of the Council in respect of a local issue should be made aware of it and invited to attend whenever reasonably possible. They should also be given details of any consultation on a local matter.
- iii. Members should copy appropriate Directors into all requests so that the workload of individual staff can be managed effectively. Officers should answer Members' enquiries, in whatever form, as soon as reasonably practicable, or within 10 working days as a maximum, send a holding reply to advise of any delay in providing a response. Where a Senior Officer



considers that the enquiry received is inappropriate, the Member should be advised of this and the reason or reasons why the enquiry is considered to be inappropriate.

- iv. Members should contact the Director in the event that a response is not received within 10 days. The Executive Director may be asked to resolve any issues arising from exceptionally unreasonable delays in responding to Members' enquiries.

## **8. VISITS BY MEMBERS TO PREMISES AND LAND**

- i. Members have the right to visit premises and land owned by the Council but should note that in the case of occupied Council premises and other leased or tenanted premises the permission of the lessee or tenant will be required in advance. They should also make suitable arrangements with the relevant Director who will pay particular regard to health and safety issues and to the sensitivity and timing of the proposed visit;
- ii. It should be noted that this right is only available to the extent that a Member needs to visit premises or land to enable him or her to better fulfil his or her duties as a Member; and
- iii. that these arrangements are not intended to restrict a Member's rights as a member of the public.

## **9. POLITICAL GROUPS**

The operation of political groups is an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the Authority. It is in the interests of the Authority to support the effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of Officers.

### **a. Briefing Notes**

- i. Political groups may request the Chief Executive or an Executive Director to prepare written Briefing Notes on matters relating to the Authority for consideration by the group.
- ii. Officer Briefing Notes to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Such Briefing Notes will not deal with any political implications of the matter or any option, and Officers will not make any recommendation to a political group.



b. Officer Attendance

- i. Any political group may request the Chief Executive or an Executive Director to attend a meeting of the group to advise on any particular matter relating to the Authority.
- ii. The Chief Executive or Executive Director may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- iii. Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Advice will not deal with any political implications of the matter or any option, and Officers will not make any recommendation to a political group.
- iv. Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

10. WHEN THINGS GO WRONG

a. Public Criticism

Members and Officers should not criticise or undermine respect for the other at Council Meetings, or at any other meeting they attend in their Council capacity, or on social media.

b. Procedure for Officers

From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate Senior Manager or Members, Officers will have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances.

In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate Group Leader, will decide on the course of action to be taken, following consultation with the Chairman of the Standards Committee.



**ST HELENS**  
BOROUGH COUNCIL

c. Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should not be raised at any meeting held in public, instead the matter should be raised with the appropriate Executive Director. Where the Officer concerned is an Executive Director, the matter should be raised with the Chief Executive.

Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer and the Head of People Management. If the matter cannot be resolved informally, it may be necessary to invoke the relevant Council's Disciplinary Procedure.

## **St Helens - A Member led Council –**

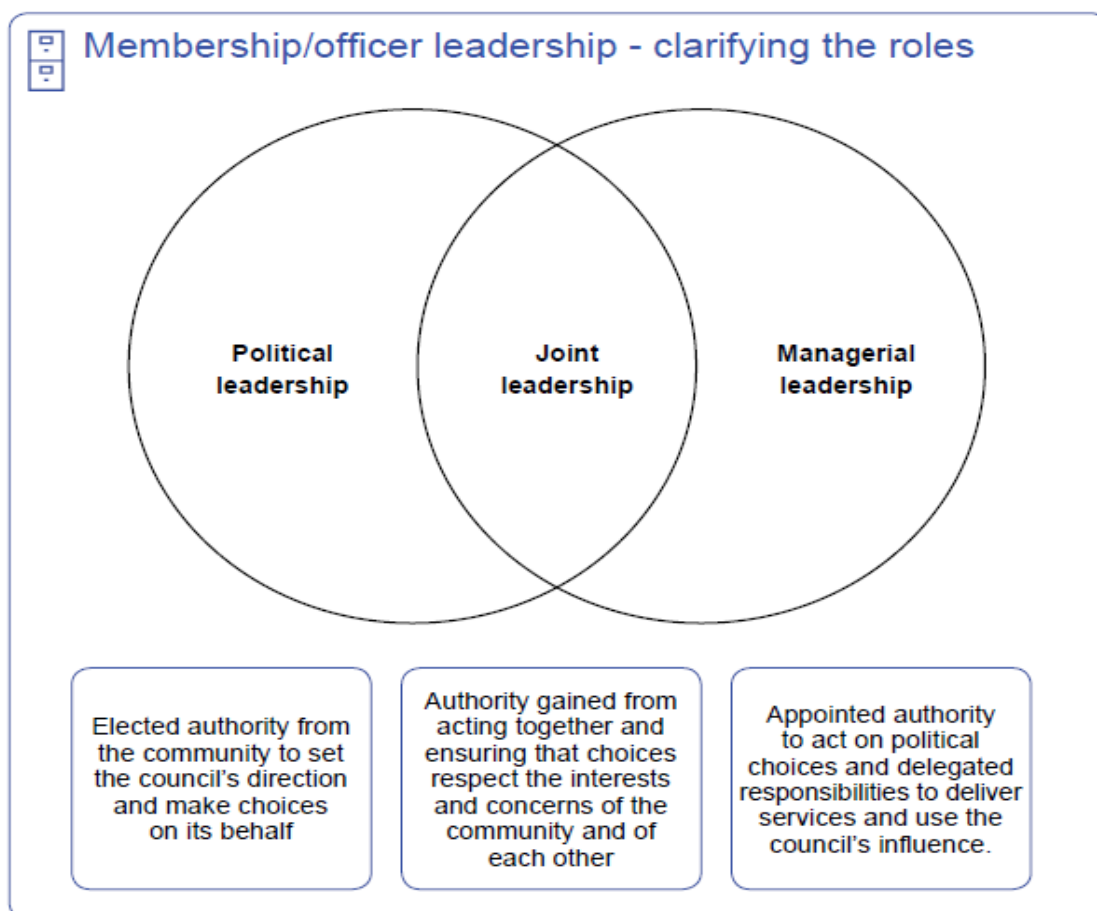
### **Developing effective Member and Officer relations**

As part of our approach to refining member and officer relations it is useful to identify some of the issues and differences that will need to be addressed. The following points are based on the LGA guidance on member and officer relationships.

1. Members provide democratic mandate to the council and set the policy framework for the Council; whereas officers provide the professional advice and expertise needed to deliver the policy framework that has been agreed by members.
2. Officers are employees of the Council and are the people who put policies into effect and organise the provision of services. Officers also have powers and responsibilities delegated by members to make decisions on behalf of the Council.
3. Officers must act with political impartiality, serving the whole council rather than particular groups or members. They have a duty to provide unbiased professional advice and, as such, may have to advise members that certain courses of action should not be taken.
4. The Council has an agreed Member/Officer Protocol in place.
5. This document is not intended to replace this but is of key importance in understanding the wider issues related to the way in which members of the Council and its officers should work together.
6. The following diagram outlines some of the differences in role:

A Quick Guide to some of the distinct roles	
Members ←	→ Officers
Are accountable to the electorate.	Accountable to the Council.
Are a Community Leader for a Ward.	Serve the whole Council.
Add a political dimension.	Politically Impartial.
Set high level policy/strategy.	Ensure operational delivery is effective.
Are involved in Chief Officer/CLT appointments.	Day to day staff and resources management.
Provide political perspective.	
Collectively set the policy and strategy framework for the Council.	

7. The roles of Members and officers are not however divided into distinct areas. The effective running of the Council requires an effective partnership and collaboration between Members and officers. The diagram below provides some further examples. Further to the descriptor above the following model outlines the differences and the overlaps:



8. Again, a useful table to consider is as follows:

<b>What all Members can expect from Officers</b>	<b>What Officers can expect from Members</b>
A commitment to the authority as a whole, not to an individual political group	Political leadership and direction
A working partnership	A working partnership
A timely response to enquiries and complaints	Compliance with ethical standards and probity requirements
Professional advice not influenced by political views or preference	Non-involvement in the day to day management
Integrity, mutual support and appropriate confidentiality	Respect, dignity and integrity, but no special consideration

9. Based on the above information and guidance we agree to sign up to, and work within the following principles:

**Principles**

- i. Officers will work based on a model of “no surprises” when it comes to providing information to Members. The principles of timeliness, effective forward- planning and the planning of appropriate communications will be key.
- ii. Respecting each other, in terms of:
  - Political Leadership
  - The role of the local ward member
  - Officer political neutrality / professional role of officers
- iii. Officer responsiveness and even-handedness to members of all political groups, whilst acknowledging that officers must implement the policies of the ruling administration, irrespective of political colour.
- iv. Effective communication
 

Reports (written or verbal) will be in plain English and where possible free of technical terms. Members will be provided with documents in alternative formats where required.
- v. The role of officers is to support Members leadership and activity in the development of strategy and policy, and by monitoring and reviewing of

implementation. This is done through the provision of accurate information /data/advice. Officers will also provide material information and briefing on operational and service delivery matters as appropriate.

- vi. Officers will also prepare information for Members by way of periodic member-briefing.
- vii. Provision of consistent and timely officer advice:
  - Which represents the collective view of departments of the Council.
  - Members must not 'shop-around' for advice, seeking to obtain advice which they may prefer from certain officers, or by seeking a secondary opinion once formal advice has been provided.
  - If Members have concerns about the accuracy of advice or information provided, they should raise it with the relevant Executive Director.
- viii. Observance of the Nolan Principles:
  1. Selflessness
  2. Integrity
  3. Objectivity
  4. Accountability
  5. Openness
  6. Honesty
  7. Leadership
- ix. Members and officers will be committed to setting and enforcing positive behaviours:
  - It is expected that the political groups will have a significant role to play in dealing with the behaviour of members of the group generally, and in assisting the Monitoring Officer in dealing with complaints made against any group members specifically.
  - Officer conduct will be dealt with via line management arrangements with more serious matters being addressed via appropriate HR processes.
- x. Members and officers will share responsibility for identifying when a strategy or policy needs to be developed, monitored or reviewed.
- xi. Co-production – Members make political decisions, but officers will work with them and advise them in order to inform the process.
  - Members ultimately make the decisions
  - Officers then implement the decisions
- xii. Staffing matters have joint responsibility amongst Members and officers:



- Statutory officer and appointments for Director level posts and above are the responsibility of the Appointments committee, subject to the required processes.
- HR Policies are to be developed by Officers based on legislation and good practice. These pertain to the operational management of the workforce
- Management of staff and implementation of HR procedures are the responsibility of Officers.
- Management of disciplinary and whistleblowing matters are the responsibility of officers.

## 10. The Model

The following establishes the model which underpins our approach as a member-led authority. In the development of policy/strategy within St Helens Council there is a process or cycle that is undertaken:

- a) The development of the policy/strategy
- b) Delivery of the policy/strategy
- c) Monitoring of the policy/strategy
- d) Review of the policy/strategy linking to the revision of it and back to the beginning of the cycle

Within this model, 3 of the 4 activities are led by **elected members**: -

- Development
- Monitoring
- Review

One of the four domains is identified as activity led by **officers**

- Delivery

It is of course accepted that officers will support members in the provision of information, data and advice in relation to the 3 processes of **development; monitoring and review**, and that officers would keep members briefed on any key issues in relation to the **delivery** of strategy and policy.

Whilst it is the case under an executive and leader model of local governance that the Cabinet will lead on many areas of strategy/policy development, monitoring and review, other members across all parties have a significant role to play.

Committee members and chairs and, in particular overview and scrutiny committee members and chairs, can play a key role in policy development and

review. Equally, there is a clear role for ward members in liaison with communities to raise awareness of strategy and policy, and to feedback from a grass-roots level on proposals for development or review.

#### 11. **Officers responsibilities to elected members**

Whilst it is understood that officers of the Council have a responsibility to deliver the policies, and action the formal decisions of the Cabinet, it is of key importance that they understand their responsibilities to the Council as a whole and to members of all political groups.

Whilst officers will treat all members in an even-handed, appropriate manner, members must recognise that officer resources can only be directed towards implementing those decisions which have been lawfully taken by the Council.

All members have responsibilities to their residents, who often raise queries and enquiries with them. Members also have general responsibilities in respect of their local areas.

The Council's Constitution contains a Ward Member Protocol [provide hyperlink], which captures the role of the ward member and which sets out the responsibilities of officers in respect of local issues. Local issues are of key importance to ward members who are accountable to the electors in their wards. Members also have responsibilities to their political groups, and officers must provide impartial advice on procedures and the proposed handling of important issues, such as the budget and the administration of Council meetings.

Officers also have responsibilities towards those elected to senior Council office e.g. Chairmanship of Council or committees. Irrespective of political allegiance, such members can expect to receive support and assistance in order to ensure that they can effectively perform their roles.

Officers must also support those members of Council who do not have "special responsibilities". They are nevertheless equal members of Council and have a right to be appropriately supported.

It will be acknowledged that members have different working patterns, caring responsibilities and preferred ways of working, and officers will endeavour to be flexible to accommodate these when arranging meetings.

Where a member requires adjustments as a result of disability, illness or caring responsibilities, reasonable efforts will be made to accommodate the member's requirements, to enable all members to participate fully in the business of the Council.

Officers will provide appropriate support and advice to members where they encounter abuse, harassment or threats as a result of their role as a Councillor.

#### 12. **Communicating with public, business, and stakeholder audiences**

Officers, (including the corporate communications team) will:

- Deliver information about Council's services and how to access them, prioritising those services where evidence shows that these are the most important to residents, and which are council priorities.
- Communicate, publicise and promote decisions, service changes, priorities etc that are the result of decisions taken through the democratic processes of the authority, for example:
  - Decisions taken at full council
  - Decisions taken at cabinet
  - Leader decisions
  - Decisions otherwise delegated through any of the above meetings or otherwise described through the constitution
- Defend the reputation of the organisation, rebutting and correcting factual inaccuracies where they enter the public conversation about the organisation

The Corporate Communications Team will, at all times, observe the requirements of:

- St Helens media-relations protocol (Currently being developed) and other St Helens Borough Council policies and protocols
- Code of recommended practice for local government publicity
- And relevant legislation

The Corporate Communications Team will work on matters that relate to the activity, decisions and priorities of the Council as an organisation, and will not operate in any way that is party-political in nature.

In public relations, as in all council business, it is the role of Members to be party-political and the role of officers to create content that is neutral, or occasionally to speak neutrally, on behalf of the whole Council (albeit including the delivery of a majority party's programme). Any clearly party-political communications must be through Members' own channels (e.g. their own party newsletters and their own social media channels) rather than those owned and supported by officers (and funded by taxpayer resources).

This page is intentionally left blank

## Local Ward Member Protocol

### Community Champions

1. Local ward members, as community champions, have an important role to play in representing the Council in their wards:
  - a. Responding to the concerns of their constituents;
  - b. In meetings with partners; and
  - c. Serving on external bodies and organisations.

### Keeping Ward Members informed

2. It is essential for the proper running of the Council that members are fully informed, in a timely manner, about matters upon which they may be required to make decisions, or which affect their wards; including, but not limited to, being informed about consultation exercises, planning applications, pre-planning application meetings, and public meetings or events; except where:
  - a. An individual's right to personal confidentiality overrides this;
  - b. Any criminal investigation or police action might be prejudiced; or
  - c. Where exempt information would be compromised.
  - d. Where the member has a prejudicial interest in the matter.
3. Whilst the presumption will be in favour of information being provided to local members, the Chief Executive, in consultation with the Monitoring Officer, will decide any question as to whether the above exceptions apply.
4. Subject to this, it is accepted that members need to be made aware of issues within their wards if they are to be effective in their roles as spokespersons on behalf of their local communities.

### Identifying local issues in reports

5. Reports to the Council's decision-making bodies should identify the wards affected by the issues contained in those reports. This will enable local ward members to make themselves aware of these issues and may then decide to attend the meeting in question, or to make further enquiries about the decision which is proposed to be made.

### Committing the Council to take action

6. Local ward members are reminded that they do not have the right to commit the Council or its officers to any particular course of action, and should ensure that they do not convey to the public any false impression of commitment or give any undertaking that they are not in a position to personally fulfil.

## Casework

It is recognised that one of the most important aspects of a Councillor's role is supporting individual residents with casework.

Members may choose to deal with casework in the way which suits them best, but the following procedures may support Members and officers in resolving issues effectively:

- Simple requests, such as instances where the resident was unable to report it themselves, may be referred to the Contact Centre or reported via the App.
- More complex requests should be emailed to the relevant officer, copying in their Director. An up to date list of Directors, their responsibilities and their contact details shall be available on the intranet. Democratic Services will also assist with identifying the right department and officer.
- Democratic Services may in connection with Council work also assist with the drafting, printing and posting of letters to residents, subject to capacity..
- Issues that have strategic or policy significance shall be brought to the attention of Directors, Executive Directors and Portfolio Holders.
- A set of 'frequently asked questions' for common casework issues, with the routes for reporting and resolving issues, shall be available on the intranet.

## ST HELENS BOROUGH COUNCIL

### PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

#### **1.0 THE NEED FOR GUIDANCE**

- 1.1** Planning relies on informed judgment within a firm policy context which presumes in favour of development in accordance with the Development Plan unless material considerations indicate otherwise. It is also highly contentious because its decisions affect the daily lives of everyone and the private interests of individuals, landowners and developers. This is heightened by the openness of the system (it actively invites public opinion before taking decisions) and the legal nature of development plans and decision notices. It is important, therefore, that the process is characterised by open and transparent decision-making.
- 1.2** One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of land holdings and the quality of their settings. It is important, therefore, that planning decisions affecting these interests should be made openly, impartially, with sound judgment and/or justifiable reasons. The process should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well-founded in any way.
- 1.3** Elected members should have regard to this guidance contained in this Protocol when involved in planning and other development matters.
- 1.4** If members are uncertain about the application of the Protocol, they should seek advice from officers, preferably in advance of the Planning Committee meeting.

#### **2.0 RESPONSIBILITIES FOR THE DISCHARGE OF THE COUNCIL'S PLANNING FUNCTION**

- 2.1** The performance of the Council's planning function is delegated to a Committee and Officers of the Council, pursuant to Section 101 of the Local Government Act 1972. An extract from the Council's Scheme of Delegation is attached to this Protocol at Appendix A, which sets out details of the applications which can be determined by Planning Officers.
- 2.2** All other decisions on planning matters are dealt with by the Planning Committee.

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

- 3.1** As with all aspects of Council business, Members should observe the guidance on declaring disclosable pecuniary interests personal interests and prejudicial interests as set out in the St Helens Borough Council Code of Conduct for Elected and Co-opted Members ('the Code').
- 3.2** The Code sets out requirements and guidance for Members on declaring disclosable pecuniary interests, prejudicial interest and personal interests and the consequences of having such interests. This must be followed scrupulously and Members should review the Code's provisions regularly and continually reassess their own position against the requirements of the Code. Members must always bear in mind that not only should impropriety be avoided but also any appearance, or grounds for suspicion, of improper conduct. The responsibility for this rests with each individual Member.

- 3.3 A Register of Members' Interests is maintained by the Council's Monitoring Officer. This is a living document and Members are required to notify the Monitoring Officer of any changes within 28 days of the Member becoming aware of the change. Members who have substantial property interests or who work in the Planning field on a professional basis e.g. Planning Advisors, which would prevent them from voting on a regular basis, might wish to ensure that they avoid sitting on the Planning Committee.

#### Disclosable Pecuniary Interests

- 3.4 The Code adopted by the Council describes in detail the term disclosable pecuniary interest. Where a matter arises at a meeting which **directly relates** to a Member's disclosable pecuniary interest, set out at Table 1 of the Code (e.g. land and property owned by the Member or their partner) then the Member must disclose the nature of the interest at the start of the meeting, or failing that as soon as the Member realises that such an interest is in play. Unless a dispensation has been granted, the Member must not vote or take any part in the debate on the matter and must not remain in the room whilst the matter is discussed.

#### Personal Interests

- 3.5 Where a matter arises at a meeting which **affects** a Member's own financial interest or their well-being, or the financial interest or well-being of a relative or close associate of theirs or a registerable body set out at Table 2 to the Code (e.g. a charity of which they are a member) then the Member must disclose the personal interest. A Member with a personal interest may remain in the meeting and speak and vote as normal, but it is important that they have first considered whether they have a prejudicial interest in relation to that interest (see further below).

#### Prejudicial Interests

- 3.6 Where a matter arises at a meeting which **directly relates** to a Member's financial interest or well-being (or the financial interest or well-being of the Member's relative or close associate) or **directly relates** to the Member's registerable interests, as set out a Table 2 of the Code, then a prejudicial interest arises. A prejudicial interest also arises where the matter affects the Member's financial interest or well-being (or the financial interest or well-being of a relative or close associate) to a greater extent than the majority of inhabitants of the ward affected by the decision in circumstances where a reasonable member of the public, knowing all the facts, would believe that it would affect the Member's view of the wider public interest. A Member with a prejudicial interest must disclose the interest and may speak on the matter only if members of the public are also allowed to speak (in which case the member may address the Committee for a maximum of 3 minutes). Otherwise, the Member may not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation has been granted.

### 4.0 CONDUCT OF MEMBERS

- 4.1 Any Member of the Council not sitting on the Planning Committee, if permitted to speak shall be allowed to address the Committee for a period of no more than three minutes, such time being additional to that permitted under the Council's public speaking rules. Such Members shall speak immediately prior to the applicant addressing the Committee and/or the debate commencing with those supporting the application speaking last. For the avoidance of doubt such Members shall speak before any Members of the Committee exercising rights to address the Committee. Should non-Members of the Planning Committee wish to address the Committee on matters where they have a disclosable pecuniary interest this is subject to receiving a dispensation from the Monitoring Officer.
- 4.2 Members of the Planning Committee may at times find that they feel so strongly about a



particular development proposed or general types of development proposals that they are not capable of going into the Committee room and considering the particular matter before them with an open mind. Whilst such a scenario would not constitute a disclosable pecuniary interest, prejudicial interest or personal interest, it is clear that that Member should not take part in the deliberations on the matter in order to ensure that any decision made is not susceptible to judicial challenge.

In such a situation the Member should make an open declaration and be given the opportunity to address the Committee, where the public speaking rules apply, for a maximum of 3 minutes immediately prior to the applicant addressing the Committee and/or the debate commencing such time being additional to that permitted under the Council's public speaking rules. However, once the Member has so addressed the Committee the Member should play no further part in the consideration of the matter although they should be permitted to stay in the Committee room.

Those Members of the Planning Committee who are also Parish Councillors, and may happen to discuss a particular Planning Application prior to it being considered at the Planning Committee, should, if they wish to, consider the matter at the Planning Committee, always make it expressly clear at the Parish Council meeting that any comments and votes cast by them at that meeting are provisional, and that they will only be in a position to form a final view at the meeting of the Planning Committee. In such a position the Member will be treated as having a declarable personal interest at the Planning Committee. In such a circumstance that Member can still take part and vote in the consideration of the application at the Planning Committee.

- 4.3** Members of a Parish Council should not take part in the consideration or vote on any application made by the Parish Council or where the application directly relates to the Parish Council although the Member would be allowed to address the Committee for a period of 3 minutes prior to the application being considered provided that the public speaking rules apply.

#### **4.0 CONDUCT OF OFFICERS**

- 4.1** Officers are also subject to a Code of Conduct which provides guidance and standards for officers. In addition, all officers dealing with planning applications are expected to comply with the provisions of the Royal Town Planning Institute's Code of Professional Conduct, whether or not they are members of the Royal Town Planning Institute.
- 4.2** Officers shall notify the Council's Head of Planning in writing at the time of any planning application made by or on behalf of the Officer and his/her partner.

#### **5.0 DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND COUNCIL DEVELOPMENT**

- 5.1** Applications submitted to the Council by serving and former Members and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed can proposals for the Council's own development. Although it is perfectly legitimate for such proposals to be submitted it is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism.
- 5.2** Serving Members who act as agents for people pursuing a planning matter within their Authority should play no part in the decision-making process for that proposal. Similarly, if Members submit their own development proposals to the Council they should take no part in the decision-making process or discuss the application with any other Member of the Council at any time.

Proposals submitted by Members or their partners should be reported to the Planning

Committee as main items and should not be dealt with by Officers under delegated powers. Where such an application is submitted, the Member shall notify the Council's Head of Planning in writing at the time of the application.

Proposals for the Council's own development should be treated in the same way as those by private developers in accordance with The Town and Country Planning General Regulations 1992 This outlines that the same administrative process, including consultation, should be carried out in relation to the Council's own planning applications and that they should be determined against the same policy background (ie. the Development Plan and any other material planning considerations). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted (excluding those local financial considerations which are defined in statute).

- 5.3** Any Member who has acted as a chief advocate for a proposal should be aware of the dangers of being perceived as being biased when the matter comes before the committee. In circumstances where the Member has been significantly involved in preparing or advocating the proposal that Member shall not take part in the debate or vote although he or she could make pre application submissions under the 3 minute rule. For the avoidance of doubt the preparation/advocating referenced here shall mean something more than just sitting on the proposing committee or being the relevant Portfolio Holder.
- 5.4** In line with the statutory guidance issued by the Secretary of State in Chapter 5 of 'Local Leadership, Local Choice' and to facilitate the full exchange of information between the Executive and the Planning Committee, the Portfolio Member responsible for the Local Plan will sit as a Member of the Planning Committee.

## **6.0 LOBBYING OF AND BY MEMBERS OF THE PLANNING COMMITTEE**

- 6.1** Lobbying is a normal and perfectly proper part of the political process; those who may be affected by a planning decision will often seek to influence it through an approach to their Elected Ward Member or to a Member of the Planning Committee. It is essential for the proper operation of the planning system that local concerns are adequately ventilated and often the most effective and suitable way that this can be done is via Elected Members. However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Member being called into question.

- 6.2** Section 25 of the Localism Act 2011 provides that:

*"A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision because:*

- (a) the decision-maker had previously done anything that directly or individually indicated what view the decision-maker took, or would or might take, in relation to a matter, and*
- (b) the matter was relevant to the decision."*

By the time a Member considers a planning application, they must have an open mind and appear to have an open mind when determining the application before them.

- 6.3** Members of the Planning Committee should, if they wish to take part in the decision-making process, not give any commitment to vote in a particular way on a particular planning application.
- 6.4** If an interested party making representations in favour or against a particular application-excessively lobbies a Member of the Planning Committee, the Member shall:
- (a) immediately notify in writing the Council's Head of Planning of the fact that such an

approach has been made, identifying the site, the nature of the approach, who it was made by and the action taken by the Member concerned;

(b) keep an adequate written record so as to enable the Member to disclose the fact of such an approach if and when the application or proposal is considered by the Planning Committee; and

(c) disclose the fact and nature of such an approach at any relevant meeting of the Planning Committee.

- 6.5** Where a Member of a Planning Committee receives written representations directly in relation to a planning application or Plan Document, the Member shall pass a copy of the correspondence to the Council's Head of Planning in order that those representations may be taken into account in any report to Planning Committee. The Head of Planning should record receipt of the written representations in a separate register.
- 6.6** Members of the Planning Committee should, if attending public meetings, unless they intend to make the relevant declarations, do so only to hear the views of those present and should not express a final opinion on the merits of the application.
- 6.7** In discussions between Members generally and Members of the Planning Committee (at party group meetings or other informal occasions), Members should have regard to:-
- (a) the principles governing the Code;
  - (b) the principles governing the conduct of Members of the Planning Committee set out in this part of the Protocol;
  - (c) the obligations placed on Members of the Planning Committee not to give commitments in relation to any planning application.
- 6.8** Relevant Officers should be available to meet with the Chair of the Planning Committee between the time when a report is circulated and the time of the meeting. The Chair should forewarn Officers in cases where he/she is aware that the recommendation is likely to be challenged and the reasons why.
- 6.9** In common with Members generally, all Members of the Planning Committee should have the opportunity at any time to contact the relevant Planning Officer in relation to any planning application or Planning Document proposal, but no Member should attempt in any way to put improper pressure on the Officer in order to influence the contents of an Officer's report or the recommendations made on any matter.
- 6.10** Any political group meeting prior to the Committee meeting should not be used to decide how Members should vote. The view of the Ombudsman is that the use of political "whips" at group meetings in this way is contrary to the model Code, such behaviour amounting to maladministration.

## **7.0 PRE-APPLICATION DISCUSSIONS**

**7.1** Discussions between a potential applicant for planning permission and the Council prior to the submission of an application, and the taking of the decision upon the application, can be of considerable benefit to both parties and is generally encouraged as assisting the planning process. However, it would be easy for such discussions to become, or be seen to become, part of a lobbying process.

**7.2** In order to avoid any difficulties, pre-application discussions should take place within the following guidelines:-

(a) It should always be made clear at the outset that the discussions will not bind the

Council to making a particular decision and that any views expressed are personal and provisional.

- (b) Advice should be consistent and based upon the Development Plan and other material considerations. In addition, all Officers taking part in such discussions should make it clear whether or not they are the decision-maker.
- (c) A written note should be made of all meetings. The written note shall include the names of those persons who attended the meeting, a summary of the matters discussed and a list of any agreed actions.
- (d) Care must be taken to ensure that advice is not partial, or seen to be.
- (e) No Member sitting on the Planning Committee shall take part in any form of pre application and/or pre decision discussion with a developer or any person acting on behalf of a developer except in those circumstances as set out at 7.2(f) below.
- (f) Any Member of the Council including those sitting on the Planning Committee shall be permitted to attend pre-application presentations by developers/ applicants provided that such presentations are both organised AND attended by Planning Officers of the Council.

## **8.0 REPORTS BY OFFICERS TO COMMITTEE MEMBERS**

**8.1** Members are required to arrive at a decision on granting or refusing permission by using planning criteria and by excluding non-planning considerations. In determining planning applications, Members are required to make decisions in accordance with the Development Plan for its area, unless other material considerations indicate otherwise. To this end, the reports of officers to Members must be accurate and cover all relevant points. These reports:-

- (a) should contain a section on the relevance of the Development Plan, a description of the site and any related planning history, the impact on human rights and crime and disorder and all other identified material considerations will be outlined;
- (b) should deal with the substance of any objections received and the views of people who have been consulted or notified;
- (c) should contain a technical appraisal which clearly justifies the stated recommendation;
- (d) should incorporate a recommendation for the consideration of Members;
- (e) oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur;
- (f) if the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.

## **10.0 PUBLIC SPEAKING AT COMMITTEE**

**10.1** The benefits of allowing public speaking at Committee are that public confidence is generally enhanced and direct lobbying may, as a result, be reduced. The disbenefits are that it may lengthen meetings and make them marginally more difficult to manage.

**10.2** The Council allows public speaking at meetings of its Planning Committee in accordance with the public speaking protocol set out at Appendix B hereto.

## **10.0 DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE**

## **DEVELOPMENT PLAN**

- 10.1** The law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2** In discussing and then determining a planning application, Members should confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing and supported by planning evidence. Where there is a potential for decisions to be taken which are contrary to officer recommendations, the following guidelines should be followed.
- 10.3** These guidelines will apply when a majority of Members do not consider that a planning application should be determined in accordance with the Planning Officer's recommendation. The appropriate way of proceeding will depend on the circumstances of the individual case but in general the following options will apply:

### **(a) Deferral**

If further information is required or the Committee considers that minor changes may make an application acceptable, the application may be deferred for decision at a later meeting. This may need to follow further public consultation in respect of the change, depending on its impact. However, the requirement to determine planning applications within a fixed period, and the implications of delay must be borne in mind in considering whether to defer.

### **(b) Refusing a Planning Application contrary to a recommendation to approve**

The Committee should indicate reasons for refusal with sufficient clarity to enable clear and precise reasons (with reference to relevant policies) to be provided in the decision notice. The reasons indicated should be confirmed by the Chair and minuted in full. However, it may well be that although the Committee has indicated clear reasons, the precise wording (including relevant policies) cannot appropriately be framed in the forum of the Committee meeting. In this case the drafting of precise reasons may be delegated to the Head of Planning (following consultation with the Chair) rather than reported back to the Committee for final approval.

### **(c) Approving a Planning Application contrary to a recommendation to refuse**

Where the Committee wishes to grant planning permission contrary to a recommendation to refuse, the reasons should be clearly stated and minuted, and the Committee should consider whether there are any planning conditions it would wish to see imposed. The drafting of appropriate conditions, including those specified by the Committee, will normally be delegated to the Head of Planning—following consultation with the Chair (unless the Committee resolve otherwise) and reported to the Committee at its next meeting. It is imperative that Members allow officers to comment on proposed resolutions which are contrary to the recommendation in the report before any vote is taken.

- 10.4** Conscious of the public arena in which planning decisions are made, Members will conduct the business of the Planning Committee in a fair and sensitive manner. The debate on a planning application will be confined to the planning merits, or otherwise, of the development proposal. Members will ensure that all questions to officers are presented in a respectful manner and in an appropriate tone.
- 10.5** All applications which are not in accordance with the Development Plan must be identified as soon as possible. If it is intended to approve such an application the material considerations which led to this conclusion must be clearly identified and how they justify over-riding the Development Plan clearly demonstrated. If the Officer's report recommends approval of a

departure the justification for this should be included, in full, in the Committee report. If a Member proposes a decision against the Development Plan and contrary to the Officer's recommendation, the Member must at that time indicate the reasons why they consider a departure is justified.

**10.6** If the Planning Committee makes a decision contrary to the Officer's recommendation (whether for approval or refusal), a detailed minute of the Committee's reasons should be made and a copy placed on the application file.

**10.7** A qualified Legal Officer should always attend the meeting to ensure that procedures have been properly followed.

## **11.0 COMMITTEE SITE VISITS**

**11.1** Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial. A decision by the Planning Committee to carry out a site inspection should normally only take place when:-

- (a) if the impact of the proposed development is difficult to visualise from the plans and any supporting material; or
- (b) there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing; or
- (c) the proposal is particularly contentious.

**11.2** When requesting a site visit, Members will give a reason, which will be formally minuted.

**11.3** Any Member of Planning Committee may request that a site visit take place prior to the meeting at which a report is due to be considered in circumstances where they believe the provisions of 12.1(a), (b) or (c) apply. If such a request is made, Officers shall contact all Members of Planning Committee to inform them of the request and if satisfied that the request falls within the terms set out at 12.1 shall make such arrangements as are reasonably practicable to enable a site visit to take place prior to the meeting. If it is not reasonably practicable to make the necessary arrangements in advance of the meeting, this will be reported to the Committee.

**11.4** The procedural rules set out in Appendix C must be observed at all times in the holding of all site inspections.

**11.5** Members of the Planning Committee should seek advice from the Monitoring Officer or the Deputy Monitoring Officer, if they are invited to attend meetings with applicants, developers or groups of objectors and are likely to take part in the decision-making process. Members can then make a decision about their attendance at the Committee having taken account of the issues relating to pre-determination.

**11.6** Unaccompanied, unscheduled visits to application sites by members are discouraged as they cannot be an adequate substitute for formal visits with experienced officers to explain materially relevant technical issues. There may also be health and safety risks which are best managed through a formal organised visit. However, where the application site can be viewed safely from public areas and the member cannot reasonably attend the organised site visit, the member may reasonably form the view that it would be beneficial for him/her to carry out an unaccompanied visit in such circumstances.

## **12.0 REGULAR REVIEW OF DECISIONS**

- 12.1 At least on a biennial basis, arrangements will be made for Members of the Planning Committee to visit a sample of implemented planning permissions in order to assess the quality of the decisions. This should include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals, listed building works and enforcement cases.
- 12.2 The Planning Committee should formally consider the outcome of this review and decide whether it gives rise to the need to review any existing policies or practices.

**13.0 COMPLAINTS AND RECORD-KEEPING**

- 13.1 Whatever procedures the Council operates, it is likely that complaints will be made. In order that any complaints can be fully investigated, record-keeping should be complete and accurate. Omissions and inaccuracies could, in themselves, cause a complaint or undermine the Council's case. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.
- 13.2 The same principles of good record-keeping will be observed in relation to enforcement and Development Plan matters. Monitoring of record-keeping will be undertaken on a continuous basis by managers in the Planning Section.

**14.0 POLITICAL GROUP MEETINGS ORGANISED TO TAKE PLACE BEFORE THE MEETING OF THE PLANNING COMMITTEE AT WHICH THE MATTERS TO BE CONSIDERED AT THAT COMMITTEE WILL BE SPECIFICALLY DISCUSSED.**

Whilst such group pre meetings are lawful they should be properly regulated in order to reduce the risk of any successful judicial challenge being made against the subsequent Planning Committee decision. Such group pre meetings represent a good opportunity for the Chair/Portfolio holder to brief/clarify matters relating to the planning applications that have arisen in the Chair's briefing to other committee Members. However, such meetings should never be used as an opportunity to decide how Members will vote at the Planning Committee itself in order to avoid predetermination taking place. At such group pre-meetings Members should observe the following rules:-

- (i) No Member should indicate which way they will actually vote in the Planning Committee;
- (ii) No Member with a disclosable pecuniary interest or prejudicial interest should attend the group pre meeting when a relevant item is being discussed;
- (iii) No Party Whip shall be used/threatened to be used at any time in relation to any matter up for consideration by the Planning Committee;
- (iv) Should any attempt be made to apply a Party Whip, all Members aware of the attempt shall be obliged to immediately inform the Monitoring Officer;
- (v) Members must ignore/resist any attempt to whip them, and should give no consideration to the attempted whip when the relevant planning application is being considered;
- (vi) Only material considerations relevant to the planning application should be discussed at the group pre meeting when the application is being considered;
- (vii) It is acceptable to raise at the group pre meeting the Party view on the importance or otherwise of the material considerations relevant to any particular planning application, but at the end of the day it is for each Member to form his/her own judgement on the matter under consideration at the meeting of the Planning Committee;

- (viii) No mutual voting arrangements/deals should be discussed either prior to or at the meeting of the Planning Committee. Thus, it is not acceptable for one Member to agree to support another Member's view on application 'A' in return for that other Member supporting his/her view on application 'B';
- (ix) Officers should not attend the group pre meeting as a matter of course although they may be asked to attend and clarify any particular planning/legal query that arises during the group discussions; and
- (x) Only Planning Committee Members may attend such group pre meetings.

## **15.0 GIFTS AND HOSPITALITY**

- 15.1** The receipt of gifts and hospitality can cause damage to public confidence in local government and affect the integrity of the planning system. An offer of a gift, favour or hospitality should be treated with extreme caution, especially where it is from an applicant/objector to a planning application.
- 15.2** Members should avoid knowingly accepting the gifts or hospitality from persons who are currently or likely to be promoting or opposing planning applications or from others connected with such persons.
- 15.3** Members must comply with the Council's Code of Conduct for Elected & Co-Opted Members in this regard.

## **16.0 MEDIA AND SOCIAL MEDIA COMMENTS**

- 16.1** All Members should ensure that any contact with the media or comments they make about a planning application on social media should not affect the integrity of the planning system.
- 16.2** Members of the Planning Committee should ensure that they do not create the impression that they have pre-judged a planning application.
- 16.3** All Members should ensure that they do not create the impression that the Council has already pre-judged a planning application.
- 16.4** The Code of Conduct for Elected and Co-opted Members applies to all forms of communication and interaction, and all Members shall note the published guidance on use of social media.

## **17.0 BREACHES**

- 17.1** A breach of this Protocol may constitute a breach of the Council's Code of Conduct for Elected & Co-Opted Members.

Updated Protocol approved by Council on: 04.11.09  
 Updated Protocol approved by Council on: 13.04.16  
 Updated Protocol approved by Council on: 22.07.20



Updated Protocol approved by Council on: 12.07.22

**The Constitution of St Helens Borough Council**  
**Part 3 – Responsibility of Functions**  
**B. Council Functions Delegated to Officers (Excerpt)**

**Planning**

1. To determine all applications for planning permission, listed building consent, conservation area consent, tree works consent, advertisement consent, prior notifications, lawful development certificates, variation/discharge of Section 106 agreements and all other matters submitted for the determination, formal approval or comment of the Council as Local Planning Authority under the relevant Town and Country Planning Act and associated legislation.
2. To decline to accept applications for development for which there has been an appeal dismissed within the preceding two years.
3. To decline to accept applications for development for which there has been a refusal where, in the view of the Council's Head of Planning, there has been no material change in circumstances.
4. To decline to determine retrospective applications where an existing enforcement notice exists.
5. To instruct the Council's Chief Legal Officer to issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices, Discontinuation Notices, Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act and, where appropriate, take direct action in the event of non-compliance with any notice.
6. To grant planning permission in those cases where a matter is referred to the Secretary of State for him to decide whether or not he wants to call it in, and he decides not to do so, and the Planning Committee have been minded to grant planning permission.
7. To exercise the powers of Council relating to the protection of important hedgerows under the Hedgerows Regulations 1997.
8. To exercise the powers of Council relating to the preservation of trees.
9. To determine all complaints made under Part 8 of the Anti-Social Behaviour Act 2003, for "high hedges".
10. To make the formal determination of received complaints under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges other than where such a complaint relates to a hedge on Council- owned land or where there are considered to be wider neighbourhood issues and the matter is locally sensitive, in which case the matter be referred to the Planning Committee.
11. To issue, and where necessary withdraw, Planning Contravention Notices, Enforcement Notices, Temporary Stop Notices and Discontinuance Notices, and Breach of Condition Notices under Section 187a of the Town and Country Planning Act (as amended).

**Exceptions**

- a. Applications which are contrary to the provisions of the Council's Unitary Development Plan/Local Development Framework and which are recommended for approval.
- b. Applications which are contrary to the Council's policies, standards and guidance and which are recommended for approval.
- c. Applications which raise issues which are not covered by specific Council policies, standards or guidelines.
- d. Applications which are potentially controversial or likely to be of significant public interest in the opinion of the Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning.
- e. Applications which would have a significant impact on the environment, in the opinion of Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning.
- f. Applications (except for Prior Notifications for Telecommunications Development and Lawful Development Certificates) on which six or more independent material planning objections have been received which cannot be resolved by negotiation or through this imposition of conditions.
- g. Applications which have been submitted by or on behalf of an Elected Member of the Authority (or their spouse/partner), by or on behalf of a Chief Officer of St Helens Council (or their spouse/partner), or by or on behalf of an employee within Development Services Section of St Helens Council (or their spouse/partner).
- h. Applications submitted by, or on behalf of, the Council, irrespective of the number of objections.
- i. Applications which the Council's Executive Director of Place Services or Director of Strategic Growth or Assistant Director of Regeneration & Planning or Head of Planning considers should be presented to Committee for decision.
- j. Variation of Section 106 agreements and planning conditions relating to applications that were originally granted by the Planning Committee

**Provisos**

- a. In the case of formal applications, they are not determined until at least 12 days have elapsed since they appeared on the weekly list.
- b. All representations are to be carefully considered and all proposals are to be dealt with in accordance with statutory requirements and having regard to the Council's relevant policies and guidelines.
- c. All matters dealt with by the exercise of delegated powers are supported by file notes referring to all material considerations, comments and objections received and clearly stating the reason for the decision.
- d. All applications determined under delegated powers are reported for the information of Members by way of regular reports on the Planning Committee agenda.
- e. In some circumstances less than six objections may be significant. In such cases the application will be referred to the Planning Committee.

Public Speaking at Planning Committee - Protocol

1. The Council's standard neighbour notification and acknowledgement letters will inform people of the right to address the Planning Committee on a Planning Application.
2. Anyone who wishes to address the Committee will inform officers in writing by noon on the day before the date of the meeting.
3. Officers will inform applicants, objectors and supporters of the date and time of the Committee at which the application is to be determined.
4. The following maximum times apply regarding length of speaking rights:
  - (a) Applicant elects to speak or more than 6 material objections, each party to be given up to 5 minutes; and
  - (b) where 25 or more material observations, each party to be given up to 10 minutes.
5. The running order of the Committee will normally commence with those applications where members of the public/applicants wish to address the Committee.
6. When their item is to be discussed, objectors and supporters will be invited to present their case and the applicants shall then be given the right to respond.
7. Normally only one objector, supporter and the applicant will be allowed to speak. The Chair shall decide whether or not to allow more than one representative to address the meeting.
8. A dialogue will not be permitted between the applicant/agent, objector, supporters and members of the Planning Committee, unless a member of the Planning Committee is seeking to clarify matters of fact from any individual speaking at Committee.
9. The Head of Planning will summarise the arguments in the light of what has been said and expand, if necessary, on the recommendation.
10. Officers from other disciplines can also contribute, depending on the issues raised.
11. A debate between members will then take place on the basis of the officers report and representations heard, and a decision will then be moved and voted upon by the Committee.

## Appendix C

Site Visits by the Planning Committee - Procedural Rules

1. The purpose of a site visit is to assess the planning issues on the ground.
2. The deferred item is included in the next available agenda where applicants/objectors are allowed to address the Committee.
3. Site visits will normally take place on the afternoon prior to the evening Committee meeting:
4. Prior to the site visit the applicant/agent will normally be informed as to the time and date of the site visit.
5. Councillors should make every effort to attend the site meeting organised by officers for the Committee.
6. Strict rules should govern the conduct of site visits:
  - Members will be accompanied by a Planning Officer and officers of other disciplines as required
  - The site will be viewed from wherever it is most advantageous to appreciate the issues
  - Representations made by applicants or objectors on the site visit should not be accepted or encouraged
  - No decisions should be made on the site visit, nor should the impression be created that any Member(s) hold a particular view on the development of the site or a particular planning application

This page is intentionally left blank



**ST HELENS**  
BOROUGH COUNCIL

**Policy Reference No**

# **Code of Conduct for Employees**

## **St Helens Borough Council**

Effective from 13 June 2022



## Policy Title

### Policy Information

<b>Policy Reference Number</b>	
<b>Document Status</b>	Version/ Draft/ Final
<b>Reason for Review</b>	Consolidation of HR Policies
<b>Approved Date</b>	
<b>Effective from</b>	
<b>Policy Author</b>	
<b>Responsible Directorate</b>	Corporate Services
<b>Date of Next Review</b>	

### Version Control

<b>Date</b>	<b>Author</b>	<b>Version</b>	<b>Reason for Change</b>



## Our Vision and Values

The Council has co-designed a clear vision for workplace culture and worked together with employees to identify values and behaviours for everyone. These will be at the core of how we work together to deliver our services. Employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment.

Our vision, values and behaviours are underpinned by our Bonds for Working Together at St Helens which outline what employees can expect from working at the Council and what is expected of them.

### Our Culture, vision, values, behaviours and Bonds for Working Together at St Helens



## Introduction and Purpose

Local Government is a public service and the public expect the highest standards of conduct from all employees who work in local government. It is important that employees conduct themselves in a manner which is beyond reproach and can be defended in the face of public concern.

A fundamental aspect of the code of conduct are “The Seven Principles of Public Life” identified by the Nolan Committee on Standards in Public Life. The committee was established to examine concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities. The seven principals are:

- 1) Selflessness,
- 2) Integrity,
- 3) Objectivity,
- 4) Accountability,
- 5) Openness,
- 6) Honesty,
- 7) Leadership.

Further information relating to the Seven Principles of Public Life can be found [via this link](#).

## Policy Statement

The Code of Conduct for Employees is a set of rules outlining the responsibilities, practices and conduct expected from an employee at the Council in their daily work and in their dealings with Councillors, colleagues and the public. It provides clear and helpful advice and instruction.

The principles detailed below govern St Helens Borough Council employees, but each Department may wish to issue further standards specifically relating to departmental service requirements which can supplement, but not contradict, the principles contained in this Code. It is intended that these principles will also complement the requirements set down by relevant professional bodies.

## Scope of the Policy

This Code of Conduct applies to all employees of St Helens Borough Council except schools-based employees for which a separate code exists. The Code extends to secondees from outside the Council and agency/consultancy staff, who will be expected to familiarise themselves with the content of the Code of Conduct and undertake their duties in compliance with it. It applies to employee’s conduct both within the Council and when dealing with other organisations as a representative of the Council and also applies to an employee’s conduct outside of work if such conduct could lead to a loss of trust in an individual as an employee.

The Code of Conduct forms part of an employee’s contract of employment. Failure to comply with its contents may result in disciplinary action, which could include dismissal.

## Definitions and Abbreviations

In the Policy, the following words and phrases mean:

**Council** - St Helens Borough Council

**Employee** - Those employed by St Helens Borough Council including agency/consultancy staff, secondees to the organisation and those employed under partnership arrangements but excluding those employed in schools.

**Conflict of Interest** - A conflict of interest arises: *“when an employee has competing interests or loyalties that either are, or potentially could be, at odds with each other. A conflict of interest potentially causes an employee to experience a struggle between their interests, points of view, or allegiances, and their employment”.*

**Perceived Conflict of Interest** - is one which a reasonable person would consider likely to compromise objectivity.

**Potential Conflict of Interest** - is a situation, which could develop into an actual or perceived conflict of interest.

## The Council’s Expectations from Employees

The Council’s Bonds for Working Together at St Helens as referred to above outlines the Council’s expectations from employees and what employees should expect from the Council as an employer. They underpin the Council’s vision, values and behaviours. Employees should ensure they are familiar with the Council’s culture, vision, values, behaviours and Bonds for Working Together.

### Accountability

Employees are accountable for their actions and owe a duty of care when carrying out their duties at the Council to act in accordance with the principles set out in this Code.

### Standards

Council employees are expected to give the highest possible standard of service to the public.

Employees have:

- a duty of service – to work in accordance with their contract of employment;
- a duty to comply with reasonable instructions, procedures, and regulations;
- a duty of care – to be competent and capable and not to be negligent in work;
- a duty of good faith – to be honest and not accept a fee or commission or gifts from those who do business with the Council or to divulge confidential information about the Council.

Employees should:

- Trust each other,
- Work with integrity,
- Collaborate together,
- Keep innovating together.

Employees are expected to:

- Be positive, provide impartial advice to, be helpful and co-operative in dealing with colleagues, elected members, and the public;
- Ensure that their personal appearance is consistent with the public’s expectations, bearing in mind the work they do;
- Bring to the attention of the management any deficiency in the provision of service.

Employees who are members of a professional body should carry out their duties in accordance with the professional standards of the appropriate body or institution in addition to any standards determined by the Council. Those employees who hold managerial and/or supervisory roles, have greater positions of trust and are expected to set an example to other employees in observing the standards and practices of the Council. Terms detailed or implied in their contracts of employment place additional emphasis on behaviour towards and responsibility for others.

### Identification

All employees must possess an up-to-date official Council Identity Badge so that the employee can be easily identified as a Council employee. Identity badges should be worn at all times by those employees who are customer facing or who represent the Council. Should an employee be exempt from wearing a Council identity badge they are still required to carry an Identity Badge about their person. Council employees should be prepared to show their identity badge when requested whilst on Council business.

## Political Neutrality

The main provisions regarding politically restricted posts are set out in Part 1 of the Local Government and Housing Act 1989 (as amended). The law aims to ensure the political impartiality of local government employees who hold posts involving duties of a politically sensitive nature. The effect of including a post on the list of politically restricted posts is to prevent the postholder from having any active political role either in or outside the workplace. Employees should not allow their own personal or political opinions interfere with their work.

Employees within politically restricted posts are permitted to join political parties but must have no active participation within the party.

Politically restricted posts fall into four categories of local government officer as follows:

a) Posts individually identified in the legislation, either by name or by their relationship to other senior officers; b) Posts where the duties of the post include giving advice on a regular basis to the authority themselves, to Cabinet, to any committee or sub-committee of the Council or any joint committee on which the Council is represented and/or speaking on behalf of the Council on a regular basis to journalists or broadcasters; c) Posts to which duties have been delegated under the Scheme of Delegation to Officers; d) Political Assistants.

A list of Politically Restricted posts is available [via this link](#). This will be agreed and reviewed annually by the Chief Executive.

## Relationships

### Relationships with Councillors

Councillors and Council employees are indispensable to one another, albeit with distinct responsibilities. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Council employees are responsible to the Council and their job is to carry out the Council's work under the direction and control of the Council, the Cabinet, Committees and sub-committees, and their managers.

Mutual respect between Councillors and Council employees is essential for good local government. Close personal familiarity between individual Councillors and Council employees

can damage the relationship and prove embarrassing to other Councillors and Council employees.

Employees must not use personal relationships with Councillors to influence or attempt to influence any decision-making process of the Council or to interfere with the proper implementation of Council decisions.

### **Relationships with External Providers of Goods or Services**

Relationships that exist or have existed between officers and contractors or suppliers, or with organisations/individuals who provide goods and services for or on behalf of the Council, whether financial or non-financial, must be declared. External providers of goods and services must be dealt with in a fair and equitable manner with no advantageous, disadvantageous or prejudicial treatment afforded to individuals/organisations.

Employees who procure/commission/monitor external providers of goods and services to the Council with whom they previously had or currently have a relationship in a private/domestic or professional capacity must declare that relationship. If private relationships become unavoidable, for example if the private relationship preceded the Council's business relationship, then the nature of the private relationship must be declared.

External providers of services to the Council must not be used in a private capacity by any employee who has had or is engaged in a working/professional relationship with the contractor or supplier where the employee may benefit from that relationship.

Similarly, external providers of services to the Council must not be approached by employees in any capacity, to provide goods and services at preferential rates by virtue of employees' dealings on behalf of the Council. This does not apply to employees purchasing goods or services at normal rates from Council suppliers in their capacity as a member of the public. Exceptions to the above are those organisations who have been approved or authorised by the Council to offer preferential rates for their goods and services to **all** employees of the Council.

### **Relationships with the General Public**

Employees should always remember their responsibilities to the communities they serve, and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community. Each member of the public should be treated fairly, equitably and consistently in line with the Council's Equality Policy.

## **Equality, Diversity and Inclusion**

The Public Sector Equality Duty of the Equality Act 2010 applies to both employment at the Council and in the delivery of Council Services. The Council's Comprehensive Equality Policy sets out the duties and requirements of the Equality Act 2010, and other relevant legislation.

The Equality Act 2010 protects all people from discrimination, harassment and victimisation. The Council is committed to promoting equal opportunities in employment and all employees will receive equal treatment regardless of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, religion or belief, sex or sexual orientation or caring responsibility.

The Council has a zero tolerance towards discrimination, harassment and victimisation. All employees must show due regard to acknowledge and value people's differences, and, as far

as possible, where permissible in Council policy and practice, meet an individual's needs in accordance with their choices and preferences.

The minimum standard of behaviour and attitude expected of council staff is to ensure all people who employees come into contact with are given equal opportunities and treated fairly and respectfully.

## **Disclosure of Information/Data Protection/Confidentiality**

Important statutes such as the Data Protection Act 2018, UK General Data Protection Regulations and the Freedom of Information Act 2000 have had a major impact on the uses of data at the Council and employees must familiarise themselves with the Council's policies and guidelines on these.

Information produced by the Council must only be used for the purposes intended and must only be disclosed or communicated to authorised persons. Personal data should not be shared or released into the public domain without first confirming that the Council is legally able to do so.

Confidential information obtained in the course of employment must not be used personally, or for benefit or gain, nor should employees knowingly pass it on to others who might use it in such a way.

## **Whistleblowing Policy**

The Council is committed to the highest possible standards of openness, probity and accountability. In accordance with that commitment the Council expects employees and others that we deal with, who have serious concerns about any aspect of the Council's business, to come forward and voice those concerns. The Whistleblowing Policy makes it clear that employees can do so without fear of victimisation, subsequent discrimination or disadvantage and encourages and enables employees to raise concerns..

The Whistleblowing Policy is intended to cover concerns that fall outside the scope of other procedures. That concern may be about something that is unlawful, or is against the Council's Standing Orders or policies, or falls below established standards or practices or amounts to improper conduct.

There is a statutory requirement for the Council and its employees to protect children and vulnerable adults. If employees have any safeguarding related concerns, they are responsible for raising them promptly following the organisational Safeguarding Policy.

## **Conflict of Interest**

For the purpose of this policy, the term 'conflict of interest' includes perceived and potential as well as actual conflicts of interest.

The easiest way to deal with potential conflicts of interest is openness and transparency. The onus is on employees to ascertain whether any conflict is present and if they identify any potential or actual conflicts, or issues that may influence them, or others may think could influence them, they are required to declare them to their manager as soon as possible.

Employees should also be prepared to withdraw or may be instructed to withdraw from any processes or involvement in decision making that may be linked to their actual or perceived conflict of interest.

The Council provides a diverse range of services and carries out many duties and it is virtually impossible to outline all scenarios where conflicts could occur. Given this, employees should always seek guidance from their manager if any personal doubts arise regarding their dealings within processes or delivering services.

### **Registration of Personal or Business Interests where there is a potential Conflict of Interest**

The purpose of a declaration in such an instance is to show transparency in the relationship between the Council, the organisation and the employee.

All employees irrespective of grade or status must declare any interest that could bring about a conflict with the Council's interests e.g. acting as a school governor or involvement with any organisation or group which may seek to influence the Council's policies, and/or seek funding grants. Employees who carry out any form of public duty must declare this fact. Similarly, employees who are involved with any organisation which is sponsored by or receives donations from the Council, or which sponsors the Council, must declare these facts.

Employees irrespective of grade or status must declare any family/personal relationships if these have any involvement in any organisation or business which carries out work on or applies to carry out work on behalf of the Council or on Council property. These relationships must be declared on the appropriate form accessible [via this link](#).

Employees who are members of organisations not open to the public and which have secrecy about rules, membership or conduct, must declare this membership.

Where there are declared conflicts of interest that could bring into question the employee continuing in their role or carrying out some of their work or day to day activities, employees may be required to relinquish certain activities or required to withdraw from certain decision-making processes whilst those conflicts exist.

### **Personal Relationships/Friendships**

If a personal relationship exists or develops during the course of employment, it should be declared where a potential, perceived or actual conflict of interest may exist.

### **Declarations by Senior Officers**

All members of the Council's Corporate Leadership Team, Senior Leadership Team and specified posts must make an annual declaration of any personal interests they may have. All employees in these posts will be expected to make a declaration even if it is simply to formally state that they have no interests to declare. The list of posts who are required to make annual declarations is available [via this link](#).

Registration of personal or business interests should be recorded on the Registration of Personal or Business Interests form, available [via this link](#).

## **Additional Employment**

It is recognised that employees may wish to engage in other employment or business in addition to undertaking their current role at the Council. In this respect the requirements of individual employees will be dependent on their grade and seniority of position.

All employees regardless of grade, or employment status, must not engage in any other work or activity, which might relate in any way or be seen to **conflict** with their employment at the Council without permission. If there may be a potential conflict of interest employees will need to seek permission by completing Permission to Engage in Additional Employment Form. The relevant form to be completed will be determined by the employee's grade.

Employees graded SCP22 and above must seek permission to engage in any other employment or business paid or unpaid, even if this does not conflict with Council employment or duties. To seek permission employees must follow the guidance attached [via this link](#).

For those employees graded below SCP22, permission is not necessary to engage in other employment or other business where this work does not relate or conflict with their duties, however employees are still required to notify their manager of any additional work undertaken. This should be done using the form available [via this link](#). The Council has statutory obligations in respect of the Working Time Regulations 1998 (as amended) and has a duty of care to employees in respect of their Health and Safety. As such it is necessary to take an interest in any proposed additional employment.

All employees, irrespective of grade or status, must not involve themselves in any organisation or business on a regular or casual basis, which carries out work on behalf of the Council or on Council property, nor must they hold any financial or business interest in such organisation. This includes being a Director of the company, a Company Secretary, Trustee or Partner of a company or any other financial interest. Examples of where a potential conflict could exist is available within the Code of Conduct for Employees Guidance, accessible [via this link](#).

## Stewardship

### Financial Procedure Rules

All employees involved in financial activities, transactions or financial instructions on behalf of the Council must follow the Financial Procedure Rules and Financial Instructions as approved by the Council. All employees must ensure that they use public funds in a responsible and lawful manner. They should strive to ensure value for money to the local community, and to avoid legal challenge to the Authority.

### Financial Probity

Whilst an employee's personal finances should remain private, employees must ensure that where they have a financial relationship with the Council, outside their contract of employment that these affairs are conducted with honesty and integrity. In all personal financial dealings with the Council, employees must not deliberately evade any debts owed to the Council or seek to obtain monies from the Council to which they are not legally entitled. Financial dealings may include payments relating to Council Tax, benefits, fines, compensation, salary overpayments etc.

Employees in breach of these requirements may be subject to the disciplinary procedure and this may constitute gross misconduct.

## Care and Use of Council Resources

Council resources, whether tangible assets such as materials, equipment and cash, or business information, may only be used for the proper advancement of the business of the Council, and for no other reasons.



## **Security and Use of Computer Data/Equipment**

The information stored and processed on the information technology systems operated by the Council is of paramount importance and it is essential that the data and systems are adequately secured against risks such as operator errors, theft of equipment, unauthorised access to or copying of programmes and the use of unauthorised software on Council machines. In this regard, relevant legislation, in the form of the Data Protection Act 2018, and the Computer Misuse Act 1990 must be complied with.

Employees must endeavour to ensure that no unauthorised person gains access to equipment/data, which is within their responsibilities. User identifications and passwords must not be disclosed to anyone, and passwords must be changed regularly to a previously unused password.

## **Internet/Email/Social Media**

The Council permits reasonable, personal use of email and the Internet for employees in accordance with the Council's Internet & Electronic Communications Policy. The use of social media applications for official use is addressed in the Social Media Policy which can be accessed on the Council's Intranet. When using social media for personal reasons, employees should not publish defamatory and/or knowingly false material about St Helens Borough Council, colleagues or customers. Employees should not publish anything, which may have the potential, through association, to bring the Council into disrepute.

## **Intellectual Property**

Intellectual property that is produced by employees in the course of employment as part of the normal duties associated with the employee's contract of employment, the copyright belongs to the Council and therefore they cannot be sold, marketed or lent to any other person or organisation without prior written permission of the Council.

## **Press and Media**

In the normal course of events, employees should not be required to deal directly with the Press or the Media. If canvassed by the Press for information in the course of their work, employees must seek advice and express authorisation from their Head of Service and the Press Office prior to providing any article, publication or interview given on aspects of Council policy.

Employees should consider whether any public statement made about the Council whether as a spokesperson for an organisation or as an individual could reflect adversely upon the employer-employee relationship.

## **Gifts and Hospitality**

It is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage. If an allegation is made employees may have to demonstrate that any such rewards have not been corruptly obtained.

Employees are not permitted to receive any hospitality, gift or fee other than their appropriate remuneration; employees should tactfully refuse offers of gifts or hospitality or services from organisations or persons who do or might provide work, goods or services to the Council or

who require a decision from the Council. Employees must not accept or solicit gifts, additional payments or any other personal advantage from any service user, potential or actual contractor or supplier.

### **Gifts**

Employees may accept gifts of token value such as pens, diaries, etc. from potential or actual contractors or suppliers. Such gifts may be kept for business use. They must not accept gratuities or tips; these should be politely refused.

Individual employees or the service within which they work, may receive gifts from current or former colleagues. These gifts are acceptable and there is no requirement to declare them.

If an employee receives a gift of more than token or nominal value and it would cause offence or be impracticable to return it, they should register the gift and inform their manager by completing Approval Form for Gifts and Hospitality, available [via this link](#). Such gifts will normally be donated to the Mayor's charity. Any gifts received must be entered into the Register of Gifts and Hospitality held by People Management.

If an employee is offered a gift and they believe or suspect that the offer is made with the intention of influencing them to give favourable treatment to a service user, potential or actual contractor or supplier, they must inform their Manager, Head of People Management or the Internal Audit Section.

### **Official Hospitality**

Some employees will be expected to attend official functions and events on behalf of the Council and sometimes will accompany Councillors. It is quite acceptable and proper that this reasonable hospitality be accepted and there is no requirement for the employee to declare it. When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

### **Hospitality at Conferences, Seminars/Training Courses**

Some employees' professional duties will require them to attend conferences, seminars, briefings etc. As part of the fee, which is usually paid by the Council, hospitality will be offered in the form of lunches, dinners or receptions. Provided that this is an integral part of the event and offered generally to all participants there is no requirement to declare this. At certain events, organisations may provide hospitality over and above that included in the fee. Employees should declare all hospitality offered over and above that included in the event fee albeit this may be in retrospect.

### **Day to Day Working/Hospitality**

During employees' day to day business, it is possible that an employee will be offered refreshments. In these situations, employees should exercise caution and professional judgement without causing offence to the other party.

Employees should not allow a potential or actual contractor or supplier to pay for them to visit their sites or premises to inspect their goods or services. If such visits are necessary, the Council will meet the costs involved. When visiting potential or actual contractors or suppliers employees may accept refreshments appropriate to a work situation.

### **Private/Recreational Hospitality**

Hospitality may be offered to employees by organisations with speculative or established links to the Council. This hospitality usually has a recreational base and includes sporting events, theatre tickets, holidays, spa days etc., but could also extend to invitations to dinners and or events organised by institutions or consultants. This type of hospitality must be declined and declared and recorded in the central register in the People Management Section. Where such hospitality is related to the role of officers and part of stakeholder management and relationship building, in the conduct of council business, then this should be declared in the register of gifts and hospitality. Employees must not solicit hospitality from potential or actual contractors or suppliers.

Employees must not accept offers of hospitality unless they have the permission of the Chief Executive. Hospitality, which they have permission to accept, must be registered in the Register of Gifts and Hospitality.

### **Sponsorship**

Where an outside organisation wishes to sponsor a Council activity, whether by invitation, tender, negotiation, or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply.

Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse, or relative, must benefit from such sponsorship in a direct way without there being full disclosure of any such interest. Similarly, where the Council, through sponsorship, grant-aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given, and that there is no conflict of interest involved.

### **Wages and Recoupment**

There may be times where there has been an overpayment made to salary. Employees are reminded that they have an obligation to contact the Payroll Team and report any overpayment if suspected. The Council reserves the right to require repayment, either by deduction from salary or other accepted methods. In each case individual circumstances will be taken into account when deciding the period over which the repayment is to be made.

### **Health and Safety**

In the interests of the public and colleagues you must adhere to the Council's Core Health and Safety Procedures.

### **Recordings**

The Council does not permit covert recording under any circumstances. The recording of meetings or conversations is only permitted after permission has been obtained from all those present. This does not affect an employee's right to request any reasonable adjustments relating to a disability.

### **Reconsideration**

All matters relating to registering interests or seeking additional employment will be decided by the Chief Executive. Employees who are dissatisfied with the response of the Chief Executive may write requesting reconsideration of the issue. This should include further evidence that may assist the Chief Executive.

**Part 6**  
**Members Allowances Scheme**

This page is intentionally left blank

## MEMBERS' ALLOWANCES SCHEME

wef 1 April 2024

The St Helens Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) (Amended) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the St Helens Council Members' Allowances Scheme and shall, subject to paragraph 15, have effect for the remainder of the year commencing on 30 October 2003 and commencing in subsequent years on 1 April.
2. In this scheme "Councillor" means a Member of the St Helens Council who is a Councillor.
3. "Attendance Allowances" are not provided for in this Scheme.
4. "Co-optees' Allowances" are only provided for in this Scheme in relation to the Independent Member on Audit & Governance Committee in the sum of £500 per year.

### Basic Allowance

5. Subject to paragraph 11, for each year the basic allowance specified in the schedule hereto shall be paid to each Councillor, whose roles and responsibilities are defined in Appendix 1.

### Special Responsibility Allowances

6. (1) For each year a special responsibility allowance shall be paid to those Councillors who hold special responsibilities in relation to the authority, whose additional roles and responsibilities are defined in Appendix 2.
- (2) Subject to paragraph 11, the amount of each such allowance shall be the amount specified against that special responsibility in the schedule hereto.
- (3) Payment of special responsibility allowances is restricted to one amount in cases where Councillors hold more than one position of special responsibility.

### Travelling and Subsistence

7. The basic allowance referred to in paragraph 5 shall be inclusive of all travelling and subsistence (where refreshments are not provided) expenses, whether by public or private transport except in the following circumstances:
  - (i) Official visits and opening ceremonies where these take place outside the Borough;
  - (ii) Conferences, seminars and training provided these are held outside the Borough; and
  - (iii) Outside Bodies (on the approved list as determined from time to time) where meetings are held outside the Borough.

Payment for the use of members' private motor vehicles shall be made at the rate of 45 pence per mile.

Payment for actual subsistence costs incurred shall be made at the rate of:

Breakfast:	£3.34
Lunch:	£4.47
Evening meal:	£8.38

### Conference Allowance

8. No allowance shall be paid for attending a Conference. The Travel and Subsistence expenses incurred through attendance at a Conference may be claimed in accordance with paragraph 7 above and in respect of overseas travel, at three times the UK rates as recommended by the ODPM. All authorised hotel accommodation should be booked through and paid for by Members' Services.

### Telephone Allowance

9. The Council provides connection to the Council's Telephone System which allows Members to contact all Officers, Members and a range of other contacts, free of charge. An allowance for using a personal telephone is included in the basic allowance, as at paragraph 5 above.

### Childcare and Dependents' Carers Allowance

10. An allowance not exceeding £8.72 per hour, or part thereof where above 30 minutes (or such other sum as may be prescribed as the National Minimum and National Living Wage) may be claimed by a Member in respect of actual expenses necessarily incurred in arranging for the care of a child or other **dependent by virtue of a member's attendance at a meeting of the Council**, or any other meeting that is authorised by the Council, or designated as an approved duty under this Scheme, but it may not be claimed if the care is provided by as member of the claimant's household.

### Renunciation

11. A Councillor may, by notice in writing given to the Chief Executive, elect to forego any part of his/her entitlement to an allowance under this scheme.

### Part Year Entitlements

12. If, in the course of a year, this scheme is amended or a Councillor becomes, or ceases to be a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable, the annual basic or special responsibility allowance shall be adjusted pro-rata to the number of days remaining in that financial year.

### Claims and Payments

13. Payments shall be made in respect of basic and special responsibility allowances in instalments of one-twelfth of the amount specified in this scheme on the twenty-first day of each month, with the exception of the Deputy Mayor who will be paid in one instalment the month after coming into office.

### Uprating

14. The basic and special responsibility allowances within this Scheme will be uprated on an annual basis as of 1 April unless the Council agree for any year that such uprating shall not take place. The index will be tied to the General



Rate that the majority of Joint National Council for Local Government Services members receive.

## MEMBERS' ALLOWANCES

	<b>Annual Allowance (2024/2025) (wef 1 April 2024)</b>
	<b>£</b>
<b>Basic Allowance</b>	9,108
<b>Special Responsibilities</b>	
<b>Leader of the Council</b>	35,678
<b>Deputy Leader of the Council</b>	19,896
<b>Main Opposition Leader</b> (provided that the largest Opposition Group holds at least 15% (rounded up) of the seats on Council) <b>(NA)</b>	5,217
<b>Chair of Overview and Scrutiny Commission</b>	8,236
<b>Chairs of Overview and Scrutiny Committees</b>	5,217
<b>Main Opposition Deputy Leader</b> (provided that the largest Opposition Group holds at least 15% (rounded up) of the seats on Council) <b>(NA)</b>	1,645
<b>Other Opposition Leaders</b> (provided that a Group has three or more Members)	1,645
<b>Cabinet Members</b>	16,465
<b>Chair of Planning Committee</b>	8,236
<b>Chair of Licensing and Environmental Protection Committee</b>	8,236
<b>Chair of Audit and Governance Committee</b>	8,236
<b>Independent Member of Audit and Governance Committee</b>	500
<b>Independent Person on Standards Committee</b>	500
<b>Mayor</b>	8,236
<b>Deputy Mayor</b>	824
<b>Member of Recycling and Waste Authority</b> (unless also the Chairman of the Authority, when the figure is £6,672)	5,217
<b>LCR Transport Committee</b>	5,675

## THE ROLE OF A COUNCILLOR

**Councillors are elected by the public to represent them both inside the Council and outside the Council in the community. They are accountable to their communities. Communities should be able to judge their performance. The following describes the role of a Councillor. It is reasonable to expect that, while a councillor may specialise in certain aspects of the role and, indeed, this is something that should be encouraged, all councillors will perform a broad spectrum of duties. A high performing member would undertake the majority of, if not all, the duties listed below.**

**Political Groups play a crucial role in the selection of candidates and in the organisation of members. Political Groups should monitor the performance of all their members. This would undoubtedly assist in improving the effectiveness of local democratic government in St Helens.**

### **The Role**

As an elected councillor, you will participate constructively in the good governance of the Borough and will specifically:

- (1) Contribute actively to the formulation of the Authority's policies, budget, strategies and service delivery by attending meetings of, and participating in, those decisions and activities reserved to full Council;
- (2) Represent the interests of your ward, deal with constituents' enquiries and representations and hold ward surgeries on a regular basis. You should be visible in and recognisable to your community;
- (3) Act as community advocate and champion causes for constituents, both within and outside the Council, with particular emphasis on those that will improve the quality of life of the community;

Represent the Council on any outside bodies and governing bodies, as appointed, providing two-way communications between the organisation and the Council; and, to this end, develop and maintain a working knowledge of the Authority's policies and practices in relation to that body with regard to the needs and aspirations of the community;

Consider the appropriate use of the Councillor Improvement Fund for the purposes of improving the environment of the ward for the benefit of the community;

- (6) Attend and participate in any Committee, Panel or Board to which you are appointed and for any related responsibilities associated with such. This shall include being available to participate as a member of any committees which are drawn from a pool of members and which can be time-consuming, such as the Personnel Appeals Committee;
- (7) Chair any ad-hoc Committees, Panels or Boards, where appointed;
- (8) Attend and participate in any Planning site visits, Adult Social Care and Health Children and Young People's Services Inspections, Children's Home Visits, tender opening or other statutory or non-statutory visits or tasks, as required;

# 6

- (9) Seek out membership or involvement in community based initiatives/groups in your own Ward, and where necessary, provide guidance and leadership;
- (10) Develop and maintain a good working knowledge of the Authority's services, management arrangements, powers/duties and constraints sufficient to be able to answer and deal with queries from within the community;
- (11) Develop and maintain good working relations with relevant officers of the Authority, in accordance with the code of conduct;
- (12) Develop and maintain a working knowledge of the organisations, services, activities and other factors that impact upon the community's well-being and identity; and, to this end, to work with and encourage the community to tackle local problems and exploit local opportunities;
- (13) Attend and participate in any training courses, 'Away Days', workshops and other sessions either internally or externally provided, to enable you to fulfil your role as a Councillor;
- (14) Contribute constructively to open government and democratic renewal through actively encouraging the community to participate in the government of the area; and, to this end, seek to involve the community in decisions that affect them by ensuring they have full information and then by helping them make their views known; and
- (15) Fulfil the statutory and locally determined requirements of an elected member of the Authority, including compliance with all relevant codes of conduct.

## **ROLES AND RESPONSIBILITIES**

**This Appendix sets out the principal roles and responsibilities attaching to those posts which are recommended as warranting the payment of a special responsibility allowance. The lists do not purport to comprise comprehensive formal job descriptions which, if such exist, are a matter for the Council, through the Constitution or otherwise, to adopt. The provisions of this Appendix are subject to appropriate local government and other law and to the Council's Constitution and procedures.**

### **Cabinet Leader**

To exercise principal political authority and responsibility within and on behalf of the Council, to provide leadership within the Council and to act as the Council's principal political spokesperson.

To be personally responsible for the preparation and proposal of the Budget and Policy Framework to the Council and for achieving the objectives set out in the Framework.

To provide leadership to the main political group on the Council.

To represent the Council in the community and in discussions and negotiations with regional, national and international organisations and others, in relation to the pursuit of matters of interest to the Authority and its community.

To lead, and to chair meetings of, the Cabinet and to take responsibility for providing leadership on new policy, strategy, programming, budget, service standards and service delivery.

To select and appoint Cabinet Members in accordance with the provisions of the Constitution, and to allocate portfolios of responsibility.

To manage the effectiveness of Cabinet Members, to oversee delivery by them of their respective responsibilities, to appraise and develop them and to provide the support required to achieve their designated duties and responsibilities.

To take any necessary action to ensure that the effectiveness of the Cabinet is maintained.

In the absence of a Cabinet Member, due to sickness, holiday or other circumstances, to undertake their duties and responsibilities, or to allocate these to another Cabinet Member for such period as may be defined.

To undertake the duties and responsibilities of a Cabinet Member as defined below.

### **Cabinet Members**

To be collectively responsible with other Cabinet Members for the discharge of all executive functions, as described in the Council's Constitution.

Together with other Cabinet Members:

- To lead the community planning process and the search for Best Value;

- To support the Cabinet Leader in the preparation of the Council's Budget and Policy Framework;
- To be responsible for in-year decisions on resources and priorities, after appropriate consultation, to deliver and implement the Budget and Policy Framework approved by the Council;
- To provide the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs; and
- To represent the Council in and to the community.

To be personally responsible for the discharge of functions and the delivery of services within their designated portfolio, as described in the Council's Constitution, and in accordance with the Council's duties in respect of best value.

To maintain good and effective working relationships with Executive Directors and others, in accordance with the provisions within the Code of Conduct.

To lead on the development of the strategic objectives of the services within their designated portfolio.

To represent the various services within a designated portfolio, both within and outside the Council as necessary.

To take responsibility, as requested by the Cabinet Leader, for the functions within a portfolio of another Cabinet Member, for periods of holiday, sickness or in other circumstances.

#### **Leader of the Main Opposition**

To provide political leadership to the main Opposition Group which holds 15% (rounded up) of the seats on the Council.

To maintain a level of understanding and interest in all functions of the Council sufficient to provide effective political opposition across all the work of the Council.

To take the lead in representing the views of his/her political party on the Council and to ensure full involvement of the Group in the affairs of the Council.

#### **Leader of the Other Opposition Groups**

To provide political leadership to the other opposition Groups on the Council.

To maintain a level of understanding and interest in all functions of the Council sufficient to provide effective political opposition across all the work of the Council.

To take the lead in representing the views of his/her political party on the Council and to ensure full involvement of the Group in the affairs of the Council.

#### **Main Opposition Deputy Leader**

To deputise for the Main Opposition Leader as required.

#### **Chair of Audit & Governance Committee**

To chair the Audit & Governance Committee, ensuring that the Committee operates effectively in accordance with its Terms of Reference and work programme.

To reinforce the political neutrality and independence of the Committee.

To attend agenda briefings as required and to liaise closely with relevant officers to ensure effective chairmanship.

To promote self-assessment, training and development for members of the Committee.

### **Chairs of Regulatory Committees**

To chair the Licensing and Environmental Protection Committee and/or the Planning Committee, ensuring that the Committee operates within the approved policy, procedures and legislation appertaining to meetings.

To attend agenda briefings as required and to liaise closely with relevant officers to ensure effective chairmanship.

To take political responsibility for decisions of the Committee as required.

### **Chair of the Overview and Scrutiny Commission**

To ensure that decisions made by the Committee are implemented in accordance with the Committee's wishes.

To chair the Overview and Scrutiny Commission, ensuring that a work programme is set and adhered to.

To liaise with the Chairs of Overview and Scrutiny Committees and ensure that the work programmes for each are submitted to, and approved by, the Commission.

To consult with the Head of Legal and Democratic Services so as to ensure consistency of approach by the various Overview and Scrutiny Committees.

To monitor the use of the 'Call-In' facility and ensure that any items 'called-in' are referred to the appropriate Committee in accordance with the provisions of the Constitution.

To attend, as requested or as required by the Constitution, any meetings of the Cabinet, to represent the views of the Commission.

To liaise with the Cabinet Leader, as required, when items arise which are not on the Public Notice of Key Decisions, but which the Cabinet need to consider.

### **Mayor**

To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.

To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.

To seek to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account.

To promote public involvement in the Council's activities.

# 6

To attend civic and ceremonial functions representing the Borough.

To represent the Council at a range of functions/events both inside and outside the Borough, with the aim of promoting civic and democratic engagement.

## **Deputy Mayor**

To deputise for the Mayor as required.

## **Member of Merseyside Recycling and Waste Authority**

To represent the Council and its community on the Merseyside Recycling and Waste Authority.

To participate in such member/officer briefings as required, to maintain a level of understanding sufficient to effectively participate in meetings.

To consult the Cabinet Leader or appropriate Cabinet Member when the functions or interests of the Council may be significantly affected by a decision of the Authority and to obtain approval from the Council before committing the Council to any binding decisions of the Authority.

To provide feedback to the Council on the work of the Authority, in conjunction with appropriate officers.

## **Member of the Transport Committee of the Combined Authority**

To represent the Council and its community on the Transport Committee of the Combined Authority.

To participate in such Member/Officer briefings as required, to maintain a level of understanding sufficient to effectively participate in meetings.

To consult the Cabinet Leader or appropriate Cabinet Member when the functions or interests of the Council may be significantly affected by a decision of the Transport Committee.

To provide feedback to the Council on the work of the Transport Committee, in conjunction with appropriate Officers.



**Part 6**  
**Members Allowances Scheme**

This page is intentionally left blank

## **MEMBER CHAMPION ROLE DESCRIPTION**

Member Champions are appointed to act as advocate on behalf of the Council to promote a particular theme or priority area of the Council's business to provide a focus both for the Council and its partners.

The Champion role exists in order to ensure that issues are kept at the forefront of Council business, making sure that the issue or group that they are championing are taken into account when Council policy is being developed and decisions are made. The areas may not necessarily link to a relevant portfolio.

The role of a Member Champion is intended to complement and support the responsibilities of Portfolio Holders, the Mayor, Scrutiny Chairs and other elected members with designated responsibilities.

### **Responsibilities of a Member Champion**

The main responsibility of each Member Champion is to encourage communication and positive action on the issue or group they represent to:

- raise the profile and signal to the communities of the Borough the Council's commitment to the issue
- make the Council aware of good practice
- ask questions about performance and resourcing for their area
- foster the engagement of a wider range of councillors and officers in the issue
- promote effective communication and positive working relationships both within the Council and amongst partners, stakeholders and community groups
- promote the positive work that is being undertaken within the Borough, both at a regional and national level
- provide positive support and constructive challenge when required, to officers and councillors in driving forward the Council's agenda on the issue

### **Allocation of Member Champion Roles**

The Cabinet is responsible for appointing all the member champions. The appointments made by the Cabinet will be communicated in writing to the Chief Executive and announced at Cabinet.

A member champion may be removed from office at any time by the Leader and with written notice to the Chief Executive. Any member champion may resign from office by giving written notice to the Chief Executive and the Leader of the Council.

Member champions are not entitled to receive a Special Responsibility Allowance (SRA) for carrying out their role.

### **Relationship with Leader and Cabinet**

The Leader of the Council/Cabinet Members will normally:

- acknowledge the right of champions to be consulted on matters relating to their area of interest;
- take full account of any views offered by champions prior to any decision taken on matters within their area of interest;

- co-operate with champions in the formulation of action plans they have agreed with the relevant officer; and
- consider nominating the relevant champion to represent the Council at a relevant conference/seminar on the subject matter of the champion's interest.

### **Relationship with Overview & Scrutiny**

The relevant Overview and Scrutiny Chairs will normally:

- acknowledge the right of champions to be consulted and to participate in discussions on matters relating to their interest
- ensure there is appropriate engagement or consultation with champions in the formulation of policy
- ensure champions are specifically invited to be contributors to any reviews that have a direct bearing on their interest
- ensure an opportunity is provided for champions to contribute or to comment on the Overview and Scrutiny Work Programme.

### **Fulfilling the Role**

To fulfil their role effectively, a Member Champion also needs to be able to:

- encourage co-operation and be able to engage community groups
- understand and express the opinions and priorities of the community
- be sensitive to Council priorities and their broader role as a councillor to represent the public
- lead and respond to the whole range of issues rather than focussing upon a single issue
- A champion cannot make decisions and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice

## STAR Procurement Shared Service Joint Committee

### Terms of Reference

The proposal is to retain the Terms of Reference previously approved for the current STAR Joint Committee and which were subsequently incorporated into Stockport's, Trafford's and Rochdale's constitutions.

It is proposed that the following Terms of Reference are approved for the new Joint Committee and that any new partner will incorporate such into their own Constitutions:

- To manage the procurement operations of the Councils except for any procurement activity carried on by each Council that is specifically excluded by each Council from being dealt with by the STAR on its behalf.
- To agree any changes to the cost and income sharing arrangements set out in the inter-authority agreement.
- To agree the organisational structure of the STAR to carry out those operations.
- To recommend to Trafford Council the person to be appointed as Director of STAR and the salary for the post.
- To consider the policies and procedures for procurement activities carried out by the STAR recommended to it by its Board including the contract procedure rules under which it will operate for each of the Councils.
- To recommend the business plans and budgets of the STAR for approval by the Councils.
- To monitor the budget and performance of the STAR.
- To approve major changes to standard tender documentation and procedures.
- Such other matters as the Councils (for non-executive matters) and/or the Executive Leaders jointly agree. To the extent that the activities of the STAR Joint Committee are not executive functions the council delegates to the joint committee the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the procurement functions delegated to it – in particular the power to make staffing appointments and the power to make draft standing orders as to contracts for agreement and incorporation into the constitution of each participating STAR Council but not the power to set budgets.

July 2023

This page is intentionally left blank

# AUDIT AND GOVERNANCE COMMITTEE

## TERMS OF REFERENCE

### Governance

The terms of reference should set out the committee's position in the governance structure of the authority.

### Statement of purpose

The committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk, and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance and that those arrangements are effective.

The committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.

### Governance, risk, and control

- To review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- To monitor the effective development and operation of risk management in the council, including health and safety matters.
- To monitor progress in addressing risk-related issues reported to the committee.
- To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code.
- To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
- To monitor the counter fraud strategy, actions, and resources.
- To review the governance and assurance arrangements for significant partnerships or collaborations.

## **Financial and governance reporting**

### **Governance reporting**

- To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the Head of Internal Audit's annual opinion.
- To consider whether the annual evaluation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

### **Financial reporting**

- To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.
- To review the Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Arrangements for audit and assurance**

- To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

### **External audit**

- To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) or the authority's auditor panel as appropriate.
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor.
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To consider additional commissions of work from external audit.
- To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.



- To provide free and unfettered access to the audit committee chair for the auditors, including the opportunity for a private meeting with the committee

### **Internal audit**

- To approve the Internal Audit Charter.
- To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
- To consider any impairments to the independence or objectivity of the Head of Internal Audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.
- To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - ✓ updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work.
  - ✓ regular reports on the results of the Quality Assurance Improvement Plan, actions from the external Peer Review of IA and conformance with Public Sector Internal Audit Standards (PSIAS) and the Local Government Advisory Note (LGAN).
  - ✓ reports on instances where the internal audit function does not conform to the PSIAS and LGAN, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement (AGS).
- To consider the Head of Internal Audit's annual report, including: – the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement (these will indicate the reliability of the conclusions of internal audit), and the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS).
- To consider summaries of specific internal audit reports as requested.
- To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to

the authority or there are concerns about progress with the implementation of agreed actions.

- To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the Accounts and Audit Regulations.
- To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.
- Health and safety matters.

#### **Accountability arrangements**

- To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- To publish an annual report on the work of the committee, including a conclusion on the compliance with the CIPFA Position Statement.

**September 2023**

# Cheshire and Merseyside Health and Care Partnership

## Terms of Reference

### Background

Integrated care systems (ICSs) are statutory partnerships that bring together NHS organisations, local authorities and others to take collective responsibility for planning services, improving health and reducing inequalities across geographical areas.

ICSs comprise two key components:

- **integrated care boards (ICBs):** statutory bodies that are responsible for planning and funding most NHS services in the area
- **integrated care partnerships (ICPs):** statutory committees that bring together a broad set of system partners (including local government, the voluntary, community, faith and social enterprise sector (VCFSE), NHS organisations and others) to develop a health and care strategy for the area.

This dual structure was designed to support ICSs to act both as bodies responsible for NHS money and performance at the same time as acting as a wider system partnership.

ICPs are established in legislation by the insertion of a new Section 116ZA to the Local Government and Public Involvement in Health Act 2007. Section 116ZA of the 2007 Act imposes an express obligation on an ICB and all relevant local authorities whose area coincides with or falls wholly or partly within the ICBs area to establish an ICP as a joint committee.

In the Cheshire and Merseyside Integrated Care System, the ICP is named as the Cheshire and Merseyside Health and Care Partnership (HCP).

These Terms of Reference set out the membership, remit, responsibilities, and reporting arrangements of the joint committee.

### Role and Purpose

The Cheshire and Merseyside HCP is a broad alliance of organisations and representatives concerned with improving the care, health and wellbeing of the population, jointly convened by local authorities and the NHS as equal partners in order to facilitate joint action to improve health and care outcomes and experiences, influence the wider determinants of health, and plan and deliver improved integrated health and care.

Its primary purpose will be to act in the best interests of residents across Cheshire & Merseyside, rather than representing the interests of any individual organisation.

The role and purpose of the HCP does not duplicate that of the nine Cheshire and Merseyside Health and Wellbeing Boards. The HCP will work in conjunction where appropriate to help achieve common objectives and aims to benefit local populations.

The HCP provides the opportunity for a Cheshire & Merseyside forum to support and enhance work programmes to improve population health outcomes and reduce health inequalities by addressing complex, long term issues which need an integrated approach across Cheshire & Merseyside.

The HCP, as an Integrated Care Partnership, has a statutory responsibility to prepare, approve and publish an Integrated Care Strategy for the Cheshire and Merseyside ICS, setting out how the assessed needs in relation to Cheshire & Merseyside are to be met by the exercise of functions of:

- the Integrated Care Board
- NHS England
- the nine local authorities whose areas coincide with the ICB area.

In preparing this strategy the HCP must involve:

- the Local Healthwatch organisations whose areas coincide with or fall wholly or partly within its area
- the people who live and work in Cheshire & Merseyside.

The strategy will have due regard to and respond to the Health and Wellbeing Strategies and Joint Strategic Needs Assessments of each of the nine local authority areas.

## **Membership and Attendees**

### **Members**

Membership of the HCP (as an Integrated Care Partnership) is set out in legislation and must have as a minimum:

- one member appointed by the ICB
- one member appointed by each of the nine local authorities.

Legislation also allows for members to be appointed by the HCP itself.

In all cases, HCP membership will be renewable on an annual basis. Each participant organisation or body will be expected to have formally nominated or confirmed their nominated member by 1st August of each year. Changes in membership during the year are allowed and must be notified to the HCP promptly and before attendance at the next meeting.

Where members are not available to attend meetings, a substitute nominated by organisation may attend on their behalf.

The Chair of the HCP will discuss attendance with any member who fails to attend three consecutive HCP Meetings. The Chair of the HCP will refer any ongoing concerns regarding non-attendance of a member to their organisation with a

recommendation that consideration be given to whether it is appropriate for the individual to continue as a member of the HCP.

The full membership of the Cheshire and Merseyside HCP is:

<b>Organisation / Area</b>	<b>Position</b>
<b>NHS Cheshire and Merseyside ICB</b>	ICB Chair
	Chief Executive
	Assistant Chief Executive
	Executive Director of Finance
	Executive Medical Director
<b>Cheshire East Council</b>	x1 Councillor
<b>Cheshire West and Chester Council</b>	x1 Councillor
<b>Halton Council</b>	x1 Councillor
<b>Knowsley Council</b>	x1 Councillor
<b>Liverpool City Council</b>	x1 Councillor
<b>Sefton Council</b>	x1 Councillor
<b>St Helens Borough Council</b>	x1 Councillor
<b>Warrington Borough Council</b>	x1 Councillor
<b>Wirral Council</b>	x1 Councillor
<b>Other Local Authority Representatives</b>	x2 Directors of Adult Social Care – drawn from across the 9 responsible Local Authorities.
	x2 Directors of Public Health - drawn from across the 9 responsible Local Authorities
<b>North West Ambulance Service</b>	x1 Representative
<b>Cheshire Police</b>	x1 Representative
<b>Merseyside Police</b>	x1 Representative
<b>Cheshire Fire and Rescue</b>	x1 Representative
<b>Merseyside Fire and Rescue</b>	x1 Representative
<b>Voluntary, Community, Faith and Social Enterprise Sector</b>	x2 Representatives
<b>Primary Care</b>	x2 Representatives
<b>CMAST Provider Collaborative</b>	x1 Representative
<b>MHLD Provider Collaborative</b>	x1 Representative
<b>Carer</b>	x1 Representative
<b>Housing</b>	x1 Representative
<b>Healthwatch</b>	x2 Representatives
<b>Higher Education / University</b>	x2 Representatives

The Other Local Authority Representatives will be notified to the HCP by the nine local authorities.

Members are expected to adopt a partnership approach to working together, as well as listening to the voices of citizens, patients and the public of Cheshire and Merseyside.

Members will commit to working collaboratively, openly and supportive of the development and role of the HCP.

#### **Attendees**

Only members of the HCP, or their nominated substitute, can participate in HCP meetings, but the Chair may invite relevant organisations to send a representative to an HCP meeting as necessary in accordance with the business of the HCP.

## **Chair Arrangements**

The Chair of the HCP will be drawn from one of the nominated HCP members from the nine local authorities.

The Chair will be appointed on an annual basis at the first meeting of the year (in September) by the local authority members of the HCP present at the meeting. Individuals wanting to be considered for the Chair role will need to be nominated and seconded by one other local authority member of the Board and agreed by way of a majority vote.

The HCP will also have two Joint Vice Chairs – one being the Cheshire and Merseyside ICB Chair and the other being an appointed representative of the VCFSE sector. In the absence of the Chair at a meeting of the HCP, it will be agreed in advance which of the two Vice Chairs will Chair the meeting on that occasion.

## **Quoracy**

The meeting will be quorate if at least 50% of the members are present. If the quorum has not been reached, then the meeting may proceed if those attending agree, but no decisions requiring agreement by the ICB or local authorities may be taken unless at least 50% of the Committee members drawn from these two bodies are present.

If any member of the HCP has been disqualified from participating in the discussion and/or decision-making for an item on the agenda, by reason of a declaration of a conflict of interest, then that member shall no longer count towards the quorum.

## **Decision making and authority**

As far as is possible the HCP will make its decisions by consensus of the members present at the meetings of the HCP.

The HCP has been established as a Joint Committee under S116ZA Health & Social Care Act 2022.

It has not been established under S65Z6 or S75 arrangements between the NHS and Local Authority member organisations of the HCP, and as such does not have the authority as a Committee to exercise joint functions or hold or make decisions on a pooled budget arrangements.

The HCP is authorised to create any relevant sub-groups in order to take forward specific programmes of work considered necessary by the membership.

## **Meeting arrangements**

The HCP will meet up to six times each year. Additional meetings may take place as required.

The HCP Chair, in consultation with and with the agreement of both Vice Chairs, may convene further meetings to discuss particular issues of relevance to the HCP and which cannot wait until the next meeting.

The HCP may meet virtually or in hybrid format when necessary and members attending using electronic means will be counted towards the quorum.

Meetings of the HCP will be held in public. Where meetings are held virtually, arrangements will be made to ensure members of the public can attend and be able to observe the meeting.

The HCP may convene development sessions, which will be held in private and which will not be formal meetings of the HCP.

A copy of the agenda and related reports for each HCP meeting will be sent to each HCP Member at least five clear days before the date of that meeting. Agendas and papers for meetings held in public will be published on the website of NHS Cheshire and Merseyside Integrated Care Board

The HCP shall be supported with a secretariat function. In addition to publication of agendas and supporting papers the secretariat will prepare and circulate minutes of meetings within 10 working days and maintain an action and decision log, as well as a register of interests of HCP members.

As a Joint Committee of the ICB and the nine Councils, local authority members will be bound by their Council's Code of Conduct for the meeting and should declare any interests under that Code.

The Agenda for meetings of the HCP will be agreed by the Chair and Vice Chairs. Members of the Committee can request items to be considered at meetings of the HCP by contacting the Chair two weeks prior to the publication date of papers for the relevant meeting.

### **Reporting and Accountability**

The HCP will receive reports from the nine Cheshire and Merseyside Health and Wellbeing Boards, which will inform its own priorities and strategy. and the HCP will also provide reports to the Health and Wellbeing Boards on matters concerning delivery of the Integrated Care System priorities and outcomes framework.

The HCP will also provide reports to the ICB, providing a summary of any specific programmes of work undertaken, including the issues considered and recommended actions, and any key outputs (in particular the Integrated Care Partnership Strategy) from its meetings.

### **Behaviours and Conduct**

The HCP shall conduct its business in accordance with any national guidance. The seven Nolan Principles of Public Life shall underpin the committee and its members.

HCP members should:

- Inform the Chair of any interests they hold which relate to the business of the HCP.
- Inform the Chair of any previously agreed treatment of the potential conflict / conflict of interest.
- Abide by the Chair's ruling on the treatment of conflicts / potential conflicts of interest in relation to ongoing involvement in the work of the HCP.
- Inform the Chair of any conflicts / potential conflicts of interest in any item of business to be discussed at a meeting. This should be done in advance of the meeting wherever possible.
- Declare conflicts / potential conflicts of interest in any item of business to be discussed at a meeting under the standing "declaration of interest" item.
- Abide by the Chair's decision on appropriate treatment of a conflicts / potential conflict of interest in any business to be discussed at a meeting.
- Abide by their own respective organisation's Code of Conduct.

As well as complying with requirements around declaring and managing potential conflicts of interest, HCP members should:

- Attend meetings, having read all papers beforehand
- Arrange for their substitute to attend on their behalf, if necessary
- Act as 'champions', disseminating information and good practice as appropriate
- Comply with the HCP administrative arrangements including identifying agenda items for discussion, the submission of reports etc.
- Consider the equality, diversity and inclusion implications of the discussions they undertake at HCP meetings.

## **Review**

The HCP will review its effectiveness, including these terms of reference, on an annual basis and earlier if required.