



# CONSTITUTION

April 2012 version 5.7 (approved by Council 17 June 2009 amended by Council decisions in June, July and October 2009, March, April, May, June, October and November 2010, January and May 2011, January and March 2012)

## NOTE

The officer titles used in this Constitution reflect the Organisational Structure as at 1/4/11. This may change from time to time please refer to the Monitoring Officer if in doubt.

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# *EXECUTIVE SUMMARY*

## *THE COUNCIL'S CONSTITUTION*

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

The Constitution is divided into Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document but whilst they need to be followed these are not formally part of the constitution.

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

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

Articles 2-16 explain the rights of citizens and how the key parts of the Council operate.

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

The Council is composed of 40 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole Island 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 Ethical Standards Committee advises them on the code of conduct.

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

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

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

wishes to make a decision which is outside the approved budget or existing policy, this must be referred to the full Council to decide.

## ***Staff***

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

## ***Citizens' Rights***

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

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

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Democratic Services Section of the Council on 823208.

# **ARTICLE 1 - THE CONSTITUTION**

## **Powers of the Council**

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

## **The Constitution**

Articles 1 to 16 of this document and the attached procedure rules and Standing Orders are the Constitution of the Isle of Wight Council. Various procedure rules are also held with the Constitution to detail how the business of the Council is to be undertaken in a number of discrete areas.

## **Purpose of the Constitution**

The purpose of the Constitution is to:

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

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

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

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

## ARTICLE 2 - MEMBERS OF THE COUNCIL

### Composition and eligibility

- (a) **Composition.** The Council is made up of 40 members, otherwise called Councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters on the Isle of Wight or those living or working here will be eligible to hold the office of Councillor.

### Election and terms of Councillors

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

**Transitional arrangements** where an elected member holds one of the posts described in this Constitution and they are re-elected at an ordinary election they will continue in that post until the annual meeting of the Council immediately following that ordinary election. If they are not re-elected then the post is vacant until a replacement is appointed – except if that post is the Chairman of the Council in which case the person continues in that post until their successor is appointed at the annual meeting of the Council.

### Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
  - (iii) effectively represent the interests of their electoral division and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council; and
  - (vi) maintain the highest standards of conduct and ethics, in accordance with their Code of Conduct

**(b) Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in this Constitution.

**Members Job Profiles**

A detailed list of various Member Job Profiles are set out in the following pages.

**Conduct**

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

**Allowances**

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme as attached to the Constitution.

## **MEMBERS JOB PROFILES**

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

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

#### Duties

1. To promote good community relations, ensure greater public/stakeholder participation and take and encourage steps to eliminate unlawful discriminatory practices and attitudes within and outside the Council.
2. To assist in driving efforts of the Council in reducing crime and eliminate inequality of opportunity and unlawful discrimination.
3. To declare any personal or prejudicial interests in issues being considered by the Council in any way and to take any action, including withdrawal from meetings as required to maintain impartiality.
4. To participate effectively as a member of any committee or panel to which the councillor is appointed, including related responsibilities for the services falling within the committee's (or Panel's) terms of reference, and liaison with other public bodies to promote better understanding and partnership working.
5. To develop and maintain a working knowledge of the authority's services, management arrangements, powers/duties, and constraints.
6. To be available to be appointed to outside bodies and
  - Where appointed as the Council's representative, to act as directed by, or in the interests of the Council,
  - Where appointed as a Director, Trustee or other capacity bearing personal liability, to act in accordance with the law and in accordance with the interests of the outside body,
  - Where appointed as an observer or in another non decision making capacity, to represent the Council without becoming involved in decision making by the outside body.
7. To act in accordance with the Members Code of Conduct and the Protocol for Member/Officer relations.
8. To ensure that the various procedures and protocols within and attached to this Constitution are followed.

9. To focus on service improvement and efficiency at a strategic and political level and refrain from becoming involved in the detail of operational or managerial issues.
10. To engage with the media in accordance with agreed protocols.
11. To take into account when taking decisions and in leading the community relevant information and advice including where appropriate, the member's own political perspective.

### **Entitlements**

1. Mandatory and further specialised training is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake their responsibilities and perform their duties.
2. Members have a right to access all information which they need to know in order to take decisions and carry out their other functions (subject to the Protocol for Members Access to Information). The extensive legal and constitutional provisions on Members rights to attend meetings and access information are set out in the Access to Information Procedure Rules in the Constitution.
3. Members receive assistance with travel and conference booking, the members' allowances scheme from via the Members Support. Members have the facility to develop and maintain their own web pages on the Isle of Wight Council's Web site.
4. Members are entitled to information technology, software and training. Telephone line rental and call costs are provided for in the basic allowance.

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

## B. All Members – Constituency Responsibility

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

### Role

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

### Duties

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

### Entitlement

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

### C. Member of Full Council

All Members of the Council including the Leader and Members of the Cabinet are Members of the Full Council. There are restrictions on the Leader and Cabinet Members participating in the Overview and Scrutiny Committee, Scrutiny Panels and Ethical Standards Committee functions of the Full Council.

#### Role

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

#### Duties

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

## Entitlement

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

#### D. Chairman of the Council

It is the duty of the annual meeting of the Full Council to elect one of its Members to be Chairman of the Council. No Member can hold the post of Chairman or Vice Chairman of the Council for more than one year unless the Council, by resolution, decides to appoint a member for a second year.

##### Role

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

##### Duties

The Chairman and in his/her absence the Vice Chairman, will have the following responsibilities:

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

##### Entitlement

1. The Chairman of the Council will be known as the Chairman of the Council.
2. The Chairman of the Council receives (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances. The Vice Chairman (in addition to their basic allowance) also receives an SRA as set out under the scheme of Members allowances.

3. The Chairman of the Council receives support in managing civic and ceremonial duties from the Civic Office.

## E. The Leader and Cabinet Members

The Council shall appoint a Leader at its annual meeting immediately after an election. The Leader holds office until the annual meeting after the next ordinary elections (i.e. 4 years). The Leader is entitled to decide the size of the Cabinet (between 2 and 9) appoint Cabinet Members and allocate portfolios of responsibility.

### Role

The Leader is the chairman of the Cabinet.

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

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

### Duties

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

### Entitlements

1. The Leader of the Council and all other Cabinets Members receive (in addition to their basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances.

2. The Leader of the Council and Cabinet Members receive secretarial and administrative support from the Members Support Office. Support is also provided by Directors and Heads of Service as appropriate.

## F. Cabinet Secretaries

To be appointed by the Leader of the Council.

### Role & Duties

1. To support the Cabinet in the preparation of the Budget and Policy Framework, particularly in terms of strategic issues, the delivery of major projects and liaison on cross-cutting matters.
2. To support the Cabinet in identifying risks and potential barriers to the timely delivery of the Council's priorities, and liaising with Cabinet Members to agree appropriate steps and mitigating action where required.
3. To undertake a specific role in terms of performance monitoring and management, ensuring appropriate Cabinet Member involvement, particularly in terms of identifying any areas of underperformance and agreeing what appropriate actions should be taken in response.
4. To undertake a specific role in ensuring that the Council's priorities are communicated and consulted on (where appropriate) in an appropriate and clear manner.
5. To represent the Council and Cabinet at meetings where appropriate.
6. To attend meetings of the Overview and Scrutiny Committee and Scrutiny Panels when invited to do so.
7. To undertake any other particular duties in support of the Cabinet's work as considered appropriate by the Leader.

### Entitlement

1. A special responsibility allowance will be paid as set out under the scheme of Members Allowances.
2. Attendance at all meetings of the informal cabinet, cabinet meetings (whether or not excluding press and public).

## G. Chairman of the Overview and Scrutiny Committee

### Main Role

To lead and co-ordinate the council's overview and scrutiny activities to ensure effective use of resources and positive outcomes.

### Duties

- (i) To work with the vice chairman of the committee and chairmen of the scrutiny panels, and relevant directors to co-ordinate the activities and the work programmes of the committee and panels.
- (ii) To be responsible for commenting upon the abridging or dis-application of the call in process where decisions are urgent or not on the forward plan and ensuring that these instances are reported to the committee.
- (iii) To present reports to meetings of full council and the cabinet.
- (iv) To foster and maintain a disciplined approach and encourage effective engagement by all members in the scrutiny process.
- (v) To promote and participate in member training on the scrutiny function.
- (vi) To ensure that overview and scrutiny contributes to the effective decision making process of the council.
- (vii) To encourage the involvement of interested parties, stakeholders and partners.
- (viii) To work in conjunction with council officers.
- (ix) To provide leadership ensuring that scrutiny is member led.
- (x) To attend key cabinet meetings

### Entitlements

1. The chairman of the Overview and Scrutiny Committee receives (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of members' allowances

### Chair of Scrutiny Panels

#### Role

In conjunction with the chairman of the Overview and Scrutiny Committee and relevant directors to lead and co-ordinate the council's overview and scrutiny activities to ensure effective use of resources and positive outcomes.

#### Duties

- (i) To work with the chairman and vice chairman of the Overview and Scrutiny Committee and other chairmen of the scrutiny panels and relevant directors to co-ordinate the activities and the work programmes of the committee and panels.
- (ii) To foster and maintain a disciplined approach and encourage effective engagement by all members in the scrutiny process.

- (iii) To promote and participate in member training on the scrutiny function.
- (iv) To ensure that overview and scrutiny contributes to the effective decision making process of the council.
- (v) To encourage the involvement of interested parties, stakeholders and partners.
- (vi) To work in conjunction with council officers.
- (vii) To provide leadership ensuring that scrutiny is member led.
- (viii) To attend key cabinet meetings

### Entitlements

1. The chairmen of the scrutiny panels receive (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of members allowances

### Overview and Scrutiny Committee and Scrutiny Panel Members

The members of the Overview and Scrutiny Committee and Scrutiny Panels are the Chairmen appointed annually by Full Council and members appointed under the delegated scheme in accordance with the wishes of the leaders of the various political groups on the Council. Additionally there are co-opted members from the diocese and parent governors when considering education matters; and non voting co-opted members appointed to assist with health scrutiny or crime and disorder issues.

No Cabinet member or Cabinet Secretary may be a member of either the Overview and Scrutiny Committee or the Scrutiny Panels.

### Role of the Overview and Scrutiny Committee and Scrutiny Panels

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

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

For the Overview and Scrutiny Committee to maintain a call-in procedure as a safety net in the event of unexpectedly controversial decisions.

To ensure a structure of Overview and Scrutiny assists in the delivery of effective overview and scrutiny functions.

### Duties

1. To drive and participate in programmes of policy review and development, as decided by the Overview and Scrutiny Committee/Scrutiny Panels and at the request of the Full Council and of the Cabinet. The programme of review may

include consideration of anything which is of interest to the area or its inhabitants, even where the issue is not the responsibility of the Council.

2. To scrutinize both decisions of the Cabinet (including the individual Cabinet Members and Officers taking key decisions) and existing policies, procedures and processes of the Council, in accordance with the Committee's/Panels' work programme.
3. To play the leading role in developing and challenging the Council's Budget processes.
4. To play a leading role in developing and challenging the Council's Policy Framework.
5. To participate, when required, in the Call In procedure.
6. To apply, when undertaking these duties, the Constitution of the Council, the Committee Procedure Rules, the Access to Information Rules and the Budget and Policy Framework Procedure Rules.
7. To commission and receive expert witness.
8. To undertake additional functions as required by the Council or by statute.
9. To undertake overview and scrutiny functions in a constructive, positive and non-partisan way and exclusively at a political and strategic level.
10. To co-ordinate with all the Overview and Scrutiny Committee and Scrutiny Panels complementary work programmes.

### Entitlements

1. The Co-opted members will receive an allowance as set out under the Council's scheme of members allowances.
2. Overview and Scrutiny Committee Members have additional rights to access information of relevance to their areas of responsibility.
3. Mandatory and further specialised training in overview and scrutiny is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.

## H. Audit Committee Members

Audit Committee Members are the Chairman and members appointed annually by Full Council selected for their interest in audit committee business as well as their political affiliation.

### Role

To ensure delivery of value for money.

To oversee the Council's financial reporting processes.

To provide assurance of the adequacy of risk management structures within the Council.

### Duties

1. Annually to approve the internal audit strategy, plan and performance.
2. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary and to recommend further audit enquiries are added to the audit planning in year.
3. To consider the reports of external audit and inspection agencies.
4. To consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. To seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
5. To be satisfied that the authority's assurance statements, including the Annual Governance Statement, are robust and accurate and to receive and review action plans to improve internal control arrangements.
6. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
7. To review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
8. To approve the Council's accounts.
9. To make recommendations (to any member body, any officer of the Council and/or to any other interested party or stakeholder) as it sees fit under these terms of reference.

10. To receive periodic reports from the Chairman of the Investment Panel identifying risks associated with management of the pension fund and the strategies to address those matters.
11. To periodically review the arrangements for managing contracts and securing value for money from contractors.
12. To review the Council's annual value for money self assessment and statement of internal control.

### Entitlements

1. The Chairman of the Audit Committee will receive (in addition to the basic allowance) a Special Responsibility Allowance (SRA) as set out under the scheme of Members allowances.
2. Senior Officer input sufficient to enable at least 4 meetings per year – including attendance by statutory officers.
3. Access to the External Auditor, at least annually in a public meeting, and at other times by request.
4. Access to other member bodies, including the Cabinet.
5. The ability to commission and submit reports directly to the Cabinet and/or Full Council.
6. Mandatory and further specialised training in Audit is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.

## I. Regulatory Committee Members

Regulatory Committee Members are the Members of the Planning and Licensing & General Purpose Committees, including their sub committees.

### Role

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

### Duties

1. To determine all matters that come before the meetings in accordance with the relevant policies (local and national) in a consistent and impartial manner.
2. To attend training as provided by the Council on these matters prior to participating in any of the work of these Committees.
3. To follow, in undertaking these matters, the procedures and Codes of Practice as set out in the Council's Constitution.

### Entitlements

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

## J. Ethical Standards Committee Members

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

4 Members are Members of the Council (none of whom are members of the Cabinet), 7 are independent of the Council (one of whom will be the Chairman the Committee), and 3 are Parish or Town Councillors (and not members of the Isle of Wight Council).

### Role

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

### Duties

1. To advise the Council and Cabinet on the adoption or revision of a Code of Conduct.
2. To monitor the operation of the Council's Code of Conduct and report any necessary alterations required to the Full Council and Cabinet.
3. To facilitate and monitor advice to and training of Members and co-opted Members of the Council on the Council's Code of Conduct.
4. To consider all complaints formally submitted against members and to determine what action, if any, should be taken.
5. To undertake the same functions in respect of Parish and Town Councils and Members of those Parish Councils except where the committee has arranged for those functions to be discharged by a sub committee.
6. To undertake such other functions as may, from time to time, be conferred on the Ethical Standards Committee by the Council or Regulations.
7. To impartially consider any report of the Monitoring Officer, Ethical Standards Officer or the Adjudication Sub-Committee for England and to take any necessary action in accordance with the law.
8. To consider fairly and impartially applications for a dispensation from the rules as to speaking and voting where a Member has an otherwise declarable interest in accordance with the Code of Conduct.
9. To consider any applications from officers in politically restricted posts that their posts should not be so restricted.

10. To act in accordance with such advice and guidance as may be issued by the Standards Board for England.
11. To consider whether to add items to the work programme of the Committee at its own volition.

### Entitlements

1. Mandatory and further specialised training is provided for Members who are encouraged to ensure that they are well informed and able to develop the skills to undertake these responsibilities.
2. The Chairman and Members of the Ethical Standards Committee can claim an allowance as set out under the scheme of Members allowances.

## K. Leaders of Political Groups

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

### Role

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

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

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

Other duties are a matter for each group to determine.

### Entitlement

1. The Leaders of the political groups with four or more members (in addition to their basic allowance) receive a special responsibility allowance as set out under the scheme of Members allowances.

## L. Member Liaisons

### Role and Key Tasks

These roles will be appointed by the Leader, along with his appointment of Cabinet Members, to take responsibility for liaising with all members, and ensuring that their views are being taken into account when decisions are made. They will work closely with the relevant Cabinet Member(s).

The Leader will appoint them with particular briefs e.g. Member Liaison for Schools Reorganisation.

There will be a maximum of five Member Liaison posts.

### Entitlements

1. The holders of Member Liaison positions will not receive any remuneration other than their basic members' allowance.

## ARTICLE 3 - CITIZENS AND THE COUNCIL

### 1. Citizens' rights

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

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

### 2. Citizens' Responsibilities

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

## ARTICLE 4 - THE FULL COUNCIL

### 1. Meanings

(a) **Policy Framework.** The full Council will be responsible for adopting or approving the following plans and strategies:

- (i) The Council's Corporate Plan;
- (ii) Sustainable Community Strategy;
- (iii) The Children's and Young People's Plan;
- (iv) Community Care Plan;
- (v) Economic Development Policy;
- (vi) Community Safety Partnership Plan;
- (vii) The Local Plan;
- (viii) Youth Justice Plan;
- (ix) Local Transport Plan;
- (x) Housing Investment Plan;
- (xi) Quality Protects Management Action Plan;
- (xii) The Housing Strategy;
- (xiii) The Fire and Rescue Authority Integrated Risk Management Plan;
- (xiv) Gambling Act: Statement of Licensing Policy

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

Any plan or strategy for which the Council does not have sole responsibility for preparation, and involves action and targets to which other bodies will be contributing, shall not be amended at the final approval stage by the Council unless the approval of all such appropriate parties to such an amendment has been obtained in writing.

A plan or strategy referred to above can be the subject of an amendment which is considered, in the opinion of the Deputy Director of Resources (Corporate Governance) and the Director of Resources and the relevant Director (after consultation with the Leader and appropriate Cabinet Member), not to be contrary to the principles of the plan or strategy and can

be contained within the approved budget. Such an amendment does not require the approval of full Council.

(b) **Budget.** The budget is defined as:

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

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

Only the full Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Budget and Policy framework;
- (c) amending the policy framework or budget following recommendation from the Cabinet;
- (d) appointing the Leader of the Council;
- (e) appointing the Chairmen and Vice Chairmen (unless Council decides not to) of the Overview & Scrutiny Committee, Scrutiny Panels, and Regulatory Committees;
- (f) agreeing and/or amending the terms of reference for Committees and deciding on their composition;
- (g) adopting an allowances scheme for elected members;
- (h) confirming the appointment of the Chief Executive;
- (i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and

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

### 3. **Council meetings**

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

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

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

- (b) In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May (the local convention is that May is the preferred month).
- (c) The Council shall hold ordinary meetings throughout the year on such days as shall be agreed at the Annual Meeting. In addition a meeting shall be held in February each year to agree the Council's budget
- (d) Extraordinary meetings can be convened by the Council, Chairman in his own right or upon receiving written request to do so from at least five members of the Council; and the Monitoring Officer.
- (e) Meetings of the full Council will take place at 6pm unless expressly agreed otherwise by the Chairman.

### 4. **Responsibility for Functions**

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

### 5. **Petitions**

As described in the Petition Scheme (see page 239) petitions can be presented to meetings of Full Council and those containing 2,500 or more signatures will be debated by Full Council.

# ARTICLE 5 – OVERVIEW AND SCRUTINY COMMITTEE AND SCRUTINY PANELS

## Terms of Reference & Membership

### Overview and Scrutiny Committee:

10 members, comprising:

- i. A chairman who is not a member of the majority political group;
- ii. Ten members of the council (including the Chairman of the committee), on a politically proportionate basis;
- iii. The Isle of Wight Youth MP will be entitled to attend any meeting of the Scrutiny Committee in a non-voting consultative capacity.
- iv. The Isle of Wight Youth Council will be entitled to appoint two of their members (in a non-voting capacity) to be a point of consultation between the Committee and the Youth Council

### **No Cabinet Member or Cabinet Secretary will be a member of the Overview and Scrutiny Committee.**

- (1) To manage and co-ordinate all overview and scrutiny work undertaken by either the Committee or the Scrutiny Panels.
- (2) To be responsible for, and operate, the system of call in as set out in the Council's decision making process.
- (3) To consider any councillor call for actions on general local government matters apart from crime and disorder which will be dealt with by the Health and Community Wellbeing Scrutiny Panel.
- (4) To have an overall view on budget and performance management with specific responsibility for looking at the corporate centre (currently the areas of service undertaken by the Chief Executive and Strategic Director of Resources).
- (5) To review at an appropriate stage Council policies related to relevant service delivery areas coming within the Committee's terms of reference.
- (6) To monitor progress with relevant action plans.
- (7) To enable the relevant cabinet members to report on key issues and items on the forward plan.
- (8) To be responsible for dealing with petitions as outlined in the Council's Petition Scheme.

## Call-in

Any two members of the Overview and Scrutiny Committee and one other member of the council may sign a call-in notice in relation to any decision by the Cabinet or the Leader or a Cabinet Member exercising a delegation in accordance with the scheme of delegation. The detailed arrangements for this are set out on page 176 of this Constitution.

### Scrutiny Panels:

7 Members of the Council appointed on a politically proportionate basis with Education co-opted reps on Children and Young People, appropriate non-voting members on Health and Community Wellbeing when acting as Health Scrutiny and when acting as Crime and Disorder Scrutiny.

### **No Cabinet Member or Cabinet Secretary will be a member of any Scrutiny Panel.**

#### Children and Young People Scrutiny Panel

(To include school re-organisation, safeguarding, Children's Commissioned Services and learning and achievement)

- To consider performance management information relevant to the panel's work.
- To assist in the development and review at an appropriate stage Council policies related to relevant service delivery areas coming within the Panel's Terms of Reference and to monitor progress on relevant Action Plans.
- To enable the relevant Cabinet member to report on key issues and items on the Forward Plan

#### Health and Community Wellbeing Scrutiny Panel

(To include housing, adult social care, community safety, culture and partnership development, regeneration and community development and public health)

- To consider performance management information relevant to the panel's work.
- To assist in the development and review at an appropriate stage Council policies related to relevant service delivery areas coming within the Panel's Terms of Reference and to monitor progress on relevant Action Plans.
- To enable the relevant Cabinet member to report on key issues and items on the Forward Plan.
- As Health Scrutiny

To undertake the Council's statutory duties under the legislation.

- As Crime and Disorder

To undertake the Council's statutory duties in connection with the scrutiny of crime and disorder including the consideration of any related Councillor Call for Action.

#### Economy and Environment Scrutiny Panel

(To include economy and tourism, fire, planning, highways, public realm, leisure and sports)

- To consider performance management information relevant to the panel's work.
- To assist in the development and review at an appropriate stage Council policies related to relevant service delivery areas coming within the Panel's Terms of Reference and to monitor progress on relevant Action Plans.
- To enable the relevant Cabinet member to report on key issues and items on the Forward Plan.

#### For Overview and Scrutiny Committee and the Scrutiny Panels:

##### **Quorum**

Quorum will be one-quarter of the voting membership. In the absence of both the Chairman and Vice Chairman the Committee/Panel will elect a Chairman for that meeting.

##### **Agenda**

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

##### **Meetings**

Meetings will be held at 5.00 pm on weekday evenings, other than in exceptional circumstances when the timing must, with the agreement of the Chairman and the Leader of the Council, be varied to ensure a quorum or to suit the needs of members of the public or stakeholders attending the meeting. The reason for any variation in timing will be set out on the face of the agenda.

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

##### **Attendance and Speaking at the Overview and Scrutiny Committee and Scrutiny Panels**

- Unless the law requires or allows otherwise meetings of the Committee and Panels will be in public.
- The Chairmen have an obligation to enable members of the public, stakeholders and community representatives to make representations to the Committee or Scrutiny Panels in order to assist to agree a work programme and to undertake specific enquiries.

### **Enquires and Reports**

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

The Overview and Scrutiny Committee and Scrutiny Panels may take reports to the Cabinet, Cabinet Members, or the Full Council. Responses to be reported back to the Committee/Panel.

### **Task and Finish Groups**

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

### **Voting**

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

## **ARTICLE 6 - THE CABINET**

### **1. Role**

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

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

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

### **3. Leader**

The Leader will be a Councillor elected at the first annual meeting immediately following an election and that he/she will hold office until the day of the annual Council meeting following the next election unless, at an earlier date:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council. Such a resolution to be a motion of "No Confidence in the Leader" submitted in accordance with Procedure Rule 10 of Procedure Rules for the Regulation of Procedures – Full Council.
- (e) That where, in accordance with paragraph 3(d) above, a Leader has been removed by resolution then a new Leader shall be elected either at the meeting at which the Leader is removed from office, or at a subsequent meeting.

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

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

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or

- (d) they are removed from office, either individually or collectively, by the Leader of the Council.

**5. Proceedings of the Cabinet**

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

**6. Portfolios of Responsibility**

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

**7. Isle of Wight Youth MP and Youth Council**

The Isle of Wight Youth MP will be able to attend any meeting of the Cabinet in a non-voting consultative capacity.

The Isle of Wight Youth Council will be entitled to appoint two of their members (in a non voting capacity) to the Cabinet to be a point of consultation between the Cabinet and the Youth Council.

## **ARTICLE 7 – PLANNING AND LICENSING & GENERAL PURPOSES COMMITTEE**

The Council will appoint a Planning Committee, a Licensing (Statutory) Committee and a Licensing (non statutory) & General Purposes Committee with the terms of reference set out below.

### **Terms of Reference:**

#### **Planning Committee**

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

The committee will take decisions only where:

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

#### **Licensing (statutory) and Licensing (non statutory) & General Purposes Committee**

1. The Council will appoint a statutory licensing committee to deal with any application or appeal in relation to the licensing or grant of consent or permission where the law requires the decision to be taken by elected members, including the Licensing Act 2003 and Gambling Act 2005, and therefore is not a Council committee convened under s101 Local Government Act 1972
2. The Council will appoint a Licensing (non statutory) & General Purposes Committee under section 101 of the Local Government Act 1972 to consider and determine any application or appeal in relation to the licensing or grant of consent or permission where
  - (i) the law or Council policy requires the decision to be taken by elected members.
  - (ii) an officer with delegated powers declines to exercise those powers, having considered representations, or for any other reason.
  - (iii) the licence, consent or permission is contained within the list set out below OR is not otherwise specifically delegated to another part of the Council.

3. The Council may appoint the same elected members (and Chairman) on both the Licensing (statutory) and Licensing (non statutory) & General Purposes Committee. For the purposes of day to day business the Council shall refer to both committees as: Licensing & General Purposes Committee.
4. To adopt policy in relation to the licensing or grant of consent or permission where the law allows the Licensing Committee to determine that policy.
5. Licensing functions include the grant, renewal, refusal, revocation, variation, cancellation, imposition of conditions, (and appeals against any such action) and determination of reviews in relation to the following regulated activities:
  1. Acupuncture, Tattooing, Ear piercing and Electrolysis.
  2. Activities within the remit of the Gambling Act 2005.
  3. Caravan Site.
  4. Activities within the Remit of the Licensing Act 2003.
  5. Dangerous Wild Animals.
  6. Breeding of Dogs.
  7. Rag Flock and other Filling Materials.
  8. Game Licenses.
  9. Guard Dogs.
  10. House to House Collections.
  11. Pet Shops.
  12. Pleasure boats and boatmen.
  13. Regulation of Street Collections.
  14. Street Trading.
  15. Zoos.
  16. Animal Boarding Establishments.
  17. Sunday Trading.
  18. Riding Establishments.
  19. Scrap Metal Dealers.
  20. Sex Establishments.
  21. Poisons, Explosives.
  22. Sports Grounds.
  23. Marriage Premises.
  24. Performing Animals.
  25. Open Air Events under the Isle of Wight Act.
  26. Hackney Carriages and Private Hire Vehicles.
  27. Movement of Animals.

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

4. To undertake the functions set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Order 2000 (generally, those functions which are not to be carried out by the authority's executive (cabinet) save where these functions are carried out by Council or have been delegated to officers.

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

Awards  
School Transport  
Curriculum Complaints  
Adoption and Fostering  
Registration of Homes  
Access to Social Services Files  
Housing Benefit and Council Tax Appeals  
Business Rate Hardship  
Rights of Way Orders  
Highway Orders  
Tree Preservation Orders

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

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

## **Meetings**

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

## **Membership**

The membership of the Committees shall be as follows:

Planning Committee: 12 members

Licensing (statutory) and Licensing (non statutory) & General Purposes Committee: 12 members

All members will be appointed in accordance with the rules on political proportionality.

## **Quorum**

The quorum of Planning Committee will be 6. The quorum of Licensing (Statutory) Licensing (non statutory) & General Purposes Committees will be 5. If the Chairman is absent the meeting will be chaired by the Vice Chairman, if there is no Vice Chairman or they are absent then the meeting will elect one of the members present to chair the meeting.

## **Sub Committees**

The Committees may also appoint a Determinations and Appeals Panel.

Each Panel will have a membership of 3. The quorum for each sub committee shall be 3.

The Panels will carry out all the functions of the Committees which require a decision on a grant, renewal, refusal, revocation, review, variation, cancellation, or imposition of conditions, (and appeals against any such action) and any other appeals within the remit of the Committees.

# **ARTICLE 8 – EMPLOYMENT COMMITTEE**

## **1 CONSTITUTION**

- 1.1 The committee will comprise the leader of the council, the cabinet member with responsibility for human resources, together with four additional members of the council appointed on a politically proportionate basis.
- 1.2 The Chief Executive and Head of Human Resources will attend in an advisory capacity except when their own performance or remuneration is being discussed.
- 1.3 If not attending in his or her own right, the appropriate Cabinet member(s) may attend when the performance or remuneration of the Corporate Director relevant to his or her portfolio is being discussed.
- 1.4 All members will attend relevant training.
- 1.5 The quorum will be three elected members
- 1.6 The committee will meet quarterly but additional meetings will be arranged with the approval of the chairman of the committee, if required.

## **2 TERMS OF REFERENCE**

- 2.1 To arrange for the appointment of the Chief Executive as the Council's Head of Paid Service and to make recommendations to the Council in this respect.
- 2.2 To make recommendations to the Council in respect of the appointment of the Chief Executive, the Monitoring Officer and Section 151 Officer.
- 2.3 To make recommendations to the Council in respect of any actions relating to the conduct of the Chief Executive, Directors, the Monitoring Officer and Section 151 Officer.
- 2.4 To take decisions affecting the remuneration, terms and conditions of service of the Chief Executive.
- 2.5 In consultation with the Chief Executive and relevant Cabinet member(s), take decisions affecting the remuneration and terms and conditions of service of Directors.
- 2.6 To agree annual targets for the Chief Executive against which performance can be measured and subsequently undertake performance appraisals following advice from the leader of the council.
- 2.7 In consultation with the Chief Executive and relevant Cabinet portfolio holder(s), agree annual targets for Directors against which performance can be measured and subsequently undertake performance appraisals.

- 2.8 To be consulted on any proposal to appoint Interim Directors and Heads of Service, including the associated remuneration package, and to carry out regular reviews of the agreed contractual outputs and performance outcomes.
- 2.9 To monitor the Council's performance appraisal scheme and to receive an annual report from the Head of Human Resources as to its effectiveness.
- 2.10 In relation to all Council staff, where the payment would amount to £50,000 or more, to agree redundancy and severance payments and early release of pension benefits, where added years, enhanced payments or any element of discretion is sought.
- 2.11 To comment on policy direction in advance of the preparation or review of any policies in relation to the following:
- 2.11.1 Recruitment, Selection and Appointment
  - 2.11.2 Redundancy and redeployment
  - 2.11.3 Capability and Conduct
  - 2.11.4 Attendance Management
  - 2.11.5 Equality and Diversity
  - 2.11.6 Industrial and employee relations identified by the Head of Human Resources as requiring a specific policy
  - 2.11.7 Other areas of Human Resource policy as required
- 2.12 To advise the Council and Cabinet on the requirements for, and the availability of, human resources necessary for the fulfilment of the Council's policies.
- 2.13 To undertake any other functions relating to employment of human resource matters as directed by the Council or Cabinet.
- 2.14 The committee can establish a sub committee of three members to consider matters relating to grievance and disciplinary appeals on all posts at head of service level or above, other than in respect of relevant fire service personnel who are covered by different terms of employment.
- 2.15 To agree the recruitment to all posts at head of service level or above, except the posts referred to in paragraph 2.2 above. In the event of such agreement being given the committee can establish a politically proportionate sub committee of five members, quorum of three, to make appointments to all such posts. The membership of this sub committee may be taken from outside the membership of the Employment Committee.
- 2.16 The sub committee established for each appointment referred to in paragraph 2.15 above will determine the process to be followed – such processes to be consistent with the law and this constitution.
- 2.17 In the event of a post at head of service level or above being determined as a jointly funded post between the Council and a partner organisation to agree to the recruitment and, where agreement is given, the committee can agree the make up of the sub committee which may include partners from the other organisation.

# ARTICLE 9 – AUDIT COMMITTEE

## Terms of Reference

### Role

1. To provide independent assurance of the adequacy of the risk management framework and the associated control environment including independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment.
2. To oversee the financial reporting process

### Composition

Audit Committee will be an independent committee comprising 5 Council members selected for their interest in and knowledge of audit committee business. Additionally, 2 independent non voting co-opted members may be appointed. Any such appointment should be made on the basis of skill, knowledge, qualification and experience relevant to the role of the committee.

Members nominated by Group Leaders should have a background in accounting or financial control or be able to demonstrate a commitment to and interest in the finances of the Council. Audit Committee members should not be Cabinet Members and ideally also not be members of the Scrutiny Committee.

Quorum will be 3 members.

### Chairman

The chairman shall be appointed on an annual basis by the members of the full Council. In the absence of the chairman at the meeting a chairman for the day shall be elected from the Committee membership (excluding any co-opted member).

## Terms of Reference

### Internal & External Audit Activities

- Approve the annual Internal Audit Plan.
- Consider quarterly reports on the performance of Internal Audit.
- Review summary internal audit reports and the main issues arising including seeking assurance that action has been taken where necessary and to recommend further audit enquiries are added to the audit plan.
- Consider quarterly reports regarding recommendations contained within Internal and External Audit reports which have not been implemented within agreed timescales.
- Consider the Chief Internal Auditor's Annual Report and Opinion and the level of assurance given against the Statement on Internal Control incorporated in the annual accounts.

- Consider the reports of External Audit including the annual letter and related reports, the report to those charged with governance and other specific reports as agreed with the External Auditor.

#### Regulatory Framework

- Consider the effectiveness of the Council's arrangements for risk management and corporate governance.
- Consider the Council's annual value for money self assessment
- Consider the effectiveness of the Council's anti-fraud and corruption strategies and 'whistle-blowing' policy.
- Monitor through quarterly reports progress towards addressing the issues identified within the Statement on Internal Control, and after 2007/08 the Annual Governance Statement.

#### Accounts

- Review and approve the Council's annual accounts.
- Review and approve the Pension Fund annual accounts and its annual report.
- Consider and recommend for adoption the Council's Statement on Internal Control and the Annual Governance Statement.

The Committee can commission and submit reports directly to Cabinet and/or full Council.

# ARTICLE 10 – ISLE OF WIGHT PENSION FUND COMMITTEE

## Membership

7 elected members

1 non-voting employee representative nominated by Unison

1 non-voting representative nominated by Admitted Bodies

Panel to be quorate when 3 elected members are in attendance

## In Attendance

Director of Resources (or his nominated representative)

Leader of the Council can attend as necessary

2 representatives as required from Pension Fund Investment Managers (currently Schroders Investment Management, Majedie Asset Management and Newton Investment Management)

1 representative from Investment Advisors (currently Hymans Robertson)

1 administrative support

1 representative from Actuaries (currently Hymans Robertson) will be invited to attend as required e.g. to consider annual report and after triennial fund valuations

## Terms of Reference

- Annually, to elect a chairman (when full Council has decide not to so appoint)
- To hold an annual meeting of employer representatives
- To periodically review the Funding Strategy Statement and Statement of Investment Principles of the Fund
- To determine strategic investment policy
- To appoint, and regularly monitor performance of fund managers, investment advisors and actuaries
- To periodically review the structure of Investment Management for the Fund and implement new arrangements as appropriate
- To periodically review and set limits for the overall Asset Allocation of the Fund
- To periodically review issues which have an impact on the Fund's long term solvency including those issues over which the administering body has discretion
- To tender and/or re-tender contracts for the provision of all actuarial and investment management services required by the Fund in accordance with the Council's standing order.
- To undertake member training on investment issues

- To consider applications for admitted body status

### Annual Report

The Panel will produce an annual report on the performance of the Investment Fund and this will be circulated to all members and will be formally reported to the Audit Committee.

# *ARTICLE 11 - THE ETHICAL STANDARDS COMMITTEE*

## **1. Ethical Standards Committee**

The Council will establish a Standards Committee called the “Ethical Standards Committee”.

### **Composition**

#### Membership

- 7 independent members appointed by the Council
- 4 Members of the Isle of Wight Council none of whom are members of the Isle of Wight Council’s Cabinet.
- 4 representatives of the Isle of Wight Association of Parish and Town Councils (who must also not be members of the Isle of Wight Council) and one of whom must be in attendance when the Committee is considering matters affecting Town and Parish Councils.

### **Quorum**

The quorum of the Committee will be:

For normal meetings of the Committee:

At least three independent members; and

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

When Considering Requests for Dispensations:

At least two independent members; and

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

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

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

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

Any three Members of the Committee of whom one shall be an independent member one shall be an Isle of Wight Councillor and another a representative of the Isle of Wight Association of Parish and Town Councils.

The Committee shall appoint a Chairman and Vice-Chairman on an annual basis from amongst its independent members.

### **Sub Committees**

The Committee can appoint whatever Sub Committees it deems appropriate.

### **Terms of Reference**

1. To promote and maintain high standards of conduct by the members and co-opted members of the Isle of Wight Council and the Town and Parish Councils on the Isle of Wight.
2. To assist members and co-opted members of the Councils on the Isle of Wight to observe the relevant Council's code of conduct.
3. Specifically the Committee will:
  - Advise the various Councils on the adoption or revision of a code of conduct and monitor the operation of the code of conduct
  - Advise, train or arrange to train members and co-opted members of the Councils on matters relating to the code of conduct.
  - Make an initial assessment on all complaints against elected members that are received
  - Consider any reports by the Monitoring Officer following an investigation into a complaint
  - Where appropriate (and subject to the regulations and detailed guidance from the Standards Board for England) to determine whether a complaint against an elected member should be upheld and if so to decide a suitable sanction
4. To consider any other matters that are referred to the Committee by either:
  - The Standards Board for England
  - The Isle of Wight Council
  - Any of the Parish and Town Councils on the Isle of Wight
5. To consider and determine any requests for dispensations to speak and/or vote on any matters in which the member has an interest.

6. To consider any requests that a particular post should not be classified as politically sensitive.
7. To enquire of its own instigation into any matter touching or concerning the ethics and standards of the Council.
8. To submit an annual report on the activities over the last year, to the Council.
9. The Chairman of the Ethical Standards Committee may report to Full Council, at his initiative, on any ethical/probity issues that he believes ought to be drawn to the attention of the Council.

# **ARTICLE 12 – ISLE OF WIGHT HEALTH AND WELLBEING BOARD**

## Isle of Wight Health and Wellbeing Board – Terms of Reference

### What is health and wellbeing?

The World Health Organisation defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. Health and wellbeing therefore encompasses health services, adult social care, children’s services, and the wider local authority agenda including community safety, education and housing. In seeking to optimise the health and wellbeing of Island residents within the resources available it will be necessary to bring partner organisations together around this common aim, addressing inequalities and responding to the needs of the most vulnerable.

### Purpose of the Health and Wellbeing Board – The Local Aspiration

On the Isle of Wight, the Council, NHS including the Primary Care Trust, Provider Services and shadow GP led Clinical Commissioning Group want to ensure that the work of the board is primarily focussed on ensuring the delivery of health and wellbeing to benefit the island community as well as complying with the law.

It will be a forum which takes an overview of the island population’s health and wellbeing, make plans to improve it and ensure delivery.

The Health and Wellbeing Board provides the platform from which organisations with both duties towards health and wellbeing and the views of patients and service users can align these with the health and wellbeing needs of the population. By ensuring that discussions involve these organisations with appropriate knowledge and experience, informed and considered decisions can be made by the board. These decisions will be more robust and more likely to lead to successful outcomes as all the necessary parties will have ownership of board decisions.

It is also recognised that the Board is being established within the context of wide ranging public service reform and therefore one of its additional functions will be to ensure that during a period of significant change, there is no reduction in either focus or capacity to continue to deliver and improve health and wellbeing on the Island

The Health and Wellbeing Board will work closely with the Economy and Environment Forum which will operate similarly but with a more discrete focus on the “place” aspects of life on the Island

The Health and Wellbeing Board will be constituted as a formal committee of the Isle of Wight Council thereby ensuring that there is a formal local democratic accountability for its functions and that members and officers of the council are thereby authorised within agreed parameters to make decisions on behalf of the Council. Other partners to the Board may need to make similar arrangements to enable their representatives to function appropriately as board members.

## Purpose of the Health and Wellbeing Board – Legal Purpose

The Department of Health White Paper 'Equity and Excellence: Liberating the NHS' sets out new duties for local authorities to take on the function of joining up the commissioning of local NHS services, social care and health improvement. At the time of drafting this constitution the White Paper has not yet been converted into statute as the Health and Social Care Bill is still to complete its progress through Parliament.

The White Paper provides that Health and Wellbeing boards will allow the local authority to take a strategic approach and promote integrations across all these areas by:

- Promoting integration and partnership working between the NHS, social care, public health and other local services and strategies;
- Leading joint strategic needs assessments, promoting collaboration on local commissioning plans, including supporting joint commissioning arrangements;
- Building partnerships for service changes and priorities.

All parties present on the board will be under a duty of partnership.

The NHS Future Forum made recommendations to Government in June 2011. Government accepted all of their core recommendations and therefore it is now proposed that in addition to the provisions set out above, Health and Wellbeing Boards will have a stronger role in driving a genuinely collaborative approach to commissioning across health and social care, and will also have the following responsibilities:

- Agreeing the priorities for health and care for their community.
- Through the joint health and wellbeing strategy, to set and monitor outcome goals.
- To be the focal point for decision making about health and wellbeing, bringing together NHS and local authority commissioners with patient representatives.
- To be the vehicle for 'lead commissioning' for particular services.
- To have a role in identifying any actual or potential conflicts of interest in respect of commissioning consortia decisions.
- To involve the local HealthWatch organisation (when established), patients and the public when developing the joint strategic needs assessment and the joint health and wellbeing strategy.
- To have a formal role in authorising clinical commissioning groups and in their annual assessment.

Clinical Commissioning Groups will be required to co-operate with the Board and also involve the Board as they develop their commissioning plans. The Board will have a right to refer these plans back to the Clinical Commissioning Group or the NHS Commissioning Board for further consideration.

## **The annual cycle of the Health and Wellbeing Board**

In addition to the responsibilities set out above, as a commissioning body the Health and Wellbeing Board will undertake the functions of:

- Assessing need;
- Prioritising need;
- Determining how to respond to those needs and identifying the resources to do that; and
- Monitoring and review.

The Joint Strategic Needs Assessment is the key tool the Board will use to identify its priorities. This Assessment is a three year rolling strategy which will be refreshed annually. At this stage new data sources may be brought into consideration, or there may be a drilling down of specific issues in order to provide a wider understanding of those issues.

The Health and Wellbeing Strategy will be updated annually following the refresh of the Joint Strategic Needs Assessment and will be subject to a public consultation. The Strategy will set out the priorities for the Board and identify the resources for dealing with them, including details such as the budgets agreed, reporting mechanisms and timescales for each priority. Resources may either be identified by partner organisations as remaining within their organisation but allocated for the purpose of delivering the Health and Wellbeing Strategy or may be brought forward by partners and “pooled” under the auspices of the Board

Meetings of the Health and Wellbeing Board will take place four times a year around the time of March, May, September and December for the following specific purposes:

March – to confirm that all partners have made provision to address their agreed Health and Wellbeing Strategy priorities; to agree the Health and Wellbeing Strategy Annual Delivery Plan; and every three years to sign off the draft Health and Wellbeing Strategy for public consultation.

May –to sign off the Annual Delivery Plans for the Strategic Partnerships; and every three years to receive feedback on the Health and Wellbeing Strategy public consultation.

September – to receive an annual report which will contain a review of the previous year, updated messages from the Joint Strategic Needs Assessment, outline the priorities going forward, and include annual reports from the Strategic Partnerships; and every three years to present the Joint Strategic Needs Assessment.

December – to review mid year performance on the Annual Delivery Plan.

Reports from the Strategic Partnerships will be taken to each meeting of the Board.

In addition to identifying and delivering a strategic change programme the Health and Wellbeing Board will agree a set of ‘vital signs.’ These are measures that provide a high level overview of the Island’s health and wellbeing and signal a cause for concern should they vary outside of agreed tolerance levels. Such measures might include emergency admissions to hospital, levels of homelessness or assaults. The data for these measures

will be collated and provided by the Isle of Wight Council's Business Effectiveness Unit in consultation with appropriate partner organisations and departments. The intelligence from these 'vital signs' will provide an early indication of changes occurring or potential emerging issues which may need to be responded to, and will also inform decisions on the Board's priorities and the work of the standing sub-groups and specific working groups.

Meetings may take place outside these times, with the permission of the Chairman.

## Structure

### Membership and Quorum

The membership of the Health and Wellbeing Board will be as follows:

- Leader of the Isle of Wight Council, who will also be the Chairman.
- Isle of Wight Council Cabinet Members with responsibility for Children, Adults and Public Health.
- Chief Executive of the Isle of Wight Council
- Isle of Wight Council Directors of Childrens Services, Adult Services and Public Health.
- Two representatives from the Clinical Commissioning Group (CCG) Executive.
- Executive Director supporting the CCG.
- Chief Executive Representative of the SHIP PCT cluster, subsequently to be Representative from the National Health Commissioning Board (when established).
- Representative of Hampshire and Isle of Wight Police
- Representative of the LINK, subsequently to be representative of the Local HealthWatch
- Representative of the NHS IoW Patients Council, until such time as the Local HealthWatch is established.

Membership of the Board will alter as the Health and Social Care Bill is implemented, new NHS bodies established and PCT's disestablished. Membership may also alter from time to time as the Isle of Wight Council deems appropriate following consultation with other Board members, and in order to comply with statutory changes.

Should a vote be required on any issue then the following will all have one vote:

- Isle of Wight Council
- the GP led Clinical Commissioning Group,
- the SHIP PCT Cluster/National Health Commissioning Board; and
- Hampshire and Isle of Wight Police

The patient organisations represented have currently indicated that they do not wish to take up an entitlement to vote. However, all members of the Board will be full contributors and encouraged to play a full and active part in discussions.

Each party will be accountable to the Board for their obligations in delivering the priorities agreed by the Board.

Representatives from other key partners will be invited to attend the Board where there is a specific agenda item which includes their engagement.

The quorum shall be one representative from each voting organisation.

### Meetings

Meetings of the Board will be open to the public and press. The agenda and papers for meetings of the Board will be published in line with the appropriate statutory timescales and there will be an opportunity for members of the public to submit written questions. Such questions must be received at least 48 hours prior to the meeting and must relate to the business of the Board as set out in this constitution. The total time set aside for public questions and answers will be limited to 15 minutes.

### Executive Group

An executive group comprising officer/executive representatives from all the commissioning organisations will be established. This executive group will have the responsibility for ensuring that the Health & Wellbeing Board is appropriately advised and administered and its decisions implemented within their respective organisations. The executive group will be chaired by the Isle of Wight Council's Chief Executive.

Additional delivery focussed organisations may be invited to join the Executive Group to assist its work

### Sub Groups

The Board will be supported by five standing sub groups. These are Strategic Partnerships which will focus on:

- Healthy Lifestyles – seeking to influence individuals' behaviour away from those aspects that are damaging to their health and provide opportunities for those who experience the poorest health outcomes to achieve improvements that narrow the gap between them and those who enjoy the best health outcomes
- Community Safety – focussing on those factors that reduce crime and the fear of crime within the community
- Living with long term health conditions – focusing on people who are the most affected by preventable and/or long term health conditions and supporting them to achieve a better quality of life
- Children and Young People – ensuring all children on the Island have the best opportunities to reach their potential while those who are most vulnerable are protected and supported.
- Access to Health Treatments – ensuring that all residents and visitors to the Island have access to the most timely and high quality health services that can be delivered within the resources available.

The sub groups will agree their programmes of work, monitor progress and review performance in their respective areas. They will also take forward the delivery of their work programme working on a joint commissioning model.

The sub groups will be led by a senior officer from the most appropriate organisation. Members of the sub groups will comprise an appropriate mix of commissioners, providers and community representatives to be determined as appropriate.

The Board may also establish specific working groups. The groups will be set up from time to time as agreed by the board. These groups will be time limited, have clear terms of reference, and may include those who are not members of the board. These working groups will not hold their meetings in public.

### Wider Community Engagement

The LINK, and subsequently HealthWatch, will be responsible for ensuring that the voice of the whole community is engaged in shaping the health and wellbeing priorities for the Isle of Wight and monitoring their delivery. It is the ambition of the partners to the Health and Wellbeing Board that HealthWatch becomes an effective vehicle both for ensuring that the voice of the general population is heard and also those groups who may be more vulnerable to decisions that are made and less able to represent their views. HealthWatch is seen as being a key vehicle in supporting the partners to the Board in discharging their responsibilities under legislation covering consultation, engagement, equalities and involvement.

The Isle of Wight Council representatives on the board will provide a link to the Isle of Wight Council Committee with responsibility for health overview and scrutiny.

### Review of Terms of Reference

These terms of Reference will be reviewed annually from the date of adoption.

Administrative adjustments may be made in year by the Chairman as appropriate.

## ARTICLE 13 - OFFICERS

### 1. Chief Officer Appointments

Chief officer appointments will be made in accordance with the Terms of Reference of the Employment Committee (see Article 8 above)

### 2. Management Structure

(a) **General.** The Head of Paid Service has the responsibility of determining the structure for delivering Council functions and policies within available resources.

(b) **Head of Paid Service and Directors.** The current structure is shown below.

Chief Executive (who shall also be the Head of Paid Service)

Strategic Director of Community Wellbeing and Social Care

Strategic Director of Economy & Environment

Strategic Director of Resources

Deputy Director of Resources (Corporate Governance)

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

Post	Designation
Chief Executive	Head of Paid Service
Deputy Director of Resources (Corporate Governance)	Monitoring Officer and Proper Officer
Strategic Director of Resources	Chief Financial Officer
Strategic Director of Community Wellbeing and Social Care	Director of Children's Services (Section 18 Children Act 2004) and Director of Social Services (Section 6 Local Authority Social Services Act 1970)

Such posts will have the functions described below.

The above designations can be changed (on a temporary or permanent basis) but only on the decision of Full Council.

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

## Functions of the Head of Paid Service

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

Where necessary the Chief Executive will report to Full Council on these matters.

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

## Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Ensuring that all reports that are submitted to members** for consideration meet the required quality of accuracy and assessment of the issues to be considered.
- (d) **Supporting the Ethical Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Ethical Standards Committee.
- (e) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (f) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by ethical standards officers and make reports or recommendations in respect of them to the Ethical Standards Committee.
- (g) **Access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (h) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (i) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (j) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.
- (k) **Proper Officer.** The functions referred to throughout this Constitution in relation to the Council's Decision-Making Process.

The Monitoring Officer Protocol attached to this Constitution sets out the statutory base of this position.

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

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Financial Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Ensuring that all reports that are submitted to members** for consideration meet the required quality of accuracy and assessment of the issues to be considered.
- (c) **Administration of financial affairs.** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council including the provision of an internal audit function.
- (d) **Contributing to corporate management.** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (e) **Providing advice.** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and the elected mayor and will support and advise Councillors and officers in their respective roles.
- (f) **Give financial information.** The Chief Financial Officer will provide financial information to the media, members of the public and the community.
- (g) **Financial Management.** The Chief Financial Officer will monitor the Council's financial performance on a continuous basis, and will advise the Council of the robustness of its budgets and the adequacy of its reserves.

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

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

## **ARTICLE 14 - DECISION MAKING**

### **Responsibility for decision making**

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

### **Principles of decision making**

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

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

All decisions must be taken in accordance with the Protocol On the Decision Making Process as detailed on page 173 of this Constitution.

## **ARTICLE 15 - FINANCE, CONTRACTS AND LEGAL MATTERS**

### **1. Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in this Constitution.

### **2. Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules as set out in this Constitution.

### **3. Legal Proceedings**

The Deputy Director of Resources (Corporate Governance) is authorised to institute, settle, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he or she considers that such action is necessary to protect the Council's interests.

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

### **4. Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Deputy Director of Resources (Corporate Governance) or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

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

The Common Seal of the Council will be kept in a safe place in the custody of the Deputy Director of Resources (Corporate Governance). 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 Deputy Director of Resources (Corporate Governance) should be sealed. The affixing of the Common Seal will be attested by the Deputy Director of Resources (Corporate Governance) or some other person authorised by him/her.

## **ARTICLE 16 - REVIEW AND REVISION OF THE CONSTITUTION**

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

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

In undertaking this task the Monitoring Officer may:

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

### **Changes to the Constitution**

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

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

# ARTICLE 17 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

## 1. Suspension of the Constitution

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

## 2. Interpretation

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

## 3. Publication

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

## *SCHEDULE : DESCRIPTION OF EXECUTIVE ARRANGEMENTS*

The following parts of this Constitution constitute the Executive arrangements:

1. Article 5 (Overview and Scrutiny Committee) and the Overview and Scrutiny Committee Procedure Rules
2. Article 6 (The Cabinet) and the Cabinet Procedure Rules
3. Article 7 Regulatory Committee and Sub Committees
4. Article 8 Employment Committee
5. Article 9 Audit Committee
6. Article 13 and the Access to Information and Procedure Rules

## *RESPONSIBILITY FOR FUNCTIONS*

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

### To Recommend to the Council

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

### To Determine

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

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

## *DELEGATION OF FUNCTIONS*

The decision making arenas for Council business are:

1. Full Council, which decides the Council's overall policies, sets the level of Council Tax, the revenue budget and capital budget each year.
2. Cabinet, which is responsible for most day to day decision. Cabinet functions can be carried out by the Cabinet meeting, Cabinet Members acting under delegated powers or officers acting under delegated powers.

Cabinet meetings should only take decisions that are significantly controversial or which are of strategic importance. The vast majority of decisions will be taken under delegated powers.

Officers should consider using their delegated powers for decisions that fall outside the definition above, however they should refer to the relevant Cabinet Member any decision that is controversial or which would benefit from higher visibility by being taken either by the Cabinet Member under their delegated powers or by the Cabinet itself.

Any decision that is likely to be contentious should be discussed with the Cabinet Member before the decision is made so that the appropriate decision making process can be agreed.

An officer may take an Officer Decision (see Officers scheme of Delegation), subject to the limitations referred to in the scheme.

All decisions must be taken in accordance with the "Decision Making Rules" as set out on page 173 of the constitution.

3. The Council will also establish Committees – to deal with the regulatory side of non-executive functions. These are:

Planning Committee  
Licensing & General Purposes Committee  
(See Article 7 for details of these committees)

In relation to planning, see also the Planning Committee Rules at page 125 and the Code of Practice relating to planning at page 201.

In relation to Licensing & General Purposes, see the Licensing & General Purposes Committee Rules at page 127 and the Code of Practice relating to licensing at page 194.

Many of the decisions that relate to Planning and Licensing can be dealt with by officers under the officer delegation scheme.

4. The functions described in paragraphs 1 and 3 above are described as “non Executive Functions” and those in paragraph 2 are “Executive Functions”. Only the Cabinet can determine Executive Functions.

### **DELEGATED FUNCTIONS**

The Council has agreed that the Leader of the Council may determine the delegation of executive functions to be discharged by Cabinet Members and Officers of the Council.

The Full Council will agree the scheme of delegation (in as far as they relate to non-Executive Functions) whilst the Regulatory Committees will agree any delegation of their functions to the officers.

### **DELEGATION OF EXECUTIVE FUNCTIONS - CABINET AND CABINET MEMBERS**

1. Cabinet
  - 1.1 To collectively take decisions (within the budget and policy framework set by Full Council) which relate to executive functions and which:
    - Have a genuine strategic Island or Council-wide effect, or
    - Affect several areas of Cabinet responsibility, or
    - Are exceptionally controversial, or
    - Form greater public exposure than a delegated decision is likely to receive, or
    - Where there is no individual member of officer available (or willing) to exercise delegated authority.
2. Leader
  - 2.1 The Leader retains authority to determine (within the budget and policy framework set by Full Council) all matters relating to executive functions delegated to the Cabinet, to Cabinet members or to officers, where there is no individual available (or willing) to exercise their delegated power.
  - 2.2 The Leader of the Council also has authority to determine:
    - The size of the Cabinet
    - The appointment of Cabinet Members
    - The allocation of portfolios and responsibility to Cabinet Members
    - A scheme of delegations of executive functions to Cabinet Members
    - A scheme of delegations of executive functions to officers

### 3. Delegation to Cabinet Members

Cabinet members have delegated power to take decisions which are either:

- Strategically significant for a service area relevant to their responsibility, or
- Likely to be particularly controversial, or
- Would otherwise benefit from the public exposure which a member decision receives.

### 4. Cabinet Member Responsibilities

The Leader shall, from time to time, amend the various portfolios of Cabinet members and shall maintain a list of all the functions that are contained within those portfolios. This list is available from the Corporate Governance Manager and is available from this web site :-

[www.iwight.com/council/cabinet](http://www.iwight.com/council/cabinet)

By their nature, the portfolios of responsibility cut across the various functions of the Council and therefore in cases of uncertainty as to which Cabinet Member is responsible, the Leader of the Council shall determine the appropriate Cabinet Member.

## **DELEGATED DECISION MAKING**

Cabinet Members - The Leader will maintain and publish a list of Cabinet Members, titles, portfolios and responsibility and delegation.

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

Cabinet Members cannot make a decision which is

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

or

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

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

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

When the Cabinet or a Cabinet Member is making a decision the Decision Making Rules as set out on page 173 must be followed.

## **OFFICER SCHEME OF DELEGATION**

### **INTRODUCTION**

#### **1. WHAT IS THE OFFICER SCHEME OF DELEGATION?**

- 1.1 Certain types of decision must by law be delegated to an officer rather than being determined by Members. These include the appointment and dismissal of officers below Deputy Chief Officer level, discharge of the duties of the Returning Officer in elections and the Proper Officer functions. Other Council functions must by law be determined by members, for example, setting the Council Tax and adopting the plans or strategies constituting the Council's Policy Framework. For the great majority of local authority functions, it is a matter of local choice for the Council whether they are exercised by Members or delegated to officers.
- 1.2 The Council's constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that the Council operates in an efficient, transparent and accountable manner.
- 1.3 The Constitution describes the overall areas of responsibility for Members of the Cabinet and for Committees and Sub-Committees. However, to ensure that the Council runs efficiently, it is necessary for some decisions to be taken by officers. The Officer Delegation sets out which officers are empowered to undertake which decisions or actions on behalf of the Council.
- 1.4 The exclusions from the delegations to officers (i.e. the matters that are reserved for Members' decision) are set out in section 2 below and must be referred to Full Council or Cabinet.

#### **2. GENERAL LIMITATIONS**

- 2.1 This Scheme does not delegate to officers
  - (a) Any matter reserved to full Council unless explicitly delegated by Council
  - (b) Appointment of the Chief Executive and posts above Deputy Chief Officer level. The appointment (on a recommendation from the Employment Committee) of the Chief Executive is a matter for the Council, all other Chief Officer appointments are delegated to the Employment Committee.
  - (c) Any matter which by law may not be delegated to an officer.
  - (d) Any matter expressly reserved to the Cabinet within its Terms of Reference or otherwise, by Standing Orders or Financial Regulations or withdrawn from delegation by this Scheme or by the Cabinet or full Council
  - (e) The making of an order for the compulsory acquisition of land

- (f) The acquisition of land in advance of requirements
- (g) The adoption, amendment or delegation of any strategic plan or policy as set out in the Terms of Reference of the full Council, the Cabinet or any Committee, Sub-Committee or Panel of the Council.

2.2 Officers shall not be authorised by virtue of these provisions

- (a) To incur any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with Financial Regulations
- (b) To take a decision in contravention of any existing Council policy.

### 3. **GENERAL PRINCIPLES/COMMON OFFICER DELEGATIONS**

3.1 The Officer Delegation Scheme confers on Directors and Heads of Service extensive powers to carry out the Council's functions, both Executive and non-Executive. The designation "Director" throughout this Scheme will include the Chief Executive.

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

3.3 Powers shall be exercised in accordance with the law, the Council's Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and any policies relevant to the functions delegated.

3.4 The fact that a function is delegated to a Director or Head of Service under this Scheme does not restrict an officer referring any decision to the Cabinet and Member or relevant Committee should he/she consider that the decision is controversial or of strategic importance the Cabinet or a Cabinet Member (for Executive functions) or the Council or a Committee (for non-Executive functions) from exercising the function in question.

"Function" is to be construed broadly and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

3.5 A Director or Head of Service is not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers, either generally or specifically, on his/her behalf. A Director must maintain a list of all such authorisations, as part of a comprehensive Directorate Scheme of Delegation.

3.6 The Leader or the relevant Cabinet Member (ie the Cabinet holder for that function) may direct that a delegated power should not be exercised by the Director or Head of Service but should be referred to Cabinet or the

appropriate Committee unless otherwise agreed. Such direction should be exercised in consultation with the relevant Director.

- 3.7 A Director or Head of Service may refer any matter to Full Council, the Cabinet, the appropriate Committee of the Council or the Cabinet Member for decision at their discretion.
- 3.8 Directors and Heads of Service have responsibility to report to Council, Cabinet, the appropriate Committee or Committee Chair or appropriate Ward Members matters that are of a political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.
- 3.9 Any delegation to a Cabinet Member may be exercised on his/her behalf by a Director or Head of Service authorised in writing by him/her either generally or specifically.
- 3.10 Directors, Heads of Service and officers authorised to exercise delegated powers are required to keep members properly informed of activity arising within the scope of these delegations and to ensure a proper record of such activity is kept and available to Members and the Public in accordance with the legislation.
- 3.11 If the post holder or office of any employee of the Council is vacant, or the employee is absent or otherwise unable to act, the most suitable senior officer available is hereby authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing by the Director with responsibility for the post or officer, or in the event of a Director, another Director.

#### **4. SPECIFIC OFFICER DELEGATIONS**

##### **4.1 CHIEF EXECUTIVE**

4.2 Where necessary in consultation with the Monitoring Officer, Chief Finance Officer, Political Groups, Leader of the Council and/or relevant Cabinet Member(s) to authorise urgent action between Cabinet meetings and ensure that the decision be made available to the Chair of the Overview and Scrutiny Committee or Chair of the relevant Scrutiny Panel.

4.3 To ensure strategically lead improvements in the quality and efficiency of service delivery and to devise and maintain systems to deliver good governance, including performance management, risk management and ethics/probity structures.

4.4 To determine the management structure and the deployment of staff.

4.5 Responsibility for ensuring:

- (i) that human resource management complies with current Council policy and standards
  - (ii) propriety and observance of Codes of Conduct for all Council staff
  - (iii) compliance with and observance of all established Council policies
- 4.6 To make arrangements for the Council to be represented on partnership and external bodies as required by statute or the Council.
- 4.7 To have all the powers of any other officer of the Council in the event of their absence or inability to act, except in so far as the exercise of such powers is by law limited to a specific post holder.
- 4.8 To act as Returning Officer for Local Elections and as Acting Returning Officer for Parliamentary Elections.
- 4.9 To agree fees and charges for election staff as recommended by the Joint Working Party of Chief Executives and District Secretaries throughout Hampshire and the Isle of Wight.
- 4.10 To be the Electoral Registration Officer for the Isle of Wight and the Electoral Registration Officer is permitted to appoint Deputies to act on all matters relating to Electoral Registration as considered appropriate.

**Directors and their Direct Reports are authorised within their areas of responsibility and subject to the following conditions:**

1. Directors are empowered to make such decisions and initiate such actions as they deem necessary in the interests of efficient delivery and improvement of services within their area of responsibility set out in the table at pages 76-82, which is revised from time to time to reflect the latest position.
2. To make minor amendments to the structure of their Department subject to consultation with the relevant Cabinet member.
3. With the exception of officers at JNC (Chief Officer) level, to make appointments to a post on the budgeted establishment and take such decision in relation to Human Resources as are appropriate for the proper management of the Directorate within the approved structure.
4. To implement the Council's Human Resources policies as shall apply at any time.
5. To authorise officers to carry out the Council's functions under all legislation, regulations, orders and statutory Codes of Practice, to include entry of premises, inspections and signing and service of Notices in relation to the Council's enforcement functions.
6. In an emergency, to take such action as is necessary within the law to protect life, health, and safety, the economic social or environmental well being of the Island, and to preserve Property belonging to the Council or others.

7. To enter into contracts, review their operation, establish and maintain approved lists of contractors of suppliers and the appointment of consultants, subject to The Financial Regulations, The Procurement Rules, Contract Standing Orders and budgetary provision.
8. To Authorise legal proceedings in respect of offences under Acts, regulations, bylaws or orders within the remit of the Service area, and with the approval of the Deputy Director of Resources (Corporate Governance).
9. When taking or considering taking delegated decisions all officers must have regard to the following:
  - Does the decision involve significant expenditure to the service budget, or wider Council budget?
  - Does the decision affect the reputation of the service and/or Council?
  - Is the decision significant with regard to one or more wards?
  - Does the decision carry a significant risk to the service or wider Council?
  - Does the decision impact reputationally or financially on service users, partner organisations or committees outside the Council?

Officers must consider the above and, depending upon the level of significance, prepare an officer decision using the pro forma, to be signed off by the relevant Cabinet member. If the matter is considered to be of high significance then the officer should consider whether to consult Ward Member(s) or whether in fact a Cabinet Member or Cabinet report should be prepared instead and the matter entered on the Forward Plan.

Day to day routine management decisions do not need to be subject to formally recorded decision procedures.

**RESPONSIBILITIES OF OFFICERS** - To include the following but not limited to these

Director	Direct Reports	Responsibilities
CHIEF EXECUTIVE AND HEAD OF PAID SERVICE		<p>Principal leadership and management of the Council and the following detailed services.</p> <p>Provision of communications and publications support to all services across the authority (graphic design, marketing, internal communications, media relations, PR, publications, consultation, and print services), and strategic communications support to directors, cabinet and other members carrying out their Council duties.</p> <p>Provision of appropriate performance monitoring and management arrangements.</p> <p>Link point for relationship with key partners.</p> <p>Support service for the Chairman to the Council and the Lord Lieutenant</p> <p>Provision of the Authority's responsibilities with regard to school admissions and the Schools' Forum</p>
	Head of Schools' Infrastructure	<p>Management of the school reorganisation programme and the schools' capital programme</p> <p>Responsible for school organisation, the provision of school places and assets, quality assurance and information, resource including financial oversight and procurement of works</p>
	Head of Learning and Achievement	<p>To provide high standards of achievement in all learning schools and settings 0-19 for all children and young people.</p> <p>To raise standards of leadership in all schools and settings 0-19.</p> <p>To encourage continuity, coherence and progression for learning for 0-19.</p> <p>To provide support to schools and settings experiencing difficulties.</p> <p>To monitor and challenge to ensure the improved outcomes across the five Every Child Matters agenda.</p> <p>To lead the Authority's intervention process when a school or setting is a</p>

Director	Direct Reports	Responsibilities
		<p>cause of concern.</p> <p>The use of the powers of intervention under the 2006 Education and Inspections Act, Workforce Development, Community and family learning and the carnival learning centre.</p> <p>To provide a range of services to individual children and young people with learning difficulties and disabilities supporting schools and setting to meet their needs and improve their well being and opportunities for future independent living.</p>
<p>STRATEGIC DIRECTOR OF COMMUNITY WELLBEING AND SOCIAL CARE</p>		<p>Strategic direction, leadership and policy implementation in the areas of housing and community development, community safety, adult social care, children's services, safeguarding and learning and achievement.</p>
	<p>Head of Commissioning for Community Wellbeing</p>	<p>Homelessness and Housing Options Services, Housing Research and the delivery of all forms of affordable housing, private sector renewal, disabled facilities grants, decent homes, empty properties, HMOs and Supporting People.</p> <p>Relationships with the voluntary and community sector.</p> <p>Cultural and heritage based activities (including libraries, archives, archaeology, museums and the arts).</p> <p>Implementing Crime and Disorder Strategy in co-operation with internal and external partners.</p> <p>Securing front line community safety services (e.g. CCTV):</p> <p>Supporting the community safety partnership on day-to-day basis.</p>
	<p>Head of Commissioning Adult Social Care</p>	<p>Commissioning of community care services and some PCT services (incl first, second and third tier staff management, procurement, strategic development, Section 31/75 management); service delivery of LA provided community care services (incl Resource centres, domiciliary services, mobile warden and 24/7 duty service); business and performance management (incl, data owner of Swift system, data collection and</p>

Director	Direct Reports	Responsibilities
		performance reporting).
	Deputy Director: Safeguarding	<p>Promote and develop the safeguarding agenda across all services for children and young people.</p> <p>Responsible for all services for looked after children, referral and assessment services and parenting and family support services.</p> <p>Develop services for young children (0-7) and their families and to increase the opportunities for further participation of children and young people.</p> <p>Maintain a Children's Centre Service to ensure full access to the core offer services to improve outcomes especially for our most vulnerable children and their families.</p> <p>Develop and maintain integrated services to ensure the needs of children and young people are identified early and services provided around individual needs to prevent issues escalating.</p> <p>Ensure provision of targeted information, advice and guidance to young people who are at greater risk through substance misuse, teenage pregnancy, youth offending, disengaging from learning and training and exclusions.</p>
STRATEGIC DIRECTOR OF ECONOMY AND ENVIRONMENT		<p>Strategic direction, leadership and policy implementation in the areas of economy and tourism, fire and rescue, highways and public realm, planning and regulatory services, procurement, roads PFI and strategic asset management.</p> <p>Provision of a Bereavement and Cemetery Services function consistent with relevant statutory requirements.</p>

Director	Direct Reports	Responsibilities
	Deputy Director: Economy & Tourism	<p>The strategic support for the tourist industry (including research, information services, quality development, marketing campaigns and product/experience development). Tourist Information Centres.</p> <p>Regeneration strategy and projects, economic development and inward investment, tourism strategy and destination management, renewables.</p> <p>The leadership and management of:</p> <p>All Council supported; leisure and recreational activities and facilities (including leisure centres and sports development).</p> <p>Procurement, waste management, street cleansing and public conveniences parks, beaches and countryside, coastal management and car parking,.</p>
	Chief Fire Officer	<p>Executive, operational and administrative head of the Fire and Rescue Service. Responsible to the Fire Authority for discharge of requirements under the Fire and Rescue Services Act, National Framework and obligations in regard to Emergency Planning preparedness.</p> <p>Road Safety</p>
	PFI Programme Director	<p>Oversight of the procurement process for securing the Highways PFI contract and preparation for implementation of the scheme</p>
	Strategic Manager Highways	<p>Highway and Bridge Maintenance, Transport (Fleet Management and Floating Bridge), Traffic Management, Rights of Way, Street Lighting, Transport Policy, and Highway Design.</p>
	Head of Planning and Regulatory Services	<p>Regulatory Services, Dog Wardens, Building Control, processing of application and submissions for planning permission/other approvals, management of development control process, trees, hedgerows, enforcement to include service of relevant notices, Planning Policy including preparation of development plans.</p> <p>Code of Practice for Development Control matters.</p>

Director	Direct Reports	Responsibilities
		Provision of a comprehensive and integrated Environmental Health and Trading Standards Service including Food Safety and Standards, Health and Safety, Environmental Protection, Licensing and Animal health and Welfare.
	Strategic Manager Assets	Support to Members, Cabinet Member, Cabinet, and Committees. Property and Asset Management, Power to buy and sell land, enter into or grant leases and licences and make applications in order to develop property, Code of Practice Property Transactions.
STRATEGIC DIRECTOR OF RESOURCES		S.151 OFFICER*. To make arrangements for the proper administration of the financial affairs, in collaboration with the Monitoring Officer to ensure good and improving governance arrangements. To operate funds, provisions and reserves, Pension Fund investment. Approval of the Council tax base for each financial year. Strategic direction, leadership and policy implementation in the areas of financial management, business effectiveness, exchequer and resident services and ICT.
	Head of Financial Management	All aspects of financial management including accounting, budget preparation, financial monitoring, resource allocation, financial advice and the provision of up-to-date financial information; ensuring the Council and its key partners comply with appropriate standards of financial governance, particularly the accurate completion and submission of statutory and other returns and grant claims; treasury management functions; value for money and efficiency to ensure resources are directed towards key priorities and delivering improved services for the local community, systems development, support and maintenance of key financial management systems. Support to Service Directorates, Directors and members in developing and managing the Council's Capital Programme, Support to the Council's

Director	Direct Reports	Responsibilities
		<p>Financial Systems, Support to Investment Panel and Director of Resources for Pensions Investment, Treasury Management and senior lead on Value for Money.</p> <p>Provision of an internal audit, risk management and insurance service across the Council.</p>
	<p>Head of Exchequer and Resident Services</p>	<p>Payroll Services, Payment of Supplier Invoices, Billing &amp; Collection of Sundry Income, Receipt &amp; Allocation of Income, Pensions Administration, Collection of Council Tax &amp; Business Rates, Assessment of Council Tax &amp; Housing Benefits, Detection of Fraud in Council Tax &amp; Housing Benefits, and Taxation Management. Senior lead on VAT.</p> <p>Providing customers with services in help centres, and the contact centre.</p> <p>Management of corporate Post Room and building security for County Hall and all Help Centres.</p> <p>Resolving complaints and learning from customer feedback, dealing with MP and Ombudsman matters. Delivery of the Customer Access Strategy.</p>
	<p>Head of ICT</p>	<p>Provision of ICT Support Services (including 1st line and 2nd line support, Infrastructure, Change, Configuration and Release Management and ICT Procurement), Software Development (including websites), Service Delivery (including Application support, training and capacity management), Strategic Development and ICT Security.</p>
<p>DEPUTY DIRECTOR OF RESOURCES (CORPORATE GOVERNANCE) AND MONITORING OFFICER</p>		<p>Monitoring officer* (see Monitoring Officer Protocol) including support to the Ethical Standards Committee</p> <p>Registrar of Births Deaths and Marriages service</p> <p>To authorise, as an approved duty, attendance of members at appropriate conferences, seminars, visits, etc, both in this country and abroad.</p> <p>In conjunction with the Chief Executive to maintain a system of record keeping for all the Council's decisions.</p> <p>To amend the Constitution to reflect decisions taken at Full Council, changes in the law, to correct or clarify ambiguities where to do so does</p>

Director	Direct Reports	Responsibilities
		<p>not alter (but gives further effect to) the Executive Arrangements or the principles enshrined in the Constitution.</p> <p>To agree the scheme of political proportionality for the Council.</p> <p>Strategic direction, leadership and policy implementation in the areas of legal and democratic services and human resources.</p> <p>To approve the appointment process and appointments to the Independent Remuneration Panel in consultation with the Corporate Governance Manager and the remaining members of the Panel.</p>
	Corporate Governance Manager	<p>Support to the Cabinet, to Overview and Scrutiny Function. Democratic Services, Elections and Electoral Registration, Land charges. Make appointments to outside bodies. Proper Officer for registration functions. Parish Liaison. Statutory Scrutiny Officer.</p> <p>Management of the Council's responsibility to provide a Coroner's Service.</p>
	Strategic Manager Legal Services	<p>Legal Services - to provide legal advice to all areas of the Council, to conduct litigation, both civil and criminal, including the bringing, defending and settling of prosecutions on behalf of the Council (including where appropriate acceptance of cautions) for the purpose of securing the business and assets and assisting in the delivery of client services.</p> <p>FOI and Data Protection requests.</p>
	Head of Human Resources	<p>Employment Advice; Employment Services; Organisation Development; Equality &amp; Diversity; the Approval of Policies (HR) and procedures, following consultation with Trade Unions and other staff representatives which collectively comprise the terms and conditions of employment.</p>

\* These functions may not be undertaken by another officer unless specifically delegated by the Statutory Officer

# *PROCEDURE RULES FOR THE REGULATION OF PROCEEDINGS - FULL COUNCIL*

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

### 1. Timing and business

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

### 2. The annual meeting will:

- (a) elect a person to preside if the Chairman of Council is not present;
- (b) elect the Chairman of Council;
- (c) elect the Vice Chairman of Council;
- (d) approve the minutes of the last meeting;
- (e) receive any declarations of interest from members;
- (f) receive any announcements from the Chairman and/or Head of the Paid Service;
- (g) elect the Leader (first annual meeting immediately following an election only);
- (h) appoint at least one Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate;
- (i) decide the size and terms of reference for those committees;
- (j) appoint the Chairman of the Scrutiny Committee and the Chairman and Vice Chairman of any other Committees or Sub Committees appointed by Council;
- (k) receive nominations of councillors to serve on outside bodies that are required to be appointed by the Council (if any);
- (l) re-affirm the scheme of delegation;
- (m) approve a programme of ordinary meetings of the Council for the year; and
- (n) consider any business set out in the notice convening the meeting.

### 3. No member of the Council shall serve as Chairman or Vice Chairman of the Council for more than one year unless the Council chooses, by resolution, to appoint a member for a second year to that same position.

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

## **PROCEDURE RULE No. 2 ORDINARY MEETINGS**

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

2. Ordinary meetings will:
- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
  - (b) approve the minutes of the last meeting;
  - (c) receive any declarations of interest from members;
  - (d) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
  - (e) To consider any petitions submitted in accordance with the procedure in Article 4 (paragraph 5) of the Constitution.
  - (f) receive any announcements from the Chairman, or the Head of Paid Service (total period for announcements shall not exceed 15 minutes);
  - (g) deal with any business from the last Council meeting;
  - (h) consider motions\*;
  - (i) consider any item referred to the Full Council by the Ethical Standards Committee or the Chairman of the Ethical Standards Committee
  - (j) consider any other business specified in the summons to the meeting\*;
  - (k) receive recommendations from the Cabinet and the Council's Committees or Panels;
  - (l) receive update reports from the Leader and individual members of the Cabinet and receive questions and answers on any of those reports (or on policy and budget issues) (no Cabinet Member will speak for more than 3 minutes in making announcements); and
  - (m) receive reports about and receive questions and answers on the business of external organisations.

\* items (h) and (j) can be considered alongside each other when appropriate.

3. The Chairman can amend the order of business at the meeting as he/she sees fit.

### **PROCEDURE RULE No. 3 EXTRAORDINARY MEETINGS**

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

**PROCEDURE RULE No. 4  
TIME AND PLACE OF MEETINGS**

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

**PROCEDURE RULE No. 5  
NOTICE OF AND SUMMONS TO MEETINGS**

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

**PROCEDURE RULE No. 6  
CHAIRMAN OF MEETING**

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

**PROCEDURE RULE No. 7  
QUORUM**

The quorum of a meeting of Full Council will be 10 members. During any meeting, if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**PROCEDURE RULE No. 8  
QUESTIONS BY MEMBERS OF THE PUBLIC**

**1. General**

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

**2. Order of questions**

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

**3. Notice of questions**

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

circumstances there is no guarantee that a full reply will be given at the meeting. Any written question received by the deadline will receive a written response.

#### **4. Number of questions**

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

#### **5. Scope of questions**

The Proper Officer must reject a question if it:

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

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

#### **6. Record of written questions**

The Proper Officer will give a unique reference number to each written question received at least 48 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to Members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the electronic file maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of both the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

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

The Chairman will invite the questioner to put the written question to the member named in the notice, in the order in which the written questions were received. If a questioner who wishes to ask a question prefers, their local member can ask the question on their behalf.

If the questioner is not present then the Chairman will decide whether the question should be read out and answered at the meeting.

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

#### **8. Oral questions**

If time allows, the Chairman will ask if there are any oral questions. People asking an oral question must state their name and place of residence.

Minutes of the meeting will record who asked a question, the subject matter and the Cabinet Member who responded. If the Cabinet Member is unable to provide a response at the meeting they may provide a written response at a later date.

The Chairman may ask for any oral question to be submitted in writing.

#### **9. Supplemental question**

A questioner who has put a question (either written or oral) in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 8 (5) above.

#### **10. Written answers**

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

#### **11. Reference of question to the Cabinet, Committee or Scrutiny Panel**

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

### **PROCEDURE RULE No. 9 QUESTIONS BY MEMBERS**

#### **1. General**

Following the update reports from either the Leader or Cabinet Members a Member may ask questions of the Members of the Cabinet. Such questions must be restricted to the scope set out in paragraph (4) below and the Chairman shall have the discretion to rule a question out of order if it falls outside this scope.

## **2. Copies of Questions**

Where the question meets the requirements of paragraph (3) below, the Proper Officer will give a copy of each question to every Member attending the Meeting.

## **3. Notice of Questions.**

To guarantee a reply at the meeting, Members must submit their question, by delivering it in writing or by electronic mail, to the Proper Officer no later than 24 hours (not including weekends or bank holidays) prior to the start of the meeting. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting. Any written question received by the deadline will receive a written response.

## **4. Scope of questions**

The Proper Officer must reject a question if it:

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

## **5. Record of written questions**

The Proper Officer will give a unique reference number to each written question received at least 24 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to Members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the electronic file maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

## **6. Asking written questions at the meeting**

The Chairman will invite the Member to put the written question to the Cabinet Member named in the notice. The question shall be put and answered by the relevant member of the Cabinet without discussion.

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

The answer to a Member's question may be given orally or in writing.

## **7. Oral questions**

In addition to the above, Members may ask questions of each Member of the Cabinet without any notice except that the period allowed for these questions and answers shall be ten minutes for each member of the Cabinet.

If there are oral questions outstanding at the end of this period they shall either be held over to the next meeting of the Council or dealt with by the relevant member of the Cabinet and/or officer outside the meeting.

Minutes of the meeting will record who asked an oral question, the subject matter and the Cabinet Member who responded. If the Cabinet Member is unable to provide a response at the meeting they may provide a written response at a later date.

The Chairman may ask for any oral question to be submitted in writing.

## **8. Supplemental question**

The Member shall be allowed one further or supplementary question provided that it is relevant to the original question and does not introduce a new subject matter.

## **9. Written answers**

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

## **10. Reference of question to the Cabinet, Committee or Scrutiny Panel**

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

## **11. Declined Questions**

If in the view of the Chairman the question asked (either in writing or orally) does not relate to policy or budget the Chairman will decline to accept the question at the Council meeting and instruct that either a written reply be given after the meeting (and that this be recorded in the record maintained under sub paragraph 10); or that the question be directed to the relevant Cabinet Member or other Committee outside the meeting. Where the Chairman so directs for oral questions the questioner shall submit the question in writing.

## **12. Questions on Police Functions**

Questions may be asked on the discharge of Police functions and answered by the Council's Police Authority Member provided 5 clear working days' notice in writing is received by the Proper Officer before the meeting.

### **PROCEDURE RULE No. 10 MOTIONS ON NOTICE**

#### **1. Notice**

Except for motions which can be moved without notice under Procedure Rule 13, written notice of every motion, signed by the member submitting the notice, must be delivered to the Proper Officer not later than 7 clear working days before the date of the meeting. Delivery can be by electronic means provided that the Proper Officer is satisfied that it has been sent by the member concerned. These will be entered in a book open to public inspection.

#### **2. Motion set out in agenda**

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

#### **3. Scope**

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

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

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

### **PROCEDURE RULE No. 11 MOTIONS ON EXPENDITURE**

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

**PROCEDURE RULE No. 12**  
**MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

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

**PROCEDURE RULE No. 13**  
**MOTIONS WITHOUT NOTICE**

1. The following motions may be moved without notice:
  - (a) to appoint a Chairman of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to refer something to an appropriate body or individual;
  - (e) to appoint a Committee or member arising from an item on the summons for the meeting;
  - (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
  - (g) to withdraw a motion;
  - (h) to amend a motion;
  - (i) to proceed to the next business;
  - (j) that the question be now put;
  - (k) to adjourn a debate;
  - (l) to adjourn a meeting;
  - (m) to suspend a particular Council Procedure Rule (except Council Procedure Rules 12, 17(6), 24(2) and 27);
  - (n) to exclude the public and press in accordance with the Access to Information Rules;
  - (o) to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
  - (p) to give the consent of the Council where it's consent is required by this Constitution.
  
2. The Chairman, with or without notice, may propose a resolution on any subject he may deem a matter of urgency and which is within the functions or powers of the Council.

**PROCEDURE RULE No. 14**  
**RULES OF DEBATE**

1. **No speeches until motion seconded**

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

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

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

3. **Seconders's speech**

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

4. **Content and length of speeches**

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

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

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) to speak on the main issue when their first speech was on a moved amendment;
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

6. **Amendments to motions**

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

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

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

#### **7. Alteration of motion**

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

#### **8. Withdrawal of motion**

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

#### **9. Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and

- (h) to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

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

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

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

- (b) If a motion to proceed to next business, or that the question now be put, is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

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

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

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

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

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

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

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

**PROCEDURE RULE No. 15**  
**STATE OF THE ISLAND DEBATE**

**1. Calling of debate**

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

**2. Chairing of debate**

The debate will be chaired by the Chairman.

**3. Results of debate**

The outcome of the debate will be:

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

**PROCEDURE RULE No. 16**  
**PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 12 members. Such notices can be submitted electronically provided that the Proper Officer is satisfied that it has been sent by the Members concerned.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 12 members. Such notices can be submitted electronically provided that the Proper Officer is satisfied that it has been sent by the Members concerned. Once the motion or amendment has been dealt with, no one can propose a similar motion or amendment for a further period of six months.

**PROCEDURE RULE No. 17**  
**VOTING**

**1. Majority**

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

2. **Chairman's casting vote**

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

3. **Show of hands**

Unless Procedure Rule 17(4) or (5) apply the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

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

The voting on all appointments by the Council will be by a show of hands unless at least half of those present demand a secret ballot before the vote is taken.

5. **Recorded vote**

If four members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes. The chairman will individually ask every member present to announce in a clear voice whether they are for or against the motion or amendment or wish to abstain. A demand for a recorded vote will override a demand for a ballot.

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

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

7. **Voting procedure for appointments**

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

**PROCEDURE RULE No. 18  
MINUTES**

1. **Signing the minutes**

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

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

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

3. **Form of minutes**

The Minutes will contain all motions and amendments in the exact form and order the Chairman put them. Unless a motion is approved without amendment in which case it will only appear as the resolution.

**PROCEDURE RULE No. 19  
RECORD OF ATTENDANCE**

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

**PROCEDURE RULE No. 20  
EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules or Procedure Rule 23 (Disturbance by Public).

**PROCEDURE RULE No. 21  
RECORDING OF COUNCIL MEETINGS**

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

Shall, subject to the Chairman being notified in advance, be entitled to record those parts of the proceedings which are open to the press and public, by any photographic or electronic means.

## **PROCEDURE RULE No. 22 MEMBERS' CONDUCT**

### **1. Standing to speak**

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

### **2. Chairman standing**

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

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

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

### **4. Member to leave the meeting**

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

### **5. General disturbance**

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

## **PROCEDURE RULE No. 23 DISTURBANCE BY PUBLIC**

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

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

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

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

**PROCEDURE RULE No.24  
SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

**1. Suspension**

All of these Council Procedure Rules except 12, 17(6), 24(2) and 27 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

**2. Amendment**

At the discretion of the Chairman any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council. Unless such motion (or amendment) is submitted as part of the consideration of a written report circulated with the agenda that recommends such a change.

**PROCEDURE RULE No. 25  
INTERPRETATION OF PROCEDURE RULE**

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

**PROCEDURE RULE No. 26  
DURATION OF MEETINGS**

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

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

**PROCEDURE RULE No. 27  
POLITICAL ASSISTANT**

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

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

# **PROCEDURE RULES FOR THE REGULATION OF PROCEEDINGS - CABINET, COMMITTEES AND SCRUTINY PANELS**

## **PROCEDURE RULE No. 1 MEETINGS**

1. Meetings of Cabinet, Committees and Scrutiny Panels will take place in accordance with a programme circulated by the Proper Officer.
2. Meetings will:
  - (a) elect a person to preside if the Chairman and Vice Chairman are not present;
  - (b) approve the minutes or records of decision of the last meeting;
  - (c) receive any declarations of interest from members;
  - (d) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting, except that the Planning Committee and Licensing & General Purposes Committee may not receive questions which are about matters for determination on their agenda;
  - (e) the Overview & Scrutiny Committee will consider evidence from directors, heads of service or their nominated representative in respect of petitions containing 2,500 or more signatures as described in the Petition Scheme (see page 239);
  - (f) consider any other business specified in the summons to the meeting;
  - (g) the Overview & Scrutiny Committee and Scrutiny Panels may receive reports about and receive questions and answers on the business of external organisations;
  - (h) the Scrutiny Panel for Health and Community Wellbeing, in exercising its Health Scrutiny function, may receive reports about and receive questions and answers on the business of the Isle of Wight National Health Service Primary Care Trust;
  - (i) the Scrutiny Panel for Health & Community Wellbeing, in exercising its crime and disorder scrutiny function, may receive reports about and receive questions and answers on the business of the Crime & Disorder Reduction Partnership.
3. The Chairman can amend the order of business at the meeting as he sees fit.

## **PROCEDURE RULE No. 2 EXTRAORDINARY MEETINGS**

1. A request may be made to the Proper Officer to call an extraordinary meeting by:
  - (a) the Chairman of the Meeting;
  - (b) the Monitoring Officer; or
  - (c) the Meeting by resolution.
2. The business to be transacted at an Extraordinary Meeting shall be restricted to the matter(s) for which the meeting was called as set out in the agenda and no other business shall be considered at the meeting.

**PROCEDURE RULE No. 3  
TIME AND PLACE OF MEETINGS**

All meetings will commence at 6.00 pm other than Overview & Scrutiny Committee and Scrutiny Panels, which will commence at 5.00 pm, the Planning Committee and the Licensing and General Purposes Committee, which will commence at 4.00 pm, and the Isle of Wight Pension Fund Committee and the Employment Committee, which will commence at 10.00 am apart from in exceptional circumstances when the timing must, with the agreement of the Chairman and the Leader of the Council, be varied to ensure a quorum or to suit the needs of members of the public or stakeholders attending the meeting. The reason for any variation in timing will be set out on the face of the agenda. The place of meetings will be determined by the Proper Officer in consultation with the Chairman of the meeting and will be notified in the summons for the meeting.

**PROCEDURE RULE No. 4  
NOTICE OF AND SUMMONS TO MEETINGS**

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

**PROCEDURE RULE No. 5  
CHAIRMAN OF MEETING**

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

**PROCEDURE RULE No. 6  
QUORUM**

The quorum of a meeting of the Planning Committee will be 6. The quorum for the Licensing & General Purposes Committee will be 5. The quorum for a meeting of Cabinet is 4. For all other Committees and Scrutiny Panels the quorum will be one quarter of the voting membership of the Committee, but will not be less than three. During any meeting, if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**PROCEDURE RULE No. 7  
QUESTIONS BY MEMBERS OF THE PUBLIC**

**1. General**

Members of the public may ask a question at ordinary meetings of the Cabinet, Committees or Scrutiny Panels. Such a question must be within the remit of the meeting, except that questions may not be asked at meetings of the Planning

Committee or Licensing & General Purposes Committee which relate to items on the agenda for that meeting. The total time set aside for such questions and answers will be limited to 15 minutes.

## **2. Order of questions**

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

## **3. Notice of questions**

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

## **4. Number of questions**

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

## **5. Scope of questions**

The Proper Officer must reject a question if it:

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

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

## **6. Record of written questions**

The Proper Officer will give a unique reference number to each written question received at least 48 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in a book open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to Members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the book maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

## **7. Oral questions**

If time allows, the Chairman will ask if there are any oral questions. People asking an oral question must state their name and place of residence.

Minutes of the meeting will record who asked a question, the subject matter and the Member who responded. If the Member is unable to provide a response at the meeting they may provide a written response at a later date.

The Chairman may ask for any oral question to be submitted in writing.

## **8. Asking the question at the meeting**

The Chairman will invite the questioner to put the written question to the Member named in the notice, in the order in which the written questions were received. If a questioner who wishes to ask a question prefers, their local Member can ask the question on their behalf. If the questioner is not present the Chairman may determine how the question will be dealt with.

If the questioner is not present then the Chairman will decide whether the question should be read out and answered at the meeting.

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

If time allows, the Chairman will ask for oral questions.

## **9. Supplemental question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 7 (5) above.

## **10. Written answers**

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

### **PROCEDURE RULE No. 8 QUESTIONS BY MEMBERS**

#### **1. General**

A Member may ask Members of the Cabinet, Committee or Scrutiny Panel a question at a meeting. Such a question must be within the remit of the meeting, except that questions may not be asked at meetings of the Planning Committee or Licensing & General Purposes Committee which relate to items on the agenda for that meeting.

#### **2. Copies of Questions.**

Where the question meets the requirements of paragraph (3) below, the Proper Officer will give a copy of each question to every Member attending the Meeting.

#### **3. Notice of Questions.**

To guarantee a reply at the meeting, Members must submit their question, by delivering it in writing or by electronic mail, to the Proper Officer no later than 24 hours (not including weekends or bank holidays) prior to the start of the meeting. A question may be asked at the meeting without prior notice but in these circumstances there is no guarantee that a full reply will be given at the meeting.

#### **4. Scope of questions**

The Proper Officer must reject a question if it:

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

#### **5. Record of written questions**

The Proper Officer will give a unique reference number to each written question received at least 24 hours (not including weekends or bank holidays) prior to the start of the meeting and enter this number and the question in an electronic file open to public inspection. Rejected written questions will include reasons for rejection. Copies of all written questions will be circulated to Members at the meeting. Following the meeting the answer will be recorded adjacent to the question in the electronic file maintained by the Proper Officer. Minutes of the meeting will record who asked a question, the subject matter and the reference number of the question and answer.

For the avoidance of doubt this rule does not apply to oral questions asked at the meeting.

## **6. Asking written questions at the meeting**

The question shall be put and answered by the relevant member of the Cabinet, Committee, Scrutiny Panel without discussion.

The answer to a Member's question may be given orally or in writing.

## **7. Oral questions**

In addition to the above, Members may ask questions of the Cabinet, Committee or Scrutiny Panel without any notice except that the period allowed for these questions and answers shall be ten minutes.

In the case of oral questions, the minutes of the meeting will record who asked a question, the subject matter and the Member who responded.

The Chairman may ask for any oral question to be submitted in writing.

## **8. Supplemental question**

The Member shall be allowed one further or supplementary question provided that it is relevant to the original question and does not introduce a new subject matter.

## **9. Declined Questions**

If in the view of the Chairman the question asked (either in writing or orally) is not within the remit of the meeting the Chairman will decline to accept the question at the meeting and instruct that either a written reply be given after the meeting (and that this be recorded in the record maintained under sub paragraph 5); or that the question be directed to the relevant Cabinet Member or other Committee outside the meeting. Where the Chairman so directs for oral questions the questioner shall submit the question in writing.

**PROCEDURE RULE No. 9**  
**MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

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

**PROCEDURE RULE No. 10**  
**MOTIONS WITHOUT NOTICE**

1. The following motions may be moved without notice:
  - (a) to appoint a Chairman of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to refer something to an appropriate body or individual;
  - (e) to appoint a Committee or Sub Committee/Panel or member arising from an item on the summons for the meeting;
  - (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
  - (g) to withdraw a motion;
  - (h) to amend a motion;
  - (i) to proceed to the next business;
  - (j) that the question be now put;
  - (k) to adjourn a debate;
  - (l) to adjourn a meeting;
  - (m) to suspend a particular Procedure Rule (except Procedure Rules 9 and 13(6));
  - (n) to exclude the public and press in accordance with the Access to Information Rules; and
  - (o) to not hear further a member named under Rule 18 (2) (below) or to exclude them from the meeting under Rule 18 (3) (below).
  
2. The Chairman, with or without notice, may propose a resolution on any subject he may deem a matter of urgency and which is within the functions or powers of the meeting. In such cases the advice of the Monitoring Officer will be sought and the reasons for urgency shall be recorded in the minutes.

**PROCEDURE RULE No. 11**  
**RULES OF DEBATE**

**1. General**

Debates at these meetings may be less formal than debates at Full Council. The Chairman has the discretion to allow this informality, but in the event of dispute the process set out in this Procedure Rule will be followed.

**2. 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.

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

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

**4. Secunder's speech**

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

**5. Content and length of speeches**

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

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

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

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) to speak on the main issue when their first speech was on a moved amendment;
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

**7. 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 nor have the effect of introducing a new subject into the motion.

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

#### 8. **Alteration of motion**

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

#### 9. **Withdrawal of motion**

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

#### 10. **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.
- (a) 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.
- (b) The mover of the amendment has no right of reply to the debate on his or her amendment.

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

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;

- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

## 12. **Closure motions**

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

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

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

## 13. **Point of order**

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

## 14. **Personal explanation**

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

## 15. **Non-members Invited to Speak**

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

## **PROCEDURE RULE No. 12 PREVIOUS DECISIONS AND MOTIONS**

**This Procedure Rule ONLY applies to the Cabinet.**

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

A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the membership of that meeting, and not less than three.

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

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

## **PROCEDURE RULE No. 13 VOTING**

### **1. Majority**

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

### **2. Chairman's casting vote**

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

### **3. Show of hands**

Unless Procedure Rule 13(4) or (5) applies the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.

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

The voting on all appointments by the Council will be by a show of hands unless at least half of those present request a secret ballot before the vote is taken.

### **5. Recorded vote**

If three members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes. The chairman will individually ask every member present to announce in a clear voice whether they are for or against the motion or

amendment or wish to abstain. A demand for a recorded vote will override a demand for a ballot.

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

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

**7. Voting procedure for appointments**

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

**PROCEDURE RULE No. 14  
MINUTES AND RECORDS OF DECISION**

**1. Signing the minutes**

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

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

There is no requirement to sign the minutes or Record of Decision of a previous meeting at an extraordinary meeting of Cabinet, a Committee or a Scrutiny Panel.

**3. Form of minutes**

The Minutes will contain all motions and amendments in the exact form and order the Chairman put them. Unless a motion is approved without amendment in which case it will only appear as the resolution.

**PROCEDURE RULE No. 15  
RECORD OF ATTENDANCE**

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

**PROCEDURE RULE No. 16  
EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules or Procedure Rule 19 (Disturbance by Public).

### **PROCEDURE RULE No. 17 RECORDING OF MEETINGS**

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

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

### **PROCEDURE RULE No. 18 MEMBERS' CONDUCT**

#### **1. Chairman standing**

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

#### **2. Member not to be heard further**

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

#### **3. Member to leave the meeting**

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

#### **4. General disturbance**

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

**PROCEDURE RULE No. 19  
DISTURBANCE BY PUBLIC**

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

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

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

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

**PROCEDURE RULE No.20  
SUSPENSION AND AMENDMENT OF CABINET, COMMITTEE  
OR SCRUTINY PANEL PROCEDURE RULES**

**Suspension**

All of these Procedure Rule except 9 and 13(6) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Cabinet, Committee or Scrutiny Panel are present. Suspension can only be for the duration of the meeting.

**PROCEDURE RULE No. 21  
INTERPRETATION OF PROCEDURE RULE**

Subject to receiving appropriate advice from the Proper Officer, the ruling of the Chairman as to the construction or application of any of these Procedure Rules, or as to any proceedings of the meeting, shall not be challenged at any meeting.

**PROCEDURE RULE No. 22  
DURATION OF MEETINGS**

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

## *PROCEDURE RULES FOR THE REGULATION OF PROCEEDINGS – PANELS, SUB COMMITTEES ETC*

1. The Procedure Rules For The Regulation Of Proceedings - Cabinet, Committees And Scrutiny Panels will apply to Panels, Sub Committees and Working Groups except Procedure Rules 3, 7 and 8.

# **ACCESS TO INFORMATION RULES**

## **1. SCOPE**

These rules apply to all meetings of the Council, the Cabinet, the Overview and Scrutiny Committee, Regulatory Committees, Ethical Standards Committee and Scrutiny Panels and any Sub Committees thereof (together called meetings). Rules relating to any referral of allegation or review of decision under S57A or S57B of Local Government Act 2000 are contained in para 12.

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

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

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

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

## **4. NOTICES OF MEETING**

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

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

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

In respect of Ethical Standards Committee and Sub Committee this Council must also give same notice and copy papers to every parish and town council on the Island at the same time as are available to the public. However, such notice is not required for any Sub Committee meetings convened under S57A(1) or 57(B) of the Local Government Act 2000.

## **6. SUPPLY OF COPIES**

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

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

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

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

## 8. **BACKGROUND PAPERS**

### (a) **List of background papers**

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

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

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

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

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

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

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

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

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

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

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

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

(c) **Meaning of confidential information**

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

(d) **Meaning of exempt information**

Exempt information means information falling within the following 10 categories (subject to any condition):

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	See para (i) and (ii) below table.
2. Information which is likely to reveal the identity of an individual.	See para (i) and (ii) below table.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under –  (a) The Companies Act 1985; (b) The Friendly Societies Act 1974; (c) The Friendly Societies Act 1992; (d) The Industrial and Provident Societies Acts 1965 to 1978; (e) The Building Societies Act 1986; or (f) The Charities Act 1993.  See also para (i) and (ii) below table.
4. Information relating to any consultations or negotiations, or contemplated 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.	See para (i) and (ii) below table.

<b>Category</b>	<b>Condition</b>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See para (i) and (ii) below table.
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.	See para (i) and (ii) below table.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See para (i) and (ii) below table.
8. Information which is subject to any obligation of confidentiality	Referral to or back from monitoring officer or Hearings and reports of Standard Committee  Categories 8, 9 and 10 provision only applies to a meeting of the Ethical Standards Committee, or sub committee, set up to consider a matter under Regs 13 or 16 to 20 of the Standards Committee Regs 2008 or S58(1)c of the Local Government Act.  See also para (i) and (ii) above.
9. Information which relates in any way to matters concerning national security	
10. Information presented to a standards committee, or to a sub committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under Section 58(1)(c) of the Local Government Act 2000	

- (i) Information which falls into the table above that is not prevented from being exempt by virtue of the conditions shown is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (ii) Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

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

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

## 12. **ETHICAL STANDARDS COMMITTEE**

Where a meeting is convened following a written allegation received that a member (including co-opted and former) has failed or may have failed to comply with the code or to review a decision, notwithstanding any provisions above, the Council will:

- Produce a summary in writing of its consideration of the allegation or review of the decision.
- The written summary:
  - (i) Must record the main points considered, its conclusion as regard the allegation or review of the decision and the reasons for that conclusion;
  - (ii) Must be prepared having regard to any relevant guidance issued by the Standards Board;
  - (iii) May give the name of any member, co-opted member, former member or former co-opted member who is the subject of the allegation unless such disclosure is not in the public interest or would prejudice any investigation;
  - (iv) Must be made available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the meeting; and
  - (v) Must be given to any Parish Council of which any person who is the subject of an allegation referred to in the written summary is a member;

However any written summary shall not be open to inspection or given to any Parish Council until the member subject of the allegation has been given a written summary under the Local Government Act 2000.

The Local Government Act 1972 Part 5A shall apply in relation to the Standards Committee or Sub Committee of a Standards Committee save as to the requirements in relation to the application to committees and sub committees, principal councils to publish additional information, application to new authorities, councils, etc, and the interpretation application of Part 5A.

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

## **1. Framework**

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

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

- (a) The Cabinet will publicise by including in the forward plan and any other appropriate means depending upon the circumstances a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
- (b) Following consultation (including policy debates by Full Council where relevant) the Cabinet will then draw up firm proposals having regard to the responses to that consultation. The Cabinet will take any response from the Overview and Scrutiny Committee or Scrutiny Panels into account in drawing up proposals for submission to the Council, and its report to the Council will reflect the comments made by consultees and the Cabinet response.
- (c) Once the Cabinet has considered the proposals these will then be referred to the Council, at the earliest opportunity, for decision.
- (d) In reaching a decision, the Full Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or indicate that it wishes to substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment or is formally setting the Council Tax base or the Budget or Council Tax levels for a financial year, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision.
- (f) The decision will be published in accordance with Article 13 and a copy shall be given to the Leader and members of the Cabinet.
- (g) An in-principle decision in relation to the budget, plan or strategy will automatically become effective 5 working days from the date of Proper Officer of the Council's decision, unless the Leader informs the Proper Officer in writing, within 5 working days that he/she objects to the decision becoming effective and provides reasons why. The Leader may also decide to call a special meeting of the Cabinet to discuss the issue.
- (h) Upon receiving written notification from the Leader, the Proper Officer will make arrangements to call a Council meeting within a further 7 working days. The Council will be required to re-consider its decision and the Leader's written submission within 14 working days. The Council may:

- (i) Approve the Cabinet recommendation; or
- (ii) Approve a different decision which does not accord with the recommendation of the Cabinet.

- (i) The decision shall then be made public in accordance with Article 13, and shall be implemented immediately.

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

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

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

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

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

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

5. **Virement**

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

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

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

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

# ***CABINET RULES***

## **Composition**

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

## **Responsibility**

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

## **Quorum**

5. Quorum of the Cabinet will be 4.

## **Meetings**

6. Meetings of the Cabinet will be held at 6.00 pm on weekday evenings, other than in exceptional circumstances when the timing must, with the agreement of the Leader of the Council, be varied to ensure a quorum or to suit the needs of members of the public or stakeholders attending the meeting. The reason for any variation in timing will be set out on the face of the agenda

## **Access to Information**

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

## **Agenda**

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

## **Speaking at Cabinet**

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

## **Voting**

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

# *PLANNING COMMITTEE RULES*

## **1. COMPOSITION**

- (a) The Committee comprises 12 voting members of the Planning Committee.
- (b) Every member of the Committee shall attend the training provided by the Council prior to participating in the work of the Committee or Sub Committee.
- (c) Quorum for a meeting of the Committee shall be six members.

## **2. MEETINGS**

Ordinary meetings of the Committee will be approximately every four weeks on Tuesday evenings. Extra-ordinary meetings will be held on times and dates to be agreed by the Proper Officer at the request of the Chairman.

## **3. CHAIRMAN**

The Chairman and Vice Chairman of the Committee will be appointed by the Council. If the Chairman is present they will preside and in their absence the Vice Chairman shall preside. If both the Chairman and Vice Chairman are absent, the Committee will elect a chairman for the meeting.

## **5. ACCESS**

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

## **6. BUSINESS**

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

- (i) Approval of the minutes from the last meeting.
- (ii) Declarations of interest.
- (iii) An opportunity for the public to ask questions of the Chairman in accordance with Council procedure rules.
- (iv) Matters set out in the agenda for the meeting.
- (v) Any urgent item of business which is not included on an agenda but the Chairman, after consultation with the Director of Economy & Environment, agrees should be raised.
- (vi) An opportunity for members of the Council to ask questions of the Chairman in accordance with the Council Procedure Rules.

## 7. DECISIONS

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

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

## 8. WRITTEN REPRESENTATIONS

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

## 9. SITE VISITS

- (i) Site visits will take place the Friday prior to the Committee meeting. The need for visits will be agreed by the Head of Planning Services and/or the Development Control Manager in consultation with the Chairman.
- (ii) Site visits are open to the public and press but access to any site is subject to permission being granted by the landowner or their agent.
- (iii) No debate or decision regarding the application should be taken on the site.

## 10. DELEGATION

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

## 11. ADOPTION OF POLICY

Planning Policy development and adoption is principally the responsibility of the Cabinet. Occasionally Cabinet may seek the views of the Planning Committee prior to adopting, or recommending to Council the adoption of, policy.

# **LICENSING & GENERAL PURPOSES COMMITTEE RULES**

## **1. Composition**

- (a) To comprise 12 voting members.
- (b) The Chairman will be appointed by the Council.
- (c) A Licensing (Determinations) Sub Committee of 3 members of the Licensing & General Purposes Committee will be appointed to carry out all the functions of the Licensing & General Purposes Committee which require a decision on a grant, renewal, refusal, revocation, review, variation, cancellation, or imposition of conditions, (and appeals against any such action).
- (d) A General Purposes (Appeals) Sub Committee will be established to determine all appeals within the remit of the General Purposes Committee
- (e) Every member of the Committee shall attend the training provided by the Council prior to participating in the work of the Committee or Sub Committee.
- (f) Quorum for a meeting of the Committee shall be 5 voting members.
- (g) If the Chairman of the Licensing & General Purposes Committee is present at either a Committee or Sub Committee meeting he/she will preside. In his/her absence, then the meeting will elect a chairman for the day.

## **2. Attendance and voting**

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

## **3. Agenda**

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

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

- (e) An opportunity for members of the Council to ask questions of the Chairman in accordance with the Council Procedure Rules.

#### **4. Hearing of Licensing Applications/Issues**

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

#### **5. The Council's scheme of Delegation**

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

# *FINANCIAL PROCEDURE RULES*

## **1 Purpose of Financial Regulations**

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

## **2 Budget Setting**

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

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

- 3.1 The Cabinet is responsible for proposing a budget and for the strategic delivery of services within approved budgets and the approved policy framework. Full Council sets the budget and also the policy framework. The Cabinet shall receive in-year budget monitoring information and ensures that any remedial action is taken.
- 3.2 The Overview and Scrutiny Committee has a responsibility to review and assist with resolving the financial issues it regards as most benefiting from its input.
- 3.3 The Overview and Scrutiny Committee and Scrutiny Panels will pursue work programmes developing specific policy and strategic solutions to longer term issues, including those with a financial context.

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

- 4.1 The Chief Financial Officer has particular statutory and case law responsibilities which are incorporated in the following:
  - 4.1.1 Proper administration of the Council's financial affairs
  - 4.1.2 setting and monitoring compliance with accounting and financial management procedures and standards
  - 4.1.3 implementing the Council's duty to maintain an effective and adequate internal audit
  - 4.1.4 advising on the corporate financial position, including the robustness of the budget and the adequacy of reserves
  - 4.1.5 giving financial advice on all reports considered by the Cabinet and delegated decisions of Cabinet members
  - 4.1.6 determining financing of capital and revenue budget items in the best financial interests of the Council
  - 4.1.7 prescribing key financial controls and where necessary, the format of the Council's financial records
  - 4.1.8 providing financial information
  - 4.1.9 co-ordinating forward revenue and capital plans and monitoring delivery
  - 4.1.10 treasury management and all banking arrangements
  - 4.1.11 arrangements for the disbursement of the Council's payments in respect of creditors, staff and partners
  - 4.1.12 arrangements for the collection of income due to the Council as identified by Directors, Heads of Service and their staff

#### 4.1.13 advising the Pension Fund Committee

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

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

- 5.1 Deploying budget resources to deliver the Council's objectives in the most economically advantageous way, and reporting on performance as required.
- 5.2 Ensuring that expenditure and income are monitored on at least a monthly basis and that:
  - 5.2.1 service cash limits are not exceeded
  - 5.2.2 future expenditure commitments are constrained to matching resources
  - 5.2.3 an 'exit strategy' is in place for projects funded from non-recurring or declining income streams
  - 5.2.4 potential overspends are reported to the Chief Financial Officer, Directors Board, and the Cabinet if appropriate, together with proposals for remedial action.
- 5.3 Producing and implementing medium term service plans which incorporate:
  - 5.3.1 Revenue and capital bids prioritised in terms of corporate objectives
  - 5.3.2 Least harmful responses to corporate savings requirements
  - 5.3.3 Analysis of risks to service delivery and business continuity planning
  - 5.3.4 Forthcoming procurements and other significant projects. Application of the Council's risk assessment and 'Gateway' process where appropriate
  - 5.3.5 Maximisation of income through charging and trading, as well as any other sources of additional funding
  - 5.3.6 Business cases in support of spend to save and prudential code projects
  - 5.3.7 Contributions to the Council's medium term financial plan
- 5.4 Ensuring value for money through delivery of the Council's efficiency savings targets, and by benchmarking unit costs and performance against other organisations on an annual basis.

- 5.5 Developing partnerships where these provide clear advantages to service quality or efficiency, subject to:
  - 5.5.1 Clear definition of the benefits expected
  - 5.5.2 Robust monitoring arrangements
  - 5.5.3 Clarity in the way risk is to be minimised and shared
  - 5.5.4 A viable exit strategy
  - 5.5.5 Corporate approval where size or degree of risk warrants
- 5.6 Maintaining accounting records and audit trails in a form acceptable to the Chief Financial Officer, together with a documented scheme of delegation and authorised signatories. Each account and budget head to have a named responsible officer.
- 5.7 Ensuring that financial systems in operation, and any changes thereto, are approved by the Chief Financial Officer, and that statutory taxation requirements are adhered to.
- 5.8 Minimising the possibility of loss through error, theft or fraud, or misuse of Council assets, and the risk of litigation, damage to the Council's reputation and its interests. This includes:
  - 5.8.1 Applying risk management techniques in order to reduce risk to optimal levels
  - 5.8.2 Keeping the Chief Financial Officer informed about existing, new or changing risks, both insurable and uninsurable
  - 5.8.3 Providing assurance that the system of internal control is operating effectively within their service areas and if not what remedial action they propose. Such assurance will form the basis of the Council's Statement of Internal Control.
  - 5.8.4 Applying the principles of segregation of duties, such that wherever possible, more than one individual is involved in managing the Council's financial transactions

## 6 Other Policies and Guidance

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

Document	Required reading by:
Asset Management Plan	Officers involved in investment planning
Capital Strategy	Officers involved in investment planning
Code of Conduct	All staff and members

<b>Document</b>	<b>Required reading by:</b>
Contract Standing Orders	Officers ordering goods or services, officers and managers who procure and manage contracts
Counter Fraud Policy	All managers and supervisors
Medium Term Financial Plan	Service and budget planners
Procurement Guidance	Officers ordering goods and services officers and managers who procure and manage contracts
Risk Management Framework	All managers
<b><i>Financial Procedures and Guidance:</i></b>	
Anti-money laundering policy	Staff involved in income collection
Accounting standards & practice notes	Budget managers
Banking arrangements	Budget managers
Managing the Council's financial resources (Treasury Management)	Managers and staff involved in treasury management
Controlled (financial) stationery	Staff involved in systems using controlled financial stationery
Payment Services Guidance	Staff dealing with creditor payments
Insurance	All managers
Principles of segregation of duties	Managers
Sundry Income Policy	Staff involved in income collection
Transactions with staff and members (including remuneration and the reimbursement of expenses)	All managers and supervisors
Use of corporate financial systems	All managers
Receiving Income	Staff involved in income collection
Protecting the Council's Assets (including: Disposal)	All managers
Asset records	All managers
Partnerships	All managers and staff involved in partnerships
Retention of Financial Records	All managers
Dealing with fraud and irregularity	All managers and staff
Authorisation of transactions, delegation of financial authority	All managers and staff
Accounting for Voluntary Funds	All managers and staff involved in

<b>Document</b>	<b>Required reading by:</b>
	administering voluntary funds
Emergency Provisions	All managers and staff
Miscellaneous Financial Procedures	All managers and staff

# CONTRACT STANDING ORDERS

The main purposes of these Contract Standing Orders (CSOs) are:

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

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

The highest standards of probity are required of all officers and members involved in the procurement, award and management of any Council contract. Similarly the Council will endeavour to be fair and open in its dealings with all suppliers and prospective suppliers, and all members and officers shall uphold these principles. Underpinning the Council's overall approach to good procurement practice are the following that are available from the Procurement Office:

- The Council's Procurement Strategy
- The Procurement Code

## **1 BASIC REQUIREMENTS**

### **1.1 Key Principles and Responsibilities**

- 1.1.1 All procurement activity must be in connection with the Council's lawful functions and within the bounds of its statutory powers.
- 1.1.2 All procurement shall be in accordance with all relevant legislation including Best Value and, when applicable, the European Union Procurement Directives.
- 1.1.3 All procurement activity shall be conducted with integrity and fairness throughout. It shall also be conducted with sufficient openness to engender public confidence in the procurement processes generally and meet the requirements of the Freedom of Information Act.
- 1.1.4 Those awarding contracts shall have a duty to ensure and demonstrate that the best value for money is obtained, having regard to an appropriate and realistic balance between price, quality and service considerations.
- 1.1.5 Unless there are sufficient and explicitly stated reasons to the contrary, a reasonable show of competition shall be sought as part of all contract-letting processes.

- 1.1.6 No contract shall be awarded unless there is delegated authority to award the contract and there are adequate budget funds available.
- 1.1.7 Directors and Heads of Service are responsible for ensuring compliance with these CSOs by their staff, and for ensuring that staff who are given such delegated responsibility have the necessary skills and knowledge appropriate to the task. Staff have a responsibility to familiarise themselves with these CSOs and undertake any necessary training.
- 1.1.8 Proportionate and timely consultation shall take place with elected members regarding procurement exercises. Most contracts can be let (subject to relevant delegated authority) without formal reference to members. Only where a contract has a whole life value of over £1.5 million or be deemed to be of particularly high risk, sensitivity, value or other substantial effect on the Council's corporate objectives or its reputation, shall the Cabinet (or where appropriate the designated Cabinet Member) be called upon to take procurement decisions.
- 1.1.9 Where elected members are involved in procurement decisions, this should be at both contract letting strategy and contract award stages.

## **1.2 Conduct**

- 1.2.1 Members and staff must ensure that when involved in making any procurement decisions, they always act in the best interest of the Council and the community it serves.
- 1.2.2 It is important to be impartial. The Council has well-defined policies on gifts & hospitality and on registering personal interests, and all members and staff are required to comply with these.

## **1.3 Financial values**

- 1.3.1 Unless otherwise stated, any financial values or thresholds stated in these CSOs refer to the projected value of a contract for its whole duration, not the annual value. For contracts that have an extension option, then the contract value shall be calculated on the basis of the original contract period plus the possible extension period. For any contracts that are for an unspecified period, a 'default' duration of four years shall be assumed for the purposes of calculating the financial value.
- 1.3.2 No attempt must be made to break down one large purchase into a number of smaller purchases, solely with the aim of trying to circumvent the financial thresholds specified in these CSOs. Moreover, it is the aggregated expenditure by the Council as a whole on like or similar goods and services, rather than that of individual budget holders, that shall have effect – this being particularly important as regards compliance with the EU Procurement Directives.

1.3.3 All values stated throughout these CSOs exclude VAT.

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

## 1.4 Exceptions to the rules

1.4.1 These CSOs do not apply to:

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

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

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

- **Partnering** – Where a formal partnering arrangement and/or established framework agreement already exists as the result of an earlier competitive selection and award process.

1.4.3 No exception to these Contract Standing Orders shall be permitted unless a CSO Waiver Report has been completed and confirmation of authorisation received. The waiver form (Appendix A) shall be submitted in the first instance to the Procurement Board, who shall confirm whether the waiver is granted or if (in the light of the particular circumstances and in its judgment) the matter needs to be referred further to the Directors Team for a decision to waive the CSOs.

## **1.5 Other considerations**

1.5.1 Where they exist, corporate contracts and framework agreements shall be used. The Procurement Section shall be responsible for maintaining and distributing details of such contracts as necessary.

1.5.2 Any procurement activity shall accord with other relevant Council policies, technical standards or requirements as necessary e.g. ICT hardware and software compatibility policy, in-house printing protocol, etc.

1.5.3 A library of relevant procurement information and good practice guidance shall be developed and maintained on the Council's intranet by the Procurement Section.

1.5.4 Consultants acting as an agent on behalf of the Council are required to operate in accordance with these Contract Standing Orders. It is the responsibility of the officer engaging the consultant to ensure such compliance. Furthermore, the selection and engagement of consultants is a procurement in itself, and therefore subject to these CSOs and the additional guidance provided within both the Procurement Code and the Use of Consultants Handbook.

## **2 ESTABLISHING AND MANAGING CONTRACTS**

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

2.1.1 The Procurement Section shall maintain a register or database of all the Council's current contracts and publish extracts of this on the Council's website as part of the "Selling to the Isle of Wight Council" guide for prospective suppliers. Heads of Service shall provide the relevant details in a timely manner to enable the accuracy of the information to be kept up-to-date.

2.1.2 As part of the annual service planning process, the Procurement Section shall compile a procurement forward plan identifying the Council's major contracts (over £75,000) that are expected to be procured over the next three years. This shall include an initial risk-assessment, which will indicate whether the procurement should be considered for a 'Gateway Review' process.

2.1.3 The Procurement Board will act as the forum by which officers will present letting strategy reports for contracts over £50,000 at least 9 months before the end of a contract in the case of a re-let (12 months in the case of OJEU contracts) or as soon as is practicable for an initial procurement. The Board will also consider the award of all contracts over £50,000 in value.

## 2.2 Pre-procurement considerations

2.2.1 Realistic consideration (proportionate to the risk, complexity and value of the purchase) should be given to possible alternative options. For example, this might include a fundamental revision of the need or standardisation of the specification; reuse or recycling of equipment; internal provision of the service; collaboration with other purchasers; etc. Narrow departmental considerations should never jeopardise any wider benefits to the Council.

2.2.2 The involvement of elected members in procurement decisions is generally most effective at the earlier rather than later stages of the procurement cycle – particularly in terms of helping to scope the requirement, developing an outline business case and determining the procurement approach. For example, members can often bring valuable insight and perspectives to issues such as how well a proposed requirement meets the Council's strategic objectives and its current priorities (“strategic fit”), or whether a wide enough range of possible supply options (including innovation and/or collaboration with other organisations etc.) is being explored.

Such involvement can be far more beneficial overall than having members merely “rubber stamp” a subsequent decision to award a contract to a particular supplier following the evaluation of tenders, by which time it could effectively be little more than accepting a virtual *'fait accompli'*. Therefore, for all service-specific procurements with an expected value above £1.5 million Heads of Service (or the designated Authorised Officer/Project Manager for a particular Tender) shall liaise with the relevant Cabinet Member. The input of the Cabinet Member will be confirmed in an auditable record. For any very high risk or strategically sensitive projects, including those where Gateway Reviews are to be conducted, the Head of Service shall refer the matter to the Procurement Board, who shall advise whether it is more relevant to refer the matter to the Cabinet for approval to proceed.

Gateway Reviews examine the individual projects at key decision points in their lifecycle to provide assurance that the project can progress successfully to the next stage.

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

## 2.3 Seeking competition

- 2.3.1 Formal competitive tenders shall be invited for any procurement with an estimated value of **more than £75,000**. Tendering opportunities shall be advertised on the Council's website and, as appropriate, in the local press and/or relevant trade journals (except where a recognised approved/select list exists).
- 2.3.2 Where applicable, the further requirements of the EU Procurement Directives must be complied with, including advertising in the supplement to the Official Journal of the European Union (OJEU). This potentially affects all contracts (with a few exceptions, mainly covering 'Part B' Services) above £156,442 in the case of goods and services, or above £3,927,260 in the case of works contracts (1 January 2010 thresholds). There are additional thresholds for the publication of Prior Information Notices. Guidance on the application of the EU Procurement Directives and the values of the relevant thresholds must be sought from the Procurement Section. All OJEU notices will be compiled in conjunction with, and submitted for publication by, the Procurement Section.
- 2.3.3 For contracts with an estimated value **between £20,000 and £75,000** at least three written quotations from bona fide suppliers should be sought. Requests for Quotations (RFQ) involve less formality than the tendering process. However, as with an Invitation to Tender, any Request for Quotation must communicate clearly to the potential suppliers what is required (the specification).
- 2.3.4 For contracts **below £20,000**, no formal competition is strictly required. However, it is essential to demonstrate best value is achieved and it will often be appropriate to obtain more than one quotation in order to do this.
- 2.3.5 These requirements are summarised in the following table:

<b>Estimated Total Value</b> (ie for full duration of contract including any extension options)	<b>Competition requirements</b>
Below £20,000	No formal competition required, although quotations can be sought in order to demonstrate best value
£20,000 - £75,000	At least three quotations
£75,000 and above	Invitations to Tender
£3,927,260 and above (Works contracts) or £156,442 and above (Goods and Services contracts) (1 January 2010 thresholds)	Invitations to Tender processed in accordance with requirements of EU Procurement Directives

## 2.4 Choosing the tendering methodology

- 2.4.1 There are three basic tendering methodologies or procedures to choose from – Open, Restricted and Negotiated. The selection of the most appropriate one shall depend on circumstances as follows:
- 2.4.2 The **open** procedure makes no advance assessment of a tenderer's suitability to supply before submission of the tender. This is a useful process where speed is important, where there are a limited number of potential providers in the marketplace or if the procurement is for a relatively simple product or service where technical capability might be less crucial. However, it can make the tender evaluation stage much more time-consuming and onerous if a large number of tenders are received.
- 2.4.3 The **restricted** procedure is a two-stage process. Firstly expressions of interest in the tender are sought and then on the basis of responses to a pre-qualification questionnaire, short-listed candidates are invited to tender. This is useful where a large number of potential tenders are likely to be received, although a disadvantage is that the tendering process can take longer overall.
- 2.4.4 A derivative of the restricted procedure is the use of a recognised **approved vendor list** (sometimes also referred to as a select list). This is best used where there is likely to be a regular need for work or services of a similar nature over a period of time. Any such approved lists must be reviewed, refreshed and made open to new applicants at least every three years.

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

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

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

- 2.4.5 The competitive dialogue procedure is a new procedure introduced in the public sector procurement directive (2004/18/EC). It is for use in the award of complex contracts, where there is a need for the Council to discuss all aspects

of the proposed contract with candidates. Such dialogue would not be possible under open and restricted procedures.

The main features of the new procedure are:

- Dialogue is allowed with selected suppliers to identify and define solutions to meet the needs and requirements of the Council;
- The award is made only on the most economically advantageous tender criteria;
- Dialogue may be conducted in successive stages, with the aim of reducing the number of solutions/bidders; and
- There are explicit rules on post-tender discussion.

This procedure is only to be used in limited circumstances such as complex ICT projects where the specification cannot be defined at the outset with sufficient certainty to make sealed bid tendering practical.

Where the negotiated procedure is used, the process shall conclude with the submission of 'Best and Final Offers' as sealed bids. There are strict restrictions on any price negotiation on tenders conducted under the EU Procurement Directives.

## **2.5 Determining tender award/evaluation criteria**

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

2.5.2 The actual mix between these elements shall be established at the outset of the tendering process and will depend on various considerations including the complexity of the project or purchase itself, the degree of innovation sought from suppliers and the flexibility required in terms of project/service delivery, etc. The following quality/price ratios are deemed to be a realistic split and are given for guidance purposes, but may be varied depending on particular circumstances:

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

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

- 2.5.4 The various qualitative award criteria must be appropriate to the contract in question and reasonably expected to provide a best value outcome. These qualitative factors can include moderate recognition of what are often termed 'Corporate Social Responsibility' issues. In other words, taking into account how well each supplier is in accord with the Council's own policies, objectives and values in relation to, for example, care for the environment; promoting equalities & diversity; supporting fair trade; well-being of the local community; etc.
- 2.5.5 The award criteria (though not necessarily the actual weightings to be applied to each criterion in the evaluation model) should be stated to prospective tenderers in the Invitation to Tender (ITT) documentation. Subsequently, evidence of each tenderer's suitability to supply shall be judged against these criteria - usually by small panel of suitably knowledgeable officers (typically up to 3) convened as required.

## **2.6 Preparation of invitation to tender**

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

## **2.7 Receipt and opening of tenders**

- 2.7.1 A reasonable length of time must be allowed for tenderers to compile and submit their bids, having regard to the complexity of the tender and, when appropriate, any mandatory timescales under the EU Procurement Directives (see Appendix B). The Invitation to Tender must state clearly the latest date and time that tender bids can be received by. Any tenders received after the closing date shall not be considered unless there is clear evidence that it was posted at least the day before the closing date and any delay in delivery was wholly outside the control of the tenderer.
- 2.7.2 All tenders submitted must be in official tender envelopes (issued from the Procurement Office) and are to be posted or delivered to the Procurement Office at County Hall, where they will be held in a secure locked box until the designated tender closing date. One member of the Procurement Section and the authorised project officer will then open all the tenders received and record the value of each tender bid in a register maintained for that purpose. No assessment or recording of any of the qualitative information shall be practical at this stage.
- 2.7.3 The tenders shall then be passed to the lead officer responsible for the tender, who shall arrange the evaluation of the tenders.

## 2.8 Evaluation and award of contract

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

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

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

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

<b>Summary of delegated authority for procurement</b>			
	<b>Request Quotations</b> (for below £75,000)	<b>Invite tenders</b> (for above £75,000)	<b>Award contracts</b> (subject to necessary budget available)
Service Manager's named delegates	No restriction	<ul style="list-style-type: none"> <li>Up to £2,000,000</li> <li>Subject to appropriate liaison with Cabinet Member</li> <li>No direct authority if project is very high risk or strategically sensitive.</li> </ul>	<ul style="list-style-type: none"> <li>Up to delegated authority limit only</li> <li>No direct authority if strategically important or politically sensitive nature</li> </ul>
Head of Service	No restriction	<ul style="list-style-type: none"> <li>Up to £10,000,000</li> <li>Subject to appropriate liaison with Cabinet Member</li> <li>Refer to Directors if project is very high risk or strategically sensitive (including those for Gateway Review)</li> </ul>	<ul style="list-style-type: none"> <li>Up to delegated authority limit, except where strategically important or politically sensitive</li> </ul>
Directors	No restriction	<ul style="list-style-type: none"> <li>Unlimited (but determine if</li> </ul>	<ul style="list-style-type: none"> <li>Unlimited (but seek agreement of Cabinet</li> </ul>

		necessary to seek agreement of Cabinet to proceed for very high risk or strategically sensitive projects)	for very high risk or strategically sensitive projects)
Cabinet Member	Not applicable	<ul style="list-style-type: none"> <li>Confirm agreement to proceed as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Confirm agreement to award (only necessary if project is strategically important or politically sensitive nature or if contract is worth over £1.5m)</li> </ul>
Cabinet	Not applicable	<ul style="list-style-type: none"> <li>Not applicable</li> </ul>	<ul style="list-style-type: none"> <li>Confirm agreement to award (if referred by Cabinet Members)</li> </ul>

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

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

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

## 2.9 Debriefing of unsuccessful tenderers

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

## 2.10 Contract documentation

2.10.1 In many instances, a straightforward acceptance letter (and/or purchase order) by the Council of a supplier’s tender shall be sufficient to form the binding contract. However, a pre-requisite for this is that the Invitation to Tender document itself is well-structured in the first place (including the inclusion of the Council’s chosen terms and conditions) and that good records are kept of

all salient correspondence with the supplier concerning the agreement itself, such that there can be no doubt about the rights and obligations of both parties to the contract.

2.10.2 Contractual documentation should be subject to approval by the Legal Services team or, if appropriate, by suitably qualified external legal advisors. The formal sealing of contracts shall not be deemed necessary except on the advice of the Legal Services department.

2.10.3 All contracts shall provide for contractors' obligations in relation to Human Rights, Freedom of Information, Data Protection and other statutory obligations as required.

2.10.4 The officer awarding the contract shall send a completed Contracts Register Form (see Appendix C) to the Procurement Section **within two weeks** of award of contract so that the Council's Contracts Register can be updated. Where required, a mandatory Contract Award Notice (including those for Part B Services) shall be published in the OJEU within the statutory **48 day** period from award of contract.

## **2.11 Variations and extensions**

2.11.1 Reasonable variations to the contract can be agreed with the supplier during the lifetime of the contract provided they comply with the spirit of these Contract Standing Orders and be within the delegated authority limits of the relevant officer(s).

2.11.2 Options to extend a contract must have been stated in principle in the original Invitation to Tender.

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

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

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

Request submitted by			
Name		Signature	
Department			
Telephone		Email address	

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

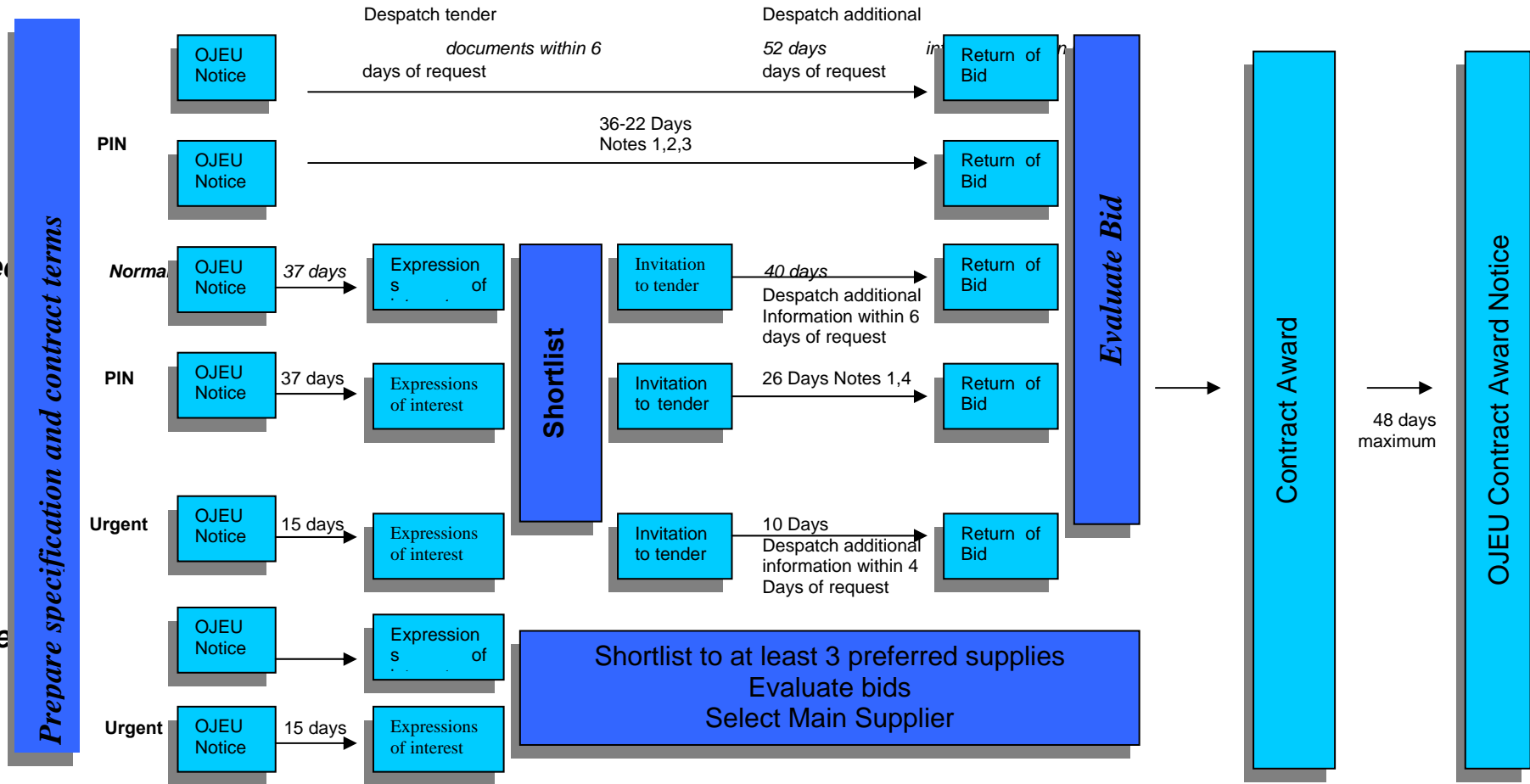
Decision	Comment
<input type="checkbox"/> Waiver approved	
<input type="checkbox"/> To be referred to the Directors' Group for decision	
<input type="checkbox"/> Waiver not agreed (insufficient grounds/justification)	
Signed:  Compliance & Risk Manager	
Date:	

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

Open

Restricted

Negotiate



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

**Isle of Wight Council Contract Registration Form**

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

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

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

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

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

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

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

Contract Ref. No. (allocated by the Procurement Section)	
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# OFFICER EMPLOYMENT RULES

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

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

## Role of Head of Paid Service

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

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

2. Rule 1 shall not apply to the appointment or dismissal of, or disciplinary action against—
  - (a) the officer designated as the head of the authority's paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of section 9 of the 1989 Act assistants for political groups).

## 3. Recruitment and Appointment of Officers

- (a) Declarations
  - (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child,

grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor, or officer of the council or of the partner of such persons.

- (ii) No candidate so related to a councillor or an officer, or of a partner of such persons, shall be appointed without the authority of the relevant chief officer of the council.

(b) Seeking Support for Appointment

- (i) Subject to paragraph (iii) below, the council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph (or words to similar effect) will be contained in any recruitment information.
- (ii) Subject to paragraph (iii) below, no councillor will seek to support any person for appointment with the council.
- (iii) Nothing in this Rule will prevent a councillor from giving a written reference for a candidate for submission in connection with an application for appointment.

4. Recruitment of Head of Paid Service and Chief Officers

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

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

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

- (a) interview all qualified applicants for the post, or

- (b) select a short list of such qualified applicants and interview those included on the short list.
- 4.3 Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 4.1 (b).
- 4.4 Every appointment of a Chief Officer shall be made by, or recommended to the Council, by the Employment Committee (see Article 8 above).
5. Appointment and Dismissal of Head of Paid Service, Statutory and Other Chief Officers and Deputy Chief Officers
- 5.1 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the functions of appointment or dismissal of:
- (a) the officer designated as the head of the authority's paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;

The following rules will apply.

- 5.2 In this Rule, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- 5.3 An offer of an appointment must not be made by the appointor until -
- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Cabinet of the authority of-
    - (i) the name of the person to whom the appointor wishes to make the offer;
    - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

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

- (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
- (ii) the Chief Executive has notified the dismissor that no objection was received by him within that period from the elected mayor; or
- (iii) the dismissor is satisfied that any objection received on behalf of the Cabinet within that period is not material or is not well-founded.

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

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

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

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

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

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

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

7.3 The designated independent person –

- (a) may direct -

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

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

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

- (a) no appointment of a political assistant to a political group shall be made until such posts have been allocated to all political groups which qualify,

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

## 9. Appeal Committees

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

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

## 10. Definitions

In these Rules:

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

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

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

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

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part (the officer appointed is the Deputy Director of Resources (Corporate Governance)).

"Chief Officer"

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

# THE CODE OF CONDUCT

## Part 1 General provisions

### Introduction and interpretation

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—  
"meeting" means any meeting of—
  - (a) the authority;
  - (b) the executive of the authority;
  - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, panels or area committees;"member" includes a co-opted member and an appointed member.
- (5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

### Scope

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- (5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

3. (1) You must treat others with respect.
- (2) You must not—
  - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
  - (b) bully any person;
  - (c) intimidate or attempt to intimidate any person who is or is likely to be—
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2) (d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4. You must not—
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is—
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or

- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

## Part 2 Interests

### **Personal interests**

- 8. (1) You have a personal interest in any business of your authority where either—
  - (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) 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;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a

- company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—
- (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### **Disclosure of personal interests**

9. (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), 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 ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

10. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) 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;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

- 11.** 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 executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

- 12.** (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### Part 3 Registration of Members' Interests

#### **Registration of members' interests**

- 13.** (1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **Sensitive information**

- 14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer

agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

**NOTE:**

**The Council has adopted its own local code for the registration of Gifts and Hospitality and this is set out on page 167. This local code must be followed.**

## TEN GENERAL PRINCIPLES OF PUBLIC LIFE

**Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

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

### **Introduction**

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

### **Gifts**

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

"Thank you for your kind offer of ..... Unfortunately, the Council has a clearly defined policy on receiving gifts or hospitality and I am unable to accept it. I therefore return the gift."
7. For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.

8. If in doubt, staff should consult their Director before accepting any gift. Members should consult the Council's Monitoring Officer.

### **Legacies**

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

### **Hospitality**

10. The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. It must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the Council or where purchasing decisions may be potentially compromised.
11. Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the Council's wider interest in the community. Staff may, for example, need to attend functions in support of local members. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.
12. The following criteria should be applied when deciding whether or not to accept offers of hospitality:
  - whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to an Island event which meets the criteria below may be appropriate.
  - whether the Council's interest is better served by attendance.
  - whether the scale of the hospitality is appropriate to the circumstance.
  - whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
  - whether the hospitality is offered by a person or organisation who is not tendering or about to tender for Council business.
  - whether members are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
  - whether it is more appropriate to bear the expense oneself.

13. Any intention by members of staff to accept hospitality other than of a minor nature, must be authorised in advance by the relevant Director. In case of doubt, staff should consult their Director for guidance. In the case of Members, an appropriate declaration should be completed in advance of the hospitality being accepted. In the event of doubt, the Council's Monitoring Officer should be consulted for guidance.
14. If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the Council with, if appropriate, the following or similar statement:

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

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

#### **Acceptable**

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

#### **Unacceptable**

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

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

16. Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each Directorate's register maintained for such purposes. For members, the register is maintained by Democratic Services. The Council has a prescribed format for the register (as set out in Appendix 1 and 2 to this guidance) which includes the following detail:

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

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

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

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

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

Under the Prevention of Corruption Acts 1889-1916 it is an offence to solicit or accept any gift, loan, fee, reward or advantage or to be influenced in any way in ones official capacity. Where it has been proven that an employee or member has received any money, gift or other consideration from a person holding or seeking to hold a contract with the Council, corruption may be presumed unless the contrary is proved.

ii **Local Government Act 1972**

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

# GIFTS AND HOSPITALITY REGISTER (OFFICER)

1.	Name:
2.	Job title:
3.	Name of Company (or individual) offering hospitality:
4.	Relationship with Council:
5.	Type of hospitality/gift offered/received:
6.	Date hospitality/gift offered/received:
7.	Declined: YES / NO
8.	Where hospitality took place:
9.	Is there a cost to the Authority? YES / NO
	If yes, how much? £.....
Signed (Officer): .....	
Date: .....	
Director's signature: .....	
Date: .....	

# GIFTS AND HOSPITALITY REGISTER (COUNCILLOR)

1. Councillor's Name:

2. Name of Company (or individual) offering hospitality:

3. Relationship with Council:

4. Type of hospitality/gift offered/received:

5. Date hospitality/gift offered/received:

6. Declined: YES / NO

7. Where hospitality took place:

Signed (Councillor): .....

Date: .....

Monitoring Officer (or representative) signature: .....

Date: .....

<b>Monitoring Officer (or representative)</b> Please tick the box if the Gift / Hospitality value is estimated at £25 or more	
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# *THE COUNCIL'S DECISION MAKING PROCESS*

## **Introduction and purpose of the document**

This document sets out the Council's Decision Making Process and in the event of uncertainty on the part of any councillor or officer, reference should be made to the Council's Monitoring Officer who has responsibility for advising on the Council's constitution.

## **The Decision Making Process**

Decisions are made by the Council in many places and by a number of people.

The vast majority of the decisions made by the Council are undertaken under delegated powers by officers in accordance with the Council's scheme of delegations. This scheme is contained within the Constitution.

Many other decisions are taken in committees of the Council, by the Cabinet or by the Full Council itself. Some decisions can be taken by individual members of the Cabinet who have been given a specific remit for an area of work.

This section sets out the decision making process for those made by the Council, Cabinet, any Committees and individual Cabinet Members (called "Member Level Decisions") and those made by officers ("Officer Level Decisions").

## **Principles of Decision Making**

In making decisions, the Council, its Members and its officers need to be able to demonstrate by written record and appropriate audit trail:

- (a) that relevant matters are taken into account;
- (b) that nothing irrelevant is considered;
- (c) that procedural rules and Financial Procedure Rules have been complied with;
- (d) that proper advice is taken and considered before the decision was reached;
- (e) that any interests are properly declared;
- (f) that the decision is properly recorded and published.
- (g) proportionality (i.e. the action must be proportionate to the desired outcome);
- (h) due consultation and the taking of professional advice from officers;
- (i) respect for human rights;
- (j) a presumption in favour of openness;

- (k) clarity of aims and desired outcomes;
- (l) due consideration of all available options; and
- (m) that the protocols and procedures contained in the Protocol on Decision Making and the Parish Protocol contained in this Constitution have been followed.

### **Member Level Decisions**

(Those marked \* do not apply to decisions by the Planning, Licensing & General Purposes or Ethical Standards Committees when they are dealing with any matter relating to applications or quasi-judicial determinations (“Regulatory Decisions”).

1. \*All decisions by the Council, Cabinet and Individual Cabinet members must have been listed in the Forward Plan. This is produced monthly and covers the decisions proposed to be made during the next four month period. Items do not have to be included for the full four month period as it will rarely be the case that all the decisions to be taken are known four months in advance. In cases of genuine urgency see the urgency provisions below.
2. A report in the correct format has to be prepared – this ensures that all the required considerations have been taken into account – examples of the format are available on the Councils intranet.
3. Before the report is published it must be (other than in cases of true urgency) considered by the Council’s internal process (details of this are available from Democratic Services) – this ensures that all strategic, corporate, legal, financial, risk and other matters have been fully taken into account.
4. The report must be published for 5 clear working days prior to the decision being taken.
5. The decisions of Full Council and Regulatory Decisions are effective immediately and can be implemented by the relevant Directors straightaway.
6. Overview and Scrutiny Committee and Scrutiny Panel determinations are immediately referred to the appropriate decision maker.
7. Where a Cabinet Member is taking a delegated decision any question from a member received by a Cabinet Member in response to a proposed delegated decision must be responded to before the decision is confirmed provided that such question is received at least 48 hours before the published date as to when it is intended to make the decision.
8. All questions received and comments received by the Cabinet Member between the publication of the notice of intended decision and the decision being made must be referred to in the decision notice.

9. Cabinet and Individual Cabinet Member decisions must then be published (within 2 days) for 5 days for the “Call In” period (see below) and can only be implemented at the end of that process provided there has been no call in – in which case the call in arrangements apply. In cases of urgency there are provisions to disapply call in (see below).
10. An Individual Cabinet Member decision must be signed off, by the relevant Cabinet Member, within 20 working days of the closing date for representations following its publication, but subject to the approval of the Chairman of the Overview and Scrutiny Committee, an extension can be permitted.

### **Urgency**

Sometimes decisions need to be made urgently and outside of the usual process (for example reducing the pre decision notification time or disapplying call in). Urgency in these cases is defined as cases where the Council will be significantly disadvantaged and where these provisions are used clear explanations must be made in the written reports.

### **The Forward Plan**

There is a Statutory Requirement to publish a forward plan of Key Decisions that it intends to make within the following four months.

A **Key Decision** is one that is likely either -

- to result in the authority incurring additional expenditure or a reduction in expenditure exceeding £250,000 in any one year or any individual service or function to which that decision relates; or
- it is otherwise significant in terms of any individual service to the public.

However the scope of the forward plan has been extended to include all those items about which it is known that the Council, Cabinet or an Individual Cabinet Member is to make a decision within the following 4 months. The forward plan will be updated on a monthly basis. Not all decisions will be known 4 months in advance and so advance notice of decisions will be included as soon as they become known.

The Forward Plan enables the Overview and Scrutiny Committee to consider which items they wish to examine and consider in good time before they are determined.

### **Items requiring a decision that have not appeared on the Forward Plan.**

If an item has not appeared on the Forward Plan and a decision needs to be taken before the next edition of the Forward Plan is published then the relevant Director (or Head of Service) must consult with the Chairman of the Overview and Scrutiny Committee - or in his or her absence, the Vice Chairman, or if both are absent, the Chairman of the Council. The views of the Chairman of Overview and Scrutiny Committee must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Forward Plan and why it missed the last edition of the Forward Plan.

If the decision is a Key Decision and less than 5 days notice of the decision has to be given then the agreement of the Chairman of Overview and Scrutiny Committee (or on their absence the Vice Chairman or if both absent the Chairman of the Council) must be obtained before the decision can be made.

In either case the Chairman of the Overview and Scrutiny Committee must report on such consultations/agreements at the next meeting of the Overview and Scrutiny Committee.

## **The call-in procedure**

### 1) What may be called in

- a) Any decision of the Cabinet, or delegated decision of a Cabinet member can be the subject of a call in apart from :-
  - i) a recommendation to full Council for adoption or approval; or
  - ii) if in exceptional cases it is of an urgent nature then Call-in arrangements may be abridged or disapplied if to do so is necessary to safeguard the interests of the Council or of the public. In any such case reasons for the disapplication will be discussed by the relevant Director (or Head of Service) with the Chairman of the Overview and Scrutiny Committee and the reasons for disapplying the call in will be stated at the top of the report and this will be further explained – with the views of the Chairman of Overview and Scrutiny Committee – in the body of the report. In such cases whilst the actual decision cannot be called in the Overview and Scrutiny Committee may ask to consider the circumstances and provide recommendations if they so wish.
  - iii) If the item has already been the subject of an agenda item on the Overview and Scrutiny Committee arising from the Forward Plan and observations made to the Cabinet member or Cabinet and it is demonstrated that these were taken into account when the proposing to make the decision.
  - iv) The appointment of Cabinet members.
  - v) The appointment of Cabinet Secretaries.
- b) A call in can only be requested if the following processes have been followed :-
  - i) Cabinet Member decision – such concerns were raised in writing with the Cabinet Member during the notification period prior to the actual decision being taken, and not taken into account;
  - ii) Cabinet decision – such concerns were raised following the publication of the agenda item, or at the meeting of the Cabinet, and were not taken into account.

### 2) Who may request a call in

- a) At least two voting members of the Overview and Scrutiny Committee and one other member of the council must sign a call in request. One of those calling in the

decision must be identified as the Lead member for the call in. Such voting members shall also include the Parent Governor co-opted members and the Diocesan co-opted members.

- b) A member of the Overview and Scrutiny Committee must not sign a request for a call in if the matter is only of specific reference to their own electoral ward.
- c) If a member cannot obtain the necessary number for a call in but is still concerned about the decision that member is entitled, under Article 5 of the Constitution, to give notice to the Proper Officer requesting its inclusion on the next agenda. The Proper Officer will consult with the Chairman. This will not however prevent implementation of the decision.
- d) Any member of the Council, not on the Overview and Scrutiny Committee, may request that members of the Committee consider instigating the call in process provided that that member has followed the process outlined in 1(b) above.
- e) There should be no party whip applied to the call in process.

### 3) Submission of a call in notice

- a) The notice requesting a call in shall be sent (either in paper or by electronic means) to the Proper Officer, who shall notify the relevant Cabinet Member, Director, Chairman of the Overview and Scrutiny Committee, Chief Financial Officer and Monitoring Officer.
- b) The Proper Officer may reject the call in notice, after consultation with the Chairman of the Overview and Scrutiny Committee if insufficient detail has been given about the reason for call in and desired outcomes.
- c) On receipt of a call in notice the Proper Officer will stop implementation of the decision and consult with all relevant parties on the calling of a meeting of the Overview and Scrutiny Committee to consider the matter.

### 4) Withdrawal of Call in Notice

- a) A call in notice that has already been submitted to the Proper Officer may be withdrawn before the agenda for the meeting of the Overview and Scrutiny Committee called to consider the matter is despatched. Such a withdrawal must be signed by all the members signing the original call in notice and also state the reasons for this.
- b) The Proper Officer shall prepare a report on the circumstances of the withdrawal for inclusion on the agenda for the next scheduled meeting of the Overview and Scrutiny Committee. The report shall include details of any implications arising from the delay caused.

### 5) Meeting of the Overview and Scrutiny Committee to consider the call-in

- a) When the Overview and Scrutiny Committee meets to consider the call in item at least half of the members signing the call in must be in attendance and this must include the nominated Lead Member.
- b) Consideration of the call in by the Overview and Scrutiny Committee shall either be at a special meeting specifically for the item if the decision has to be implemented within a set timeframe, and within a period of 10 working days from the date that the call in was received by the Proper Officer, or if deemed appropriate by the Chairman of Overview and Scrutiny Committee in consultation with all relevant Cabinet Member and Directors, at the next ordinary meeting of the Committee.
- c) Discussion of any call in decision shall precede all other substantive items on the agenda.

6) Process for dealing with a call-in at a meeting

The process for dealing with a call in at a meeting of the Overview and Scrutiny Committee will be as outlined in guidance notes which will be reviewed on an annual basis by the Committee and Proper Officer in the light of experience.

7) Action that can be taken by the Committee in relation to a call-in

Following consideration of submissions in relation to the call in the Overview and Scrutiny Committee may take the following action :-

- a) Accept the decision which has been made by the Cabinet or Cabinet Member, In this case the decision takes effect immediately;
- b) Accept the decision which has been made by the Cabinet or Cabinet member but make appropriate recommendations associated with that decision. In this case the decision takes effect immediately.
- c) Accept the decision made by the Cabinet or Cabinet Member but add an item to the Committee's workplan to review the effect of the decision at a later date;
- d) Refer the decision back to the decision maker with recommendations. The Overview and Scrutiny Committee must set out in writing the nature of its concerns that the decision maker must take into account before making a final decision. If the concerns and recommendations are not accepted the decision maker must state the reasons. If the decision maker implements the decision as originally intended then the Committee can consider adding an item to its workplan to review the effect of the decision at a later date.
- e) If advice is received from the Monitoring Officer that the decision is unlawful, or outside the Policy Framework; or from the Chief Financial Officer that the decision is outside the budget, the decision cannot be implemented and must be referred back to the decision maker with recommendations or to full Council if the Policy Framework or budget needs amending.

If, after debating the call in, no motion is formally proposed, seconded and agreed by the Overview and Scrutiny Committee then the minute shall record this and the decision of the Cabinet or Cabinet Member can be implemented.

#### 8) Review of the call-in process

The operation of the provisions relating to call in shall be monitored annually by the Proper Officer in conjunction with the Overview and Scrutiny Committee and a report submitted to Council with proposals for amendments if necessary.

### **Officer Decisions**

These are not subject to the formal process as above, nor to the call-in process. All officer decisions can implemented immediately and generally fall into two distinct types:

#### **Decisions taken by an Officer in consultation with the relevant Cabinet Member**

There are a number of items specifically contained within the Council's scheme of delegations (see page 71) which provide for the relevant officer to make a decision in consultation with the relevant Cabinet Member. The relevant officer in consultation with the Cabinet Member must consider whether these decisions should be taken following consultation also with the relevant Chairman of the Overview and Scrutiny Committee or Scrutiny Panel and/or local member(s).

Once the Cabinet Member (and any other members as deemed necessary) has been consulted the officer's formal decision must be recorded and counter signed by the Cabinet Member (this can be via an exchange of emails) thus recording that such consultation has taken place.

#### **Decisions taken by an Officer or by those authorised by the Officer**

This category includes a wide range of decisions made on a day to day basis by Directors, Heads of Service or by staff authorised by them to take such decisions. These decisions fall within the scheme of delegations to the Officers and concern the operational management of their areas of responsibility.

Such decisions will be within approved budget and policy. The Officer will use their discretion in briefing the relevant elected member(s) on decisions taken in this category.

# PROTOCOL FOR COUNCILLORS ON RIGHTS TO INFORMATION

## 1) General

- a) All requests from Councillors for documentation must be submitted to the appropriate Head of Service.
- b) Such a request must :-
  - i) Be specific as possible about the documents that they wish to see;
  - ii) State the reason for wanting the information and the purpose that it will be used.

The Head of Service is entitled to ask the Councillor to make the request in writing if they are in any doubt about what is required and why.

- c) If the Head of Service, after seeking appropriate legal and financial advice where necessary, considers that the information can be supplied this will be undertaken as soon as possible. The timescale will also take into account officers workloads.
- d) If the Head of Service considers that the costs of supplying the information is too great or time consuming then alternative arrangements may be suggested to the member so that the request can be met by some other means.
- e) In certain circumstances a member may be invited to inspect a document or file and this may be under supervision of a senior officer.
- f) A members right to inspect documents in the Council's possession is governed by statute, case law, the Council's Constitution and the Code of Conduct.

## 2) Committee Papers - Local Government Act 1972 Section 100F

- a) A member can inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Committee or Sub Committee subject to the following exceptions contained in Schedule 12A of the Act which lists 7 categories of "exempt" information which is not available to the public.

This will be as detailed within the Access to Information Rules within the Council's Constitution.

A document must be in a finalised and substantive format.

### 3) Case Law

- a) The following tests may be used to establish if a member has a “need to know” :-
  - i) If the member is on that Committee then there is a right to inspect documents relating the business of that Committee;
  - ii) If the member is not on that Committee then they must demonstrate that they must have sight of the document to enable them to perform their duties as an elected member.
  - iii) If the member’s motive is deemed, by the appropriate Director, to be improper then access to the document will be denied.
  - iv) If no specific reason has been given other than of a general interest.

### 4) Freedom of Information

- a) A member has rights as a member of the public under the Freedom of Information Act 2000 to information held by the Council. A request made under this must :-
  - i) Be in writing or by e-mail;
  - ii) Provide a name and address where the information should be sent;
  - iii) Specifically describe the information required.
- b) The member does not have to demonstrate a “need to know” but where information is confidential, personal data or commercially sensitive it is likely to be exempt from disclosure.

### 5) Code of Conduct

In seeking any information the member concerned has to ensure that there is no breach of the Code of Conduct.

### 6) Data Protection Act 1998

Members have to abide by the provisions of the Data Protection Act and not use personal data for purposes which are inconsistent with the purposes that it was stated to be obtained for.

### 7) Disposal of information

The Council has a Records Management Policy and the period for which records are to be held varies in accordance with the information kept and the statutory requirements. If a member is given information that would not normally be available to the public, or press, must not be divulged nor should the information be used improperly. The information should be disposed of in a safe and confidential manner.

#### 8) Advice to Cabinet Members

Directors provide advice to cabinet members on the development and implementation of policy and the delivery of the functions for which the cabinet member has overall responsibility for.

In addition to briefings given at informal meetings of the Cabinet, Cabinet members have the right to regular confidential briefings from Directors and Heads of Service. In instances where the Cabinet Member is made aware of anticipated difficulties that represents a significant risk to the Council's legal, financial or reputational position it will be the responsibility of the Cabinet member to brief the Chairman of Scrutiny. In a case of an audit function then the Cabinet Member or Director shall brief the Chairman of the Audit Committee.

#### 9) Advice to all members of the Council

It will be the responsibility of Cabinet Members to ensure that all members of the Council are briefed on key issues that are likely to represent a significant risk to the Council's legal, financial or reputational position. This may be supported by briefings from Directors.

Any member of the Council may request a briefing on a specific issue from a Director or appropriate Head of Service. The ability to respond to such requests will need to be in accordance with the priorities and timescales of the relevant officers. Any problems will be referred, if necessary, to the Chief Executive, for resolution with the member concerned and where appropriate the group leader.

#### 10) Advice to Political Groups

Directors will provide briefings to a political group on a specific issue provided a similar opportunity is afforded to all other political groups.

#### 11) Exceptions

The type of information that will not be supplied include that which relates to individual employees; recipients of services and financial assistance from the Council; adoption, care, fostering and education of any particular child; details of a proposed contract and legal advice.

#### 12) Mediation

Any Head of Service who has any reasonable doubt regarding the release of information should seek the advice of the Monitoring Officer.

If a Councillor is refused any information and is not satisfied with the reasons stated by the Head of Service for this decision then they can seek the guidance of the Monitoring Officer.

### 13) Application to Co-opted and Independent Members on Council Committees

Any reference in this protocol to a Councillor shall also include any co-opted or independent member on a Council appointed Committee.

## DOCUMENTS NOT FORMALLY PART OF THE CONSTITUTION

The following documents are either attached to, or linked from, the Constitution and whilst not formally part of the Constitution they nevertheless set out the relevant procedures of the Council and its various Committees etc and must be followed as appropriate.

The table below also indicates which body has the responsibility for maintaining these and updating them as necessary.

<b>Document</b>	<b>Attached to or linked from the Constitution</b>	<b>Responsibility for updating:</b>
Terms of Reference of the Youth Council	Attached	Youth Council
Protocol for Member/Officer Relations	Attached	Full Council
Monitoring Officer Protocol	Attached	Ethical Standards Committee
Code of Practice for Members and Officers Dealing with Licensing Matters	Attached	Licensing & General Purposes Committee
Code of Practice for Members and Officers Dealing with Planning Matters	Attached	Planning Committee
Code of Practice for Members and Officers dealing with Property Transactions	Attached	Cabinet
Consultation Protocol Between Parish/Town Councils and the Isle of Wight Council (Parish Charter)	Attached	Cabinet
Protocol on Publicity and the Media	Attached	Head of Communications
Members Allowances Scheme	Attached	Full Council (on recommendations from the Independent Remuneration Panel)
Directors Team Terms of Reference	Linked	Directors Team
Procurement Board Terms of Reference	Linked	Directors Team
Call Over Terms of Reference	Linked	Call Over
Rules of Debate Flowchart	Attached	Democratic Services Manager

# *TERMS OF REFERENCE OF THE ISLE OF WIGHT YOUTH COUNCIL*

## Isle of Wight Youth Council Constitution

### **1. Purpose**

The purpose of the Isle of Wight Youth Council (hereafter referred to as IWYC) is to work on behalf of the young people of The Isle of Wight, in co-operation with the Isle of Wight Council, to increase young people's influence over issues and decisions, which concern young people and to develop and deliver projects for the benefit of young people

### **2. Aims**

2.1 The IWYC aims to be a link between the young people of the Island, the IW Council, and other appropriate organisations.

Specifically

2.1a To provide the IW Council and other appropriate authorities with the views of young people, both in relation to matters of concern and to Council initiatives, and to raise the awareness of young people and increase their participation in democratic, decision making processes.

2.1b To receive and consider information from all departments of the Council on issues of significance to young people for consultation and comment.

2. 1c To work in partnership with the IWC to help them arrive at decisions which benefit young people.

2.2 The IWYC will keep all its members informed of its actions and decisions.

2.3 The IWYC will work with other bodies representing young people.

### **3 Membership**

3.1 The IWYC will consist of 24 elected young people. There will be 8 places for co-opted young people. The term of office will be until the next elections are held. These 8 co-opted young people will have voting rights and must be invited to attend by the IWYC. This is to ensure that more young people will have the opportunity to be represented. The young people elected to the UK Youth Parliament (MYP & Deputy MYP) will automatically occupy 2 co-opted places and will not be allowed to be officers of the IWYC.

3.2 Members of the IWYC must be aged between 11 and 21 inclusive and resident on the Isle of Wight.

In the case of a member reaching their 22<sup>nd</sup> birthday that member will be able to see out their term of office. The Youth Council will aim to be representative of young people of all ages, from all areas of the Isle of Wight and from all backgrounds.

- 3.3 A member of the IWYC may resign, at any time, by informing the Secretary in writing. If a vacancy arises for this, or any other reason, the IWYC will invite a young person, from the relevant constituency, to fill the place. Young people who went for election will be given priority. The new member can stay in place until the next election. If no one comes forward the IWYC can decide to co-opt an interested young person to fill the vacancy until the next election.
- 3.4 Members of the IWYC have a key role in communicating with their constituents and in placing matters on IWYC agendas that are requested by the young people they represent.
- 3.5 A person cannot stand as a member of the IWYC if within 5 years of standing they have received a prison sentence of 3 months or more, whether custodial or not. A member is no longer a member if they receive such a sentence once they are elected.

#### **4 Meetings and other IWYC Communications**

- 4.1 The full IWYC will meet at least 12 times a year in County Hall or at a venue of IWYC's choosing. If a member cannot attend a meeting apologies will be expected. If a member fails to attend 3 times in a row without making apologies they can be asked to leave the Youth Council.
- 4.2 Agendas and notes of the meetings will be distributed to all members.
- 4.3 Issues will be decided by a simple majority of voting members present. The Chairperson will have a casting vote.
- 4.4 A quorum shall be not less than eight elected members. If, at any meeting, the elected members are outnumbered by co-opted members then that meeting will be declared inquorate.
- 4.5 A breach of the IWYC ground rules will result in a verbal warning from the chair, a further breach will lead to a written warning and a third may lead to expulsion from the Youth Council. Expulsion will require a majority vote from the full IWYC. The ground rules can be found in Appendix 1 at the end of this document.

#### **5 Powers**

- 5.1 The IWYC shall have powers to carry out lawful activities in order to achieve the aims of the organisation.
- 5.2 The IWYC has the power to raise funds from external sources in the form of grants and the IWYC must not undertake any trading activities.

## **6. Officers of the Youth Council**

- 6.1 The IWYC will have a Chairperson, a Vice-Chairperson, Secretary (IWC Youth Empowerment Worker), Treasurer (if appropriate) and any other officers the IWYC decides it requires. The Chair and Vice-chair will be elected by the members of the IWYC at the start of the year.
- 6.2 IWYC accounts will be independently audited on an annual basis.

## **7 Constitution**

- 7.1 This constitution may only be altered by a majority vote of the IWYC and must be revisited every 3 years.

## **APPENDIX 1**

### **IWYC Ground Rules**

Respect for each other – be polite

Respect for others' opinions, even if you disagree with them

Challenge the opinion not the person

Racism, sexism, homophobia, ageism and any kind of prejudice will be challenged

Equal Opportunities will be central to all IWYC operations and processes

Listen and communicate

Pull your own weight – be actively involved

Minimise formality and jargon

Work as a team

Keep phones switched off or on silent and only answer, outside the room, if urgent.

Online communications on IWYC matters should be shared with all members

Only say things online that you would be prepared to say in a meeting

Private communications must be clearly stated as private and not alluded to or revealed to other IWYC members

## *A PROTOCOL FOR MEMBER/OFFICER RELATIONS*

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

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

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

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

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

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

7. Officers should never lobby Members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
8. The principal focus of Member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to development control and licensing matters, to which specific codes of practice apply.

9. Member decision making is always formal, public and auditable on the basis of written reports and their advice from all relevant officers.
10. Accordingly, Members should not purport to give instructions directly to Officers on an informal basis, except to the small number of Officers employed specifically to provide support services to elected Members.
11. Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by Members, and in particular should avoid being in a position where they could be seen as asking an officer to act against Council policy, against the Officer's professional judgement or otherwise under pressure from the member.

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

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

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

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

### ***Group Briefings***

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

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

19. Neither Officers nor Members should pass comment about Officers in a way which could be taken as personally critical of, or as undermining, that Officer. Similarly, it is never the role of an Officer to criticise or undermine a Member.
20. Complaints about elected Members should be made to the Monitoring Officer (or in serious cases, direct to the Standards Board for England). A breach of this protocol may be evidence of a breach of the Members' Code of Conduct.
21. Complaints about Officers should be made to their Head of Service, or where necessary, to their Strategic Director or direct to the Chief Executive. Such complaints will be dealt with by appropriate disciplinary, capability or other established procedure.
22. Except as part of an appointment or appeals panel, Members are prevented by law from becoming involved in matters relating to individual employees. Information about disciplinary, capability or other employment processes are one of the exceptions to the rights of Members to access information.

### ***Cabinet and Overview and Scrutiny Function***

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

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

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

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

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

# *MONITORING OFFICER PROTOCOL*

## **1. STATUTORY RESPONSIBILITIES**

The Monitoring Officer is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989. This Protocol sets out how the duties of the Monitoring Officer will be carried out.

The role of the Monitoring Officer is assigned to the Deputy Director of Resources (Corporate Governance).

A summary of the Monitoring Officer's responsibilities is set out in the Annex to this Protocol. These duties will be carried out in accordance with the Authority's policies, legislative requirements and relevant Government guidance. The Monitoring Officer's ability to carry out these duties and responsibilities effectively will depend on the proactive assistance and cooperation of Members and Officers.

## **2. WORKING ARRANGEMENTS**

The Monitoring Officer will promote effective working relationships with Members and Officers to advance good governance, the highest standards of ethical behaviour and the effective discharge of the Monitoring Officer's statutory and discretionary duties. A speedy flow of relevant information and access to debate, particularly at the early stages of any decision-making by the Authority, is central to fulfilling those responsibilities. Members and Officers agree to work with the Monitoring Officer, and staff in Legal and Democratic Services to this end.

## **3. RESOURCES**

The Authority agrees to ensure that the Monitoring Officer has sufficient staff, accommodation and resources to discharge her/his statutory functions. The Monitoring Officer will appoint deputy Monitoring Officers and will keep him/her briefed on any relevant issues that she/he may be required to deal with in the absence of the Monitoring Officer.

## **4. ACCESS TO INFORMATION**

The Monitoring Officer will be kept informed by Members and Officers of any issues that may become of concern to the Authority, including, issues concerning legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to arise or have arisen.

The Monitoring Officer will be given advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Authority (including meetings at which Officer delegated decisions are may be taken) at which a binding decision may be made (including a failure to take a decision where one should have been taken).

She/he will have the right to attend (including the right to be heard) any meeting of the Authority (including meetings at which Officer delegated decisions are may be taken) before any binding decision is taken (including a failure to take a decision where one should have been taken).

She/he will have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of her/his functions regarding investigation and determination of complaints.

## **5. RELATIONSHIPS**

The Monitoring Officer will ensure the Authority, its Members and Officers and in particular the Chief Executive (Head of Paid Service) and the Chief Finance Officer (the Section 151 Officer) are kept up to date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other Governance issues that are likely to arise or have arisen.

She/he will develop a close working relationship of respect and trust with the Chairman, Leader, Party Group leaders, and other Authority Members with a view to ensuring the effective and efficient conduct of Authority business.

## **6. STANDARDS MATTERS**

The Monitoring Officer will give informal advice and undertake relevant enquiries into allegations of misconduct (in the absence of a written complaint being submitted to the Ethical Standards Committee) received by the Standards Board for England) and, if appropriate, make a written report to the Standards Committee or to the Standards Board for England if, in the opinion of the Monitoring Officer, there is a serious breach of the Members' Code of Conduct.

She/he will carry out (or arrange to have carried out) investigations and arrange the conduct of local hearings in conformity with the Authority's Procedures for Local Investigation and Determination of Allegations about the Personal Conduct of Authority Members.

## ANNEX: SUMMARY OF FUNCTIONS OF MONITORING OFFICER

Description	Source
1. Report on contraventions or likely contraventions of any enactment or rule of law.	Sections 5 & 5A, Local Government and Housing Act 1989.
2. Report on any maladministration or injustice where the Ombudsman has carried out an investigation.	Sections 5 & 5A, Local Government and Housing Act 1989.
3. Appoint a Deputy/Deputies	Sections 5 & 5A, Local Government and Housing Act 1989.
4. Report on sufficiency of resources.	Section 5, Local Government and Housing Act 1989.
5. Establish and maintain the Register of Members' interests, and the register of gifts and hospitality.	Section 81, Local Government Act 2000
6. Receive copies of certificates under the Local Authorities (Contracts) regulations 1997.	Local Authorities (Contracts) regulations 1997.
7. Maintain, monitor and review the Governance arrangements of the Authority.	This Protocol.
8. Support the Ethical Standards Committee. Promote and maintain high standards of conduct.	Part III Local Government Act 2000
9. Receive reports from Ethical Standards Officers and case tribunals.	Part III Local Government Act 2000
10. Consulting with, supporting and advising the Chief Executive (Head of Paid Service) and the Chief Finance Officer and on issues of lawfulness and probity.	This Protocol.
11. Advising the authority on issues of lawfulness and probity.	This Protocol.
12. Conduct investigations into misconduct.	Section 66, Local Government Act 2000
13. Proper Officer for Access to information.	This Protocol.
14. Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all Members.	This Protocol.

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

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

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

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

- 2.1 Members and officers have different, but complementary, roles. Both serve the public but Members are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Members and officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 2.2 Applicants and the public are entitled to expect high standards of conduct and probity by all people holding public office and, in particular, when dealing with licensing matters. Only material licensing considerations should be taken into account. There are statutory provisions and code setting standards which must be followed. Both Members and officers are guided by national codes of conduct.

- 2.3 The Code of Conduct provides guidance and standards for Members. Members should not favour any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take.
- 2.4 Officers must always act impartially. In order to ensure that senior officers do so, the Local Government and Housing Act 1989 imposes political restrictions.
- 2.5 If any officer believes that pressure is being exerted upon him by a Member of the Council in relation to any particular application or vice versa, he or she shall forthwith notify the matter in writing to the Monitoring Officer. Members shall not attempt in any way to influence the terms of the officer's report or recommendation on any application.
- 2.6 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting licensing permission, unless that opposition or support is based upon valid reasons and concerns which can be sustained.
- 2.7 Following Council elections, and at intervals thereafter, a range of training seminars are held for Members. Guidance is given on the Code of Conduct and on licensing matters. No member may sit on the Licensing & General Purposes Committee or its Sub Committee until they have satisfactorily attended the relevant training sessions.
- 2.8 Members and officers should be very cautious about accepting gifts and hospitality and should follow the advice in the local Code for receipt of gifts and hospitality.

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

- 3.1 The law and the Code of Conduct set out requirements and guidance for Members and officers on declaring interests and the consequences of having such interests.
- 3.2 Members who have substantial Licensing interests, or other interests, which would prevent them from voting on a regular basis, should avoid serving on the Licensing & General Purposes Committee. Members who have business or other interests which may bring them into contact with the licensing system on a regular basis should not be considered for membership of the Licensing & General Purposes Committee.
- 3.3 Further advice on these matters is available from the Monitoring Officer.

### **4 LICENSING PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS**

- 4.1 If an application has been made by a Member or one of their family or friends, that Member should not vote or speak on the application and should withdraw from the meeting. Equally, a Member who has acted in a professional capacity for any individual, company or other body pursuing a licensing matter

should not vote or speak in relation to that matter and should withdraw from the meeting.

- 4.2 Where a Member wishes to object or support an application he/she may submit written representations, but would have to declare an interest but would have the same rights as a member of the public to speak (but NOT vote) at the Licensing & General Purposes Committee or its Sub Committee. An officer could similarly submit written representations but having advised the Head of Community Safety should take no part in the work of processing the application and, if required, to attend the Licensing & General Purposes Committee or its Sub Committee, would have to declare an interest.

## **5 LOBBYING OF MEMBERS AND LOBBYING BY MEMBERS**

- 5.1 Individual Members on the Licensing & General Purposes Committee should reach their own conclusions on licensing matters, rather than follow the lead of another Member. In this regard, any political group meetings prior to a Committee or Sub Committee meeting should not be used to decide how Members should vote. The use of political whips at group meetings in this way may be seen contrary to the Code of Conduct, amounting to maladministration. Decisions can be taken only after full consideration of the Officer's report and information and discussion at the Committee or Sub Committee.
- 5.2 When dealing with the public, it is quite proper for Members to give factual information, advice as to the process and procedures followed by the Council, and who to contact in the Council for further information. Equally, it is appropriate for a Member to report the public's views, either to officers or to the Committee or Sub Committee, but it would be wrong for the Member to put pressure on officers for a particular recommendation to the Committee or Sub Committee.
- 5.3 A Member of the Licensing & General Purposes Committee who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it – this creates real or perceived bias and it will be very difficult for that Member to argue convincingly, when the Licensing & General Purposes Committee or its Sub Committee comes to take its decision, that they have carefully weighed the evidence and arguments presented at the Committee or Sub Committee. The proper course of action for such a Member would be to not participate in decision making. Accordingly, a Member should avoid organising support for or against a licensing application if they intend to participate in its determination at the Committee or Sub Committee. A Member should not lobby other Members to support or oppose a Licensing application.
- 5.4 Members who also serve on parish councils may need to clarify their separate roles in each Council regarding Isle of Wight Council licensing policies. The public and other interested parties should be clear at all times when the

Members are acting as a parish councillor and when they are acting in their role as an Isle of Wight Councillor.

- 5.5 Merely taking part in Town/Parish Council debates on licensing matters does not automatically debar a Member from decision-taking at the Licensing & General Purposes Committee or its Sub Committee. However, Town/Parish Councils do not have expert licensing advice or complete information on the application and other licensing matters when they make their representations to the Council. Therefore, Members who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider licensing issues at their Town/Parish Council meeting. They should not declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the Licensing & General Purposes Committee or its Sub Committee. Such conclusive statements at Town/Parish Council meetings could debar Members from speaking or voting at the Licensing & General Purposes Committee or its Sub Committee meetings dealing with licensing applications or other matters.
- 5.6 If Members consider they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer who will, in turn, advise the appropriate Officers.

## **6 PRE-APPLICATION DISCUSSIONS**

- 6.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example: to overcome objections by the Police, Fire or Environmental Health; or to meet relevant neighbour concerns.
- 6.2 It should always be made clear at the outset that pre-application discussions will not bind the Council to making a particular decision, and that any views expressed are provisional, until all relevant information is submitted and consultations on it have taken place.
- 6.3 Advice should be consistent, and based on precedent, policies and other material considerations. There should be no significant difference of interpretation of licensing policies between licensing officers. All officers taking part in such discussion should make it quite clear whether or not they are the decision maker. Licensing Officers will ensure their advice is not partial, nor seen to be. A written note should be made of all meetings.
- 6.4 When attending public meetings and site visits, Members should take great care to maintain their impartial role as a Member, listen to all the points of view, and not state a conclusive decision on any proposal or submitted licensing application. Members of the Committee should not make unaccompanied "unofficial" site visits in connection with pre-submission discussions, the determination of current applications or familiarisation visits.

- 6.5 It is preferable that Members do not take part in pre-application discussions, so as to maintain impartiality and avoid apparent bias arising. Where Members do become involved in such discussions, including meetings on site, they must seek the assistance and attendance of a Licensing Officer. If any contact is made in the absence of officers, a written note of any discussions between the Member and the applicant and/or his agent should be sent to the Head of Community Safety so that it may be placed on the file.

## **7 OFFICER REPORTS TO COMMITTEE OR SUB COMMITTEE**

- 7.1 Certain applications are dealt with under the scheme of delegation, which gives clear guidelines on when applications will be determined by the Head of Public Protection, in some cases in consultation with the local Member and then the Chairman of the Licensing & General Purposes Committee. Where an application is dealt with under the agreed delegation procedure, a record will be kept of the considerations taken into account in the determination of that application with an appropriate sustainable justification for the decision.
- 7.2 Where appropriate, the reports will give comprehensive detail and a clear explanation of the location, the relevant licensing history, the policies and any other material considerations. Reports will identify a range of options which the Committee OR Sub Committee may choose.
- 7.3 Oral reporting, except to update a report or to make a brief presentation (if invited to do so by the Chairman of the Licensing & General Purposes Committee), will be rare. Additional information on items on the agenda received after the publication of the Committee or Sub Committee agenda will be reported to the meeting and it will be for the meeting to decide whether this should be taken into account.
- 7.4 A Member shall not be able to vote in relation to any licensing application unless he or she has been present at the meeting of the Licensing & General Purposes Committee or its Sub Committee throughout the consideration of that particular application.
- 7.5 All decisions should be properly recorded and the reasons for all decisions should be clear.

## **8 SITE VISITS**

- 8.1 The purpose of a site visit is for Members of the Licensing & General Purposes Committee, or Sub Committee, to gain knowledge of the site/premise involved in the application. A decision by the Licensing & General Purposes Committee, or Sub Committee, to carry out a site visit should only be made where objective decisions could not be taken without such a visit. It should be remembered that site visits will cause delay and additional costs and should only be used where strictly necessary.
- 8.2 The Head of Community Safety may decide that it is necessary for the Licensing & General Purposes Committee or Sub Committee to visit the site

prior to considering the application at a forthcoming meeting but he must obtain the necessary authorisation from the Chairman of the Licensing & General Purposes Committee.

- 8.3 The applicant (or their agent) shall be formally notified in writing of the site visit. The applicant (or their agent) will be asked to notify the Committee Administrator at the earliest possible date if they have any objections to the members entering their property or coming onto their land.
- 8.4 Authorised attendance at a site visit shall be limited to Members of the Licensing & General Purposes Committee, or its Sub Committee, the local Member (if not a Member of the Committee), relevant Council officers, Officers of other relevant agencies (i.e. Police) and landowner/applicant/agent. Only those members of the Committee/Sub Committee who attended the site visit will be able to consider the matter when the Committee/Sub Committee formally meets.
- 8.5 Members will follow the Chairman of the Licensing & General Purposes Committee, accompanied by the relevant officer(s), on the site. Members should form and continue to form a single group. A site visit is for the purpose of viewing the site and ascertaining the facts. The Head of Community Safety (or their representative) will summarise the issues which have led to the site visit and draw attention to any salient points but there will be no discussion on the merits of any application during the site visit although, of course, Members may ask questions and request clarification on individual points.
- 8.6 The applicants (or their agents) and members of the public shall not be permitted to make representations to Members during a site visit. As an exception to the rule, however, the applicant/agent may, with the permission of the Chairman, give any purely factual information which is required by Members and which cannot be ascertained by viewing alone. Such information shall be relayed through the Head of Community Safety (or their representative).
- 8.7 The application will be determined at a meeting which will take place immediately after the conclusion of the site visit.

## 9 **SANCTIONS**

- 9.1 The purpose of this code is to provide guidance to Members, and Members of the Licensing & General Purposes Committee in particular, and officers in relation to the performance of the Council's licensing function. The application of and adherence to the code is intended to build public confidence in the Council's licensing system and to produce a strong platform for licensing decision making. The code does not remove the responsibility of Members to exercise their statutory discretion to determine the merits of individual applications.
- 9.2 The failure to adhere to the code gives rise to a range of potential consequences to the Council and individual Members, especially if this results

in a pattern of inconsistency. Consistency and fairness are important qualities in the public eye and they are vital to the conduct of a Licensing Committee. Beyond the normal democratic process, a number of specific consequences can be identified.

- 9.3 The Council's Ethical Standards Committee provides a forum where issues relating to the conduct of Members can be addressed.
- 9.4 If an individual believes that a Member has breached the Code of Conduct they can complain to the Ethical Standards Committee who will investigate the matter.
- 9.5 Although the Local Government Ombudsman will not investigate the balance of argument in any licensing decision, he/she may agree to investigate a licensing complaint if it concerns the manner in which a decision was taken. If it is found that injustice has been caused by maladministration in the light of statutory or established Council procedures, he/she will recommend redress which may take the form of compensation. Where the Local Government Ombudsman makes a finding of maladministration on the basis of a breach of the Code of Conduct, then the report may name the individual Member and give particulars of the breach.
- 9.6 An applicant who has been refused permission, or granted permission on a conditional basis, has a right of appeal to the Magistrates Court or Crown Court. If an appeal is successful the appellant's costs may be awarded against the Council.
- 9.7 If objectors are convinced that the Council, in determining to grant an application, did not observe its statutory obligations to carry out all necessary procedures, based its decisions on approved policies and take into account all representations, they may apply for judicial review of the decision. In such circumstances it would be normal for the costs of an applicant to be awarded against the Council. The Human Rights Act 1998 may give objectors, who are personally affected by a decision a further ground to apply to the courts.
- 9.8 Each of the above courses of action could result in significant additional costs to the Council. These costs will be closely examined by the District Auditor. Where it appears to an Auditor that a loss has been incurred or deficiency caused in the Council's accounts by the wilful misconduct of any person(s) he/she is required to certify that the loss or deficiency is due to that person(s).

# **CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

## **INTRODUCTION**

1. This Protocol sets out guidance for all elected members, in various roles including as local member and as member of Planning Committee (including those co-opted members who are regarded as being elected members for the purposes of the Members Code of Conduct).
2. Planning Committee is established by the Full Council to determine those issues which have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies); are made for commercial or potentially contentious purposes by Elected Members or officers (or their spouses); or are contentious among the wider Island communities.
3. As such, Development Control is among the most controversial and high profile functions of the Local Authority. Councillors need to balance their duties to individual constituents, and to the community which they represent, with the need to objectively determine Development Control issues in accordance with the law, and locally adopted planning policies.
4. The principal purpose of this guidance is to assist Officers and Members in delivering unimpeachably high standards of Development Control decision making. It applies equally to Elected Members who are sitting on the Planning Committee, Members who otherwise attend the Planning Committee and/or who have an interest as a Local Member in issues being determined by that Committee. It also applies to Officers throughout the Local Authority.
5. Officers need to be able to exercise their professional roles, which involve advising applicants, Elected Members taking decisions and, also, taking decisions themselves under the scheme of delegations.

## **OTHER RELEVANT CODES AND PROTOCOLS**

6. Regulation of Members' conduct is principally by the Members Code of Conduct which has been adopted by this Authority. Breaches of this code are investigated and policed by the Ethical Standards Committee.
7. Local Codes of Conduct, such as this code of practice, are policed by the Ethical Standards Committee and the Monitoring Officer.
8. Relationships between Members and Officers are considered in detail in the Member/Officer Protocol also forming part of this constitution.
9. The roles of Councillors are considered in some detail in a number of job profiles, also forming part of the constitution.

10. Officers who are members of the Royal Town Planning Institute must follow a code of professional conduct. Breaches of that code may be subject to disciplinary action by the institute.
11. The constitution contains rules on acceptance of gifts and hospitality. Neither Councillors nor Officers should ever place themselves in a position of accepting hospitality from an applicant or an objector.

## **DECISION MAKING**

12. The Town and Country Planning Act 1990 established a plan led system. Planning applications must be determined by reference to the Unitary Development Plan. Each application must be decided in accordance with the plan unless there are enough material considerations to justify a departure from the policy.
13. Members who are consistently unable to support national or local planning policies will inevitably find themselves unable to take objective decisions in relation to individual planning applications, and should not participate in Development Control decision making. The decision as to whether a member can continue to participate in Development Control decision-making is one primarily for individual members, having received advice from the Monitoring Officer. However, any member who finds themselves speaking against a particular policy on two or three occasions during a twelve month period or five or six occasions during the lifetime of the Council might choose to regard themselves as unable to support that particular policy and withdraw from debate where it is being applied. Where a member speaks against three or more policies during a twelve month period, or against five or six over the lifetime of a council similarly they may find themselves as being unable to support national or local policies to the extent they should not make Development Control decisions.
14. Local opposition or support for an application is not a ground for making a decision unless that opposition or support is based on material planning considerations.
15. Development Control regulates the right and privileges of individuals. There will always be a recommendation from Officers. Only in exceptional circumstances will Members abstain. Where a Member does wish to abstain they should explain the reasons for doing so during their contribution to the debate.
16. Members can only take informed, objective, decisions when they have received and carefully read all written reports and submissions. They must also carefully listen to all public speaking contributions and to all contributions to the debate from Members. Therefore any Member who has not been present throughout the whole consideration of an item must not vote.
17. The majority of applications will be dealt with by officers using delegated powers, however, the following applications and related submissions will be determined by the Planning Committee:

- (a) Applications which have a genuine Island wide significance due to their size or impact; raise marginal and difficult policy issues (including inconsistency between policies) or are contentious among the wider Island communities.
- (b) Applications which by their nature need to be accompanied by an Environmental Impact Assessment (or Environmental Statement) as a requirement of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any future such Regulations.
- (c) Applications submitted by or on behalf of an Elected Member (or their spouse/partner) or by any officers (or their spouse/partner) employed in Planning Services or any other areas of the Council where the individual may be involved in the planning process (unless the Monitoring Officer certifies that the nature of the applications - being not contrary to policy and for domestic/recreational and not commercial purposes - is such that they can be determined under delegated powers).
- (d) Applications where the proposed development is for Council purposes or involves Council owned land or property (except where the application is for minor works to existing property, where the use is not to be changed and where there is no consequent proposal to dispose of the property).
- (e) Applications for listed building consent (or the associated planning application) proposing the complete demolition of a listed building.
- (f) Applications where an elected Member for the ward in which the scheme is proposed has, within the 21 day statutory consultation period (measured from the Press List date shown on the relevant Weekly List of planning applications) submitted a written request for determination by the Planning Committee. This request must be accompanied in writing by relevant and material planning considerations in accordance with the note circulated on 1 August 2005 or any subsequent update as to why, in the view of the Member, the application should not be determined by Officers without reference to the Planning Committee.
- (g) Applications where a duly made representation has been submitted in writing within the 21 day statutory consultation period containing relevant and material planning considerations in accordance with the note circulated on 1 August 2005 or any subsequent update and which are contrary to the recommendation and that cannot be overcome by conditions and or amended drawings, shall be referred by e-mail to the local member for a period not exceeding 7 days for consideration for call-in to the Planning Committee for determination (Officers will link the e-mail to the application which will show the representations received and Members, if exercising their right of call-in to the Planning Committee, shall give in writing the relevant and material planning considerations in accordance with the note circulated on 1 August 2005 or any subsequent update).

18. Where officers determine applications under delegated powers;
- A record will be kept of the planning considerations taken into account;
  - Appropriate documentation will be retained indicating the Chairman of the Committee's and the ward member's agreement with that delegated decision.

## **DECLARATION AND REGISTRATION OF INTEREST**

19. The Code of Conduct, adopted by this Authority, sets out a regime for Members recording personal and prejudicial interests.
20. Details of the interests regime are set out in the Code of Conduct elsewhere in the constitution.

## **LOCAL MEMBER**

21. Any Local Member who is not a member of the Planning Committee is entitled to attend and speak in relation to any issue with direct impact on their electoral division. They may not vote.
22. Members of the Committee who are determining matters of direct relevance to their electoral division will, by local convention, declare the fact and nature of the impact on their electoral division as a personal interest and may speak but will not vote on the issue. This convention is followed in order to protect the Planning Committee from the perception that decisions are being taken on the basis of local opposition or support rather than material planning consideration.
23. This arrangement also protects against the perception that those areas which are represented by a local member who sits on Planning Committee have a disproportionate influence on the planning processes.

## **OTHER MEMBERS**

24. The Chairman of Planning Committee has the discretion to invite members of the Council who are not members of the Planning Committee nor the member within whose electoral division the proposed development is located to address Planning Committee. The Chairman will usually allow a member in this position to speak in relation to any issue where that member has a contribution to make which relates to material planning considerations, where it has not been practicable for the contribution to be made in writing via officers of the Planning Service and no other member of the Planning Committee can, or will, make the contribution which the non-local member wishes to make.

## **CABINET MEMBERS**

25. The Cabinet Members with responsibility for planning policy will not be appointed to the Planning Committee. That Cabinet Member is nevertheless entitled to

attend the Committee and speak on any item which raises particular planning policy issues.

26. Sometimes the Cabinet Member may as Local Member wish to speak on an issue which also interests them as Cabinet Member. In order to be able to do this they must avoid prejudging the issue before the meeting, and they must declare as a personal interest the potential for conflict between their Cabinet Member interest and their role as a decision maker. So long as the declaration of a personal interest is made they may speak.

## **LOBBYING OF AND BY COUNCILLORS**

27. Development Control decisions must be taken objectively on the basis of relevant information.
28. Where the Planning Committee are taking the decision all, and only, relevant information must be presented either in writing or orally to the Committee meeting.
29. It is perfectly proper for Elected Members to give applicants and objectors factual information about the process but, other than this, contact with applicants or objectors should be treated very carefully. In particular Members who wish to participate in taking a decision must never express an unequivocal opinion about the merits of an application.
30. Whilst it will usually be easier for Members to avoid debating future decisions, particularly in public forums, they may occasionally wish to do so. When this happens they should use a form of words such as “on the basis of the information I have at the moment I am likely to oppose/support the application”. Any Member who makes a stronger statement, such as “this application will be passed over my dead body” will not be able to take part in the decision by the Committee.
31. Any Member who believes they are being lobbied by applicants, objectors or other Elected Members should report the lobbying to Head of Planning Services, who will retain a register of such reports.
32. Members should be particularly careful not to exert pressure on an Officer who has to make a recommendation to the Planning Committee. If any Officer believes that pressure is being exerted upon them they should notify the Head of Planning Services and/or Monitoring Officer immediately. In the event that the Head of Planning Services believes that pressure is being exerted upon his/her role, he or she should notify the Director and/or the Monitoring Officer immediately.
33. Officers will take many planning decisions under Delegated Powers. It is similarly unacceptable for those Officers to be lobbied or subject to undue pressure.

## **BIAS/APPARENT BIAS**

34. Any member who is or appears biased towards an issue can leave the decision vulnerable to challenge in the courts.

35. The court will undertake a detailed investigation of a Councillor's conduct over a period rather than look just at the circumstances relating to that decision itself.
36. It is therefore extremely important that Councillors are well aware of what they should and should not do to avoid having decisions undermined by later challenges. There must be an appearance of impartiality.

## **BIAS**

37. The test for bias applied by the courts in terms of a particular Councillor who participates in the decision-making itself is as follows:

“Would a fair minded observer knowing the background, consider there was a real possibility of bias arising from a particular councillor being a member of the relevant decision making body.”

## **APPARENT BIAS**

38. In recent years the courts have been more willing to find that there has been an appearance of bias:

“Whether, from the point of view of the fair minded and informed observer there was a real possibility that the planning committee or some of its members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of the planning issues.”

39. The court will look at the facts in each case. Expressing a view may not disqualify a member on the basis of bias or the code of conduct, but they must be able to show that they have not approached the matter with a “closed mind”. Merely asserting that the Member had an open-mind will be of little value – they do not relate to the all important impression portrayed.
40. Once the bias or predetermination is demonstrated, the decision will be quashed unless there is good reason for the Court to exercise its discretion not to do so. It is no answer to suggest that only one Member was “guilty” and therefore the decision should stand.
41. In light of the above, and the obvious issues this raises, the following further guidance is given:
  - (a) In respect of a live/current planning application, if Members of the Planning Committee wish to take part in the debate and vote in respect of an application, they should not attend/participate in any discussions/public meetings.
  - (b) In respect of pending/forthcoming applications (pre-application discussions) members of the Planning Committee or local members who wish to take part in the debate should have regard to paragraph 12 (of the Code of

Practice for Councillors and Officers dealing with Planning Matters), and may take the view that they should not attend/participate in any discussion/public meeting if they wish to take part in the debate and vote on an application.

- (c) Councillors who are not members of the Planning Committee and who do not intend to participate in the debate as local member do not need to avoid discussions/meetings but must at all times have regard to the Code of Conduct for Members.

## **PARISH COUNCILS**

- 42. The danger of prejudging an issue arises not just at public meetings but also in Parish Council debates. Taking part in a Parish Council debate does not prevent Councillors from decision taking at the Planning Committee or other Members from participating in the debate. However Parish Councils do not have the advantage of planning advice nor complete information on any application. Contributions by Elected Members at Parish Councils must therefore be carefully worded to avoid evidence of the decision having been prejudged.
- 43. When a Member has participated in a public debate, at a Parish Council or elsewhere, they should declare this as a personal interest when they speak at the Planning Committee and should make a clear statement that they have not prejudged the issue. Detailed advice on this matter is set out in paragraph 18 of this Code of Practice.

## **WHIPPING**

- 44. The use of party political whips in Development Control decisions is maladministration. Whipping must not therefore take place. It is inappropriate for political parties to take a view on planning applications.
- 45. Individual Councillors should reach their own conclusions on planning matters rather than follow the lead of another Councillor. However, the views of other Members of the Committee, where they are relevant, can be one of the factors taken into account in taking a decision.

## **PRE APPLICATION DISCUSSIONS**

- 46. The opportunity for developers to discuss development proposals with planning officers in advance of the submission of applications is recognised best practice. It provides potential developers with detailed guidance on planning policies and other material considerations relevant to proposals. It is preferable that Members do not take part in pre-application discussions in order to maintain impartiality. In certain circumstances, Members may be invited by officers to become involved in such meetings. In no circumstances should Members become involved in pre-application meetings without the assistance and attendance of a planning officer.

47. Notes of all pre-application meetings will be taken, and agreed with the parties attending the meeting. Where appropriate, notes of pre-application meetings will be included on subsequent application files.
48. At the discretion of the Head of Planning Services, developers proposing the submission of major planning applications may be offered an opportunity to present the outlines of their proposal to Members of the Planning Committee prior to formal submission. In such circumstances, Members should recognise that the presentation is for information only, and that the decision making process should not commence until such time as any ensuing application is subsequently made.

## **DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS, AND FOR COUNCIL DEVELOPMENT**

49. In order to ensure that the public has full and proper confidence in the planning system, all planning applications submitted either by Members of the Isle of Wight Council, a member of their family, or by an officer employed in Planning Services of the Isle of Wight Council shall be reported to the Planning Committee. Any planning application submitted by an officer other than in Planning Services who has contact with Planning Services shall also be reported to the Planning Committee. The Head of Planning Services, in consultation with the Chairman of the Planning Committee and the Monitoring Officer, shall determine which such proposals are reported to the Committee.
50. All Planning Services officers shall declare to the Head of Planning Services any interest which they may have in any third party application (eg an application submitted in their immediate neighbourhood or by a society or club of which they are a member) and take no part in the determination of that application.
51. At the meeting of the Planning Committee to which an application submitted by a Member of the Isle of Wight Council is reported, that Member should neither vote nor speak on the application during the debate and should withdraw from the meeting. The opportunity to present a case to the Committee as part of the Public Speaking scheme (see paragraphs 60-62 of this Code) will be available. All Members of the Council who may be considering the submission of an application are strongly advised to employ the services of a professional agent to avoid partiality, to ensure proper contact with officers during its processing and to address the Committee as appropriate.
52. Applications made on behalf of the Council for its own development must be determined in an identical manner to applications made by the general public and the same planning policy considerations applied. Decisions must be made strictly on planning merits and without regard to any financial or other gain which may accrue to the Council if the development were to be permitted.

In general terms, the following types of Council development will be considered by the Planning Committee:

- Proposals which due to their scale and extent would automatically be considered by the Planning Committee.
- Proposals which involve the subsequent disposal of land or premises to a third party.
- Proposals which involve a significant change of use or operation of land and premises.
- Proposals which have attracted a significant amount of public representation.

The Head of Planning Services and the Monitoring Officer will determine which applications fall into the latter two categories.

## **TRAINING**

53. The importance of informed objective decision making in relation to Development Control issues is so important that this Council has a policy of training all Members taking Development Control decisions before they start to do so. Members shall not participate in a Development Control decision without having attended Development Control training.
54. As well as training new Members periodic refresher and updating training is also delivered. This training will be undertaken either by the Head of Planning Services, Planning Officers or external trainers as appropriate. It is extremely important that Elected Members participate in this training. Any Member who believes they are not sufficiently trained should not participate in Development Control decisions.

## **REPORTS TO PLANNING COMMITTEE**

55. All reports will :
- Give comprehensive details of the location and nature of the site
  - Summarise the planning history.
  - Identify relevant planning policies.
  - Evaluate all material planning considerations.
  - Assess any human rights implications.
  - Set out the representations received on the proposal.
  - Set out the Human Rights issues relevant to the proposal.

- Set out a clear recommendation. In the case of a recommendation to approve, appropriate conditions will be set out. In the case of a recommendation to refuse, detailed reasons for refusal will be set out.

## **BRIEFING**

56. In the period between the publication of the Committee agenda and the holding of the meeting itself, a briefing will be held for the Chairman and Vice Chairman of Planning Committee and the Cabinet Member for Planning Policy issues on the Council's Cabinet. The briefing will be organised by the Development Control Manager and appropriate planning officers. An appropriate legal officer will also be in attendance, together with the Committee administrator.
57. The purpose of the briefing is to:
- Advise Members of the key points on each planning application,
  - Advise Members of the extent of public speaking at the Sub-Committee meeting.
  - Discuss administrative issues in relation to the detailed organisation of the meeting.
58. The briefing should not be used by Members attending as an opportunity to exert pressure on officers to pursue a particular course of action. Detailed guidance on this matter is set out in paragraph 30 of this Code of Practice. Similarly the briefing should not be used by officers to impose a particular outcome.

## **CONDUCT AT MEETINGS**

59. It is important that public confidence in Development Control is maintained. The conduct of Members at meetings is extremely important. The following arrangements will help:
- Members of the Committee will sit in a designated seat marked with their name plate.
  - A seating plan will be available for members of the public.
  - Members will speak clearly and concisely using microphones so the public and others Members can hear what is being said.
  - The Chairman will introduce speakers by family name.
  - Mobile phones will be switched off.
  - Eating and drinking is discouraged.
  - Occasional breaks will be taken during long meetings.

- Only exceptionally will the Chairman allow Members to speak for more than five minutes.

## **PUBLIC SPEAKING**

60. In order to ensure that Committee Members have access to a full and appropriate understanding of the often divergent comments on a planning application, the Council operates a scheme of public speaking at Planning Committee.
61. Full details of the Public Speaking scheme are set out in "Your Chance to Speak - Public Speaking at Planning Committee" available in leaflet form from the Head of Planning Services. In summary, the key elements of this scheme are as follows:
- Public speaking is permitted on all planning applications considered by the Planning Committee.
  - Three groups of speakers are permitted on any application - the applicant/agent/supporter, objectors and Parish/Town Councils. Each of these groups will have up to three minutes to present its case. A maximum of three people can speak for each group, with the time divided equally between them.
  - Public speaking on any application is only permitted on the first occasion the application is considered by the Planning Committee.
62. Members of the Planning Committee should give appropriate weight to the representations made by the public in their determination of planning applications. Comments made by speakers exercising their right to address the Committee will, in most cases, highlight comments already summarised in the officer report on the application. In some cases, other issues will be raised which will not already be covered in the report. In assessing comments made during public speaking, Members must only give weight to issues which are material planning considerations. Detailed guidance on this matter is set out in paragraph 16 of this Code of Practice. Where appropriate and/or necessary, the Chairman of the Committee will request officers to comment on items raised by the public in general, and whether or not they are material to the determination of the application in particular.

## **SITE INSPECTIONS**

63. The need for site inspections (which if required will take place prior to the Sub-Committee meeting) will be determined by the Head of Planning Services or the Development Control Manager in consultation with the Committee Chairman.

## **COOLING OFF PERIOD**

64. Where a decision in the opinion of the Head of Planning Services is contrary to Section 54A Town and Country Planning Act 1990 and could not be sustained

under challenge, the “cooling off” procedure adopted in September 1997 may be invoked. The effect of this action is that a decision notice will not be issued on the application. A report will be brought back to the Planning Committee once the Head of Service has finalised his report and the Monitoring Officer has been consulted. The report will analyse the sustainability of the decision and the possibility of precedent. This report may include external legal or planning advice. Reasons will be given for the invoking of the cooling off period.

## **MINUTES/RECORDING DECISIONS**

65. Decisions by Planning Committee will be clearly minuted.
66. Where a decision against officers' recommendation is made, clear and sustainable reasons must be set out by the Committee. Members who are considering determining an application contrary to officer recommendation are strongly recommended to seek professional advice from the Development Control Manager and/or the case officer before raising the matter at the Committee. In any event, all decisions made at the Committee contrary to officer recommendation will be subject to a named vote.
67. It is not possible to revisit decisions after the meeting and the Chairman and those advising and assisting them, must be confident that sufficient and comprehensively recorded reasons for the decision have been set out before the next agenda item is taken.

## **REVIEW AND MONITORING**

68. Annually, the Planning Committee will review a sample of Development Control decisions in order to assess their impact. As part of this process a visit will be organised by the Head of Planning Services and/or the Development Control Manager to a sample of sites where developments have recently been completed.
69. Every six months, the Monitoring Officer and/or Head of Planning Services will report to the Planning Committee an analysis of:
  - All decisions which are a departure from policy.
  - All decisions which are against officers' recommendation.
  - Site Visits.

## **SANCTIONS**

70. Elected Members who act in breach of this code of practice risk one or both of the following:
  - (a) Being the subject of a complaint about a breach of this code to the Monitoring Officer. Where that complaint cannot be resolved, to the satisfaction of the complainant, on an informal basis the complaint will be

investigated and referred to the Isle of Wight Council Ethical Standards Committee.

- (b) More serious cases, particularly breach of paragraphs 19, 20, 27-33 and 51 will be regarded by the Isle of Wight Council as bringing the Council in to disrepute and therefore being in breach of the Code of Members Conduct. Complaints about such a breach are referred to, and investigated by the Ethical Standards Committee.

- 71. Breaches of the Council Procedure Rules, particularly the Planning Committee Rules, may invalidate a planning decision leaving that decision vulnerable to challenge on appeal, through judicial review or by the ombudsman.
- 72. Breaches of Codes of Practice and Protocols are more likely to render individual Members open to personal sanctions rather than invalidate the decision or make a finding of maladministration more likely.
- 73. Officers who act in breach of this Code of Practice may be in breach of their contract of employment and subject to disciplinary or capability procedures.

# ***PROTOCOL - PLANNING COMMITTEE REQUESTS FOR SITE INSPECTIONS***

## **BACKGROUND**

1. This protocol has been prepared to establish procedures for the organisation of Planning Committee site inspections which take place prior to the Committee meeting.

## **GENERAL PRINCIPLES**

2. A Committee site inspection plays an invaluable role in the determination of more complex or controversial applications. Site inspections allow Committee Members to better understand the context and content of the previously published Committee report. Site inspections also provide Members with the opportunity to view particular aspects of a site, the proposal, or the wider local environment raised by Officers, the applicant or objectors.
3. Committee Members should under no circumstances make decisions on applications during the site inspection itself.
4. Members should debate the proposal at the Committee meeting held on the following day, and take into account both the appropriate policies in the Unitary Development Plan (UDP) and all other material planning considerations (both those identified on site and others which may not have been considered directly on the site inspection).
5. Planning Officers will arrange the itinerary and make the appropriate arrangements for the Committee to gain access to sites or to address the Committee before, during or after the inspection a Planning Officer will also be in attendance at all Site Inspections.
6. The Site Inspection is not open to the general public for reasons of probity, possible health and safety issues as well as entry onto private land or premises.

## **PROCEDURES AT SITE INSPECTIONS**

7. The Planning Committee site inspection provides the opportunity for Committee Members (including where appropriate the local Ward Member) to be briefed by planning Officers on or around an application site. Neither members of the public (including supporters/objectors/Parish Councillors) nor the applicant (or the applicant's agents) are permitted to participate in the site inspection.
8. Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant during the course of the site inspection.

9. Committee Members (including where appropriate the local ward Member) will not debate the planning application with either members of the public or the applicant in the period between the termination of the site inspection and the commencement, the following day, of the Planning Committee.
10. Committee Members (including where appropriate the local ward Member) will receive a group presentation from an appropriate planning officer at the outset of the site inspection.
11. Committee Members (including where appropriate the local ward Member) will be shown by an appropriate planning officer key elements of both the site and its wider environment (as appropriate).
12. Committee Members (including where appropriate the local ward Member) will ask the appropriate planning officer to clarify any matters of detail at the end of the group presentation.
13. Committee Members (including where appropriate the local ward Member) will remain as a single group throughout the full course of the site inspection as set out in Points 8 to 10 (inclusive) above.

# ***CODE OF PRACTICE FOR MEMBERS AND OFFICERS DEALING WITH PROPERTY TRANSACTIONS***

## **1 THE NEED FOR GUIDANCE**

- 1.1 The sale and acquisition of property by the Local Authority will always have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

## **2 PREPARATORY WORK**

- 2.1 The Head of Property Services will produce each year a plan setting out proposed disposals of property, freehold or on long leases, which are likely to reach completion within the next 12 months and also an indication of planned disposals in subsequent years.

- 2.2 The plan of proposed transactions will appear on the Forward Plan as part of the process of setting the capital programme and be sent to the Chairman of the Overview and Scrutiny Committee so that the Overview and Scrutiny Committee can have the opportunity to consider the contents of the plan.

- 2.3 The plan of proposed transactions will show:

- The objectives of the transaction (egg maximising capital receipt; delivering policy objective)
- The proposed method of disposal (open market, restricted tender etc)
- The proposed decision-maker (officer delegation, Cabinet Member, Cabinet)
- Whether or not the disposal is of redundant property or to achieve some other identified policy objective.

- 2.4 The programme of proposed disposals will be updated in the year.

## **3 MEMBER DECISION-MAKING**

- 3.1 Member decision-making should concentrate on setting the objectives, parameters and mechanisms for proposed transactions and Members, where their involvement adds value to the process, should be involved as early as possible.

- 3.2 Reports to Members will, therefore, set out:

- The proposed objectives (including alternative objectives) of the transaction.
- The proposed method of pursuing the transaction.
- The circumstances in which a further report to Members is necessary.

- Proposed consultation with local Member(s), the local community and other stakeholders (exceptionally the report will be sufficiently late in the process to set out the outcome of consultation already undertaken).
- Arrangements to secure the long term objectives of the sale.

3.3 Where a disposal also declares property redundant or is to achieve a policy objective which is the responsibility of another Cabinet member then any report to Members will be to that Cabinet member and the Cabinet member for Resources (in the case of delegated decisions) or to the Cabinet, jointly in the name of those two Cabinet members (in the case of decisions by the Cabinet).

## 4 **CONFIDENTIALITY**

4.1 There is a presumption that both the plan of proposed transactions and reports to Members will be taken in public. The exception is when, and for so long as, information contained within them would prejudice *either* the Local Authority *or* would give an advantage to any person seeking to enter into a contract with the Local Authority *or* would disclose information about the financial or business affairs of a person other than the Local Authority.

4.2 The reasons for confidentiality, where these exceptions apply, will be recorded on the face of the report.

## 5 **URGENCY**

5.1 Sometimes property transactions are urgent. Where it is, in the opinion of the Cabinet member, not reasonably practicable to delay a decision until the transaction has appeared in a plan, other means of informing the Overview and Scrutiny Committee in advance of the decision wherever possible will be followed.

5.2 Where it is not possible to involve the Overview and Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Overview and Scrutiny Committee as soon as is reasonably practicable. The Overview and Scrutiny Committee will, by these means, be able to hold the Cabinet Member to account for their judgement in relation to urgency.

## 6 **INTERESTS**

6.1 The regime from the Members' Code of Conduct in relation to declaration of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) will wish to consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a personal or prejudicial interest.

6.2 Members taking decisions (or engaging in policy development or scrutiny) will wish to consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a personal or prejudicial interest. Advice on this is available from the Monitoring Officer.

6.3 The Cabinet Member will not use delegated powers in relation to property transactions in their own ward.

## **7 LOCAL MEMBER**

7.1 The elected member for the ward where the property is located will be informed of the proposed transaction (except where genuine urgency prevents) firstly when the plan of disposals is put to the Overview & Scrutiny Committee and again, prior to any public marketing.

## **8 TOWN/PARISH COUNCILS**

8.1 A copy of the annual plan of disposals will be sent to all Town and Parish Councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

## **9 ACQUISITIONS**

9.1 This protocol supplements existing arrangements to plan and report proposed acquisitions through the capital programme.

9.2 Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the Overview & Scrutiny Committee will be given the opportunity to consider the proposal, or if genuine urgency prohibits this, to subsequently consider the acquisition.

APPENDIX 1

PRO FORMA REPORT TO CABINET AND OVERVIEW & SCRUTINY COMMITTEE

<u>Proposed Disposals 2005-2006</u>					
<b>Description of Property</b>	<b>Electoral Division /Town or Parish Council</b>	<b>Reason for Sale</b>	<b>Value</b>	<b>Proposed Decision Maker</b>	<b>Proposed Method of Sale</b>
Sufficient to identify Overview & Scrutiny Committee, Cabinet Member and Town/Parish Council		e.g. surplus to requirements or to achieve identified policy objective	By bands – low, medium, high, very high*	Officer/Cabinet Member/Cabinet	e.g. open market, private treaty.

\* Bands to be set in consultation with Overview & Scrutiny Committee Chairman and Cabinet Member.

# CONSULTATION PROTOCOL BETWEEN PARISH/TOWN COUNCILS AND ISLE OF WIGHT COUNCIL

## 1. Introduction

- (i) The Isle of Wight Council will endeavour to consult, wherever it is necessary or feasible to do so, with all interested parties, which may include Parish and Town Councils (hereafter referred to as Local Councils), on any major change or variation to the services it provides.
- (ii) If a service, currently provided by the Isle of Wight Council, is to be reduced or ceased, expressions of interest from Local Councils, interested in taking future responsibility for that service, may be considered. Any such enquiries may be received at any time, but will not be considered if they in any way unacceptably impede the Isle of Wight Council's set timetable of implementation. Where it may be deemed feasible and appropriate to transfer a service to a Local Council, it will usually only be transferred if it is at a nil cost to the Isle of Wight Council.
- (iii) Whilst endeavours will be made to consult, in accordance with this protocol, in urgent or critical circumstances the Isle of Wight Council reserves the right to implement change without any prior consultation under this protocol.
- (iv) The Consultation Protocol between Local Councils and the Isle of Wight Council does not affect any consultation that is required by statute.

## 2 Form of Consultation

- (a) The form of consultation, where applicable to Local Councils, will be by electronic format through the Isle of Wight Council's web site. Clerks for Local Councils should be directed to check this on a regular basis. Supporting information, on the web site, will be sufficient to enable the Local Council to respond appropriately. Information provided will:
  - (i) Identify clearly the matters on which the views of the Local Council are sought
  - (ii) Indicate, by name and/or title, the appropriate officer of the Isle of Wight Council to whom responses and expressions of interest must be addressed
  - (iii) The period and closing date of the consultation
- (b) If either the Isle of Wight Council or the Local Council request a meeting to discuss any reasonable matter arising out of a consultation, appropriate arrangements, where possible and appropriate, will be made by mutual agreement. Where it is not possible or appropriate to arrange such a meeting, the Isle of Wight Council will inform the Local Council.

### **3. Period of Consultation**

- (a) A clear consultation period will be stated for each consultation that takes place. The closing date will be strictly applied in accordance with this protocol so as not to impede any implementation timetable.

### **4. Commitment of Local Councils**

- (a) The Local Council will ensure that current details are provided to the Isle of Wight Council of the name, address, e-mail and telephone/fax numbers of the clerk.
- (b) The Local Council will ensure communications to the Isle of Wight Council are sent electronically and to the appropriate officer identified as part of the consultation process.
- (c) The Local Council will be expected to respond to consultations in the following manner:
  - (i) Preferably by electronic means i.e. email.
  - (ii) The response to be received by the Isle of Wight Council within the stated time limit. The Isle of Wight Council will not delay making a decision if Local Councils are unable to comment within this period.
  - (iii) Where a Local Council does not wish to respond to a consultation it will inform the Isle of Wight Council to that effect within the stated time limit.

## SCHEDULE

1. Establishment of conservation areas and tree preservation orders (wherever possible).

2. Local recreation or other facilities:

major changes of use or closure of any leisure or sports field, major changes of use or closure of any community centre or community facility, closure of a cemetery, major new arrangements or changes in respect of play areas, major new initiatives and developments in local arts provisions, opening or closure or alteration of opening times of libraries (including mobile libraries), community projects which relate to a specified locality or community, the grant or revocation of public entertainment licences (wherever possible).

3. Local education matters:

proposals for the opening or closure of schools under local education authority control or funding.

4. Cleansing, health and pollution:

major changes and methods to the provision of household waste collection and disposal, major changes and new methods of street cleansing or litter clearance, the establishment or abolition of litter control zones, major changes to the provision and location of recycling facilities, environmental health or pollution issues, major changes to the location or provision of public lavatories, establishment of noise abatement zones.

5. Highways, access and public transport:

major highway maintenance schemes, major traffic management schemes, major road safety schemes, major lighting development, major changes in parking(including on and off street parking) provision, major revisions to winter highway maintenance regimes, street naming, local authority supported bus services (wherever possible), local authority provided bus shelters, alterations in rail services where supported by the principal authority, major changes to taxi and hire car licensing.

6. Open space and woodlands:

new and updated landscape management plans, new and updated tree and woodland management strategies in so far as they relate to the Isle of Wight Council's land holdings, major new developments or changes to local countryside service provision by the Isle of Wight Council.

7. Housing and land:  
  
housing schemes undertaken by the Council or its partners/agents, gipsy sites, land designated for disposal by the principal authority (wherever possible given that confidentiality and speed affect these issues).
8. Community Care Plans.
9. Emergency Services - provision of or changes to powers of the Fire Service and Emergency Centres.
10. Such other matters that may be added, at the agreement of all parties, from time to time.

## *CONSULTATIONS WITH PARISH AND TOWN COUNCILS ON PLANNING APPLICATIONS*

1. Although under the Town and Country Planning Act 1990 the Isle of Wight Council only needs to notify a Parish or Town Council of a planning application if requested to do so, our practice has been to assume that such a notice has been received and therefore all Parish and Town Council's are sent a copy of all applications and plans at the same time as the weekly press list is sent to them.
2. The Town and Country Planning (General Development Procedure) Order 1995 sets out the procedure for such notification and it is this legislation that provides for a 14 day consultation period (i.e. any comments from a Parish or Town Council must be with the Isle of Wight Council within 14 days of the notification of the application).
3. All applications and plans are sent to Parish and Town Councils before there has been any evaluation by the Planning Officers. This is because any comments received from the Parish/Town Council forms part of the evaluation and will help determine if the application can be decided within the delegated powers of the officers. Therefore it is important that Parish and Town Councils observe the 14 day deadline or notify the relevant officer (by telephone) if they require more time. Failure to follow this procedure will mean that there is a very real risk of the application being determined without the benefit of the comments of the Parish or Town Council.
4. Where a Parish or Town Council comment on an application and this is contrary to the view of the Case Officer, then the Local Member will be consulted and given an opportunity to request (in writing) that the matter be formally presented to the Planning Committee for determination.
5. A copy of the decision notice will be sent to the Parish or Town Council in respect of applications which have been determined, in the same week that they are produced. If the application is determined contrary to the views of the Parish or Town Council a copy of the officer's report setting out the reasons why will be sent to the Parish/Town Council as soon as possible.
6. Policy documents and standard condition/reason for refusal books will be made available to Parish Councils to assist in their formulation of comments.
7. Whilst every effort will be made to provide Parish Councils with relevant information, planning histories cannot be sent out with the application/press list but will be made available for specific sites on request from the Parish Clerk.
8. Planning Officers' reports cannot be made available within the 14 day timescale for comments; they are unlikely to be prepared by the Case Officer until the views of consultees are received.
9. We will keep a copy of all Parish Council comments received on planning applications for a minimum of 5 years from the receipt date.

10. On major applications, Officers will be available to assist the Clerk in assessing technical details of proposals but will not advise the Parish Council on the nature of the comments or observations they may wish to put forward.

## **PROTOCOL ON PUBLICITY AND THE MEDIA**

The council's communications will be guided at all times by the Government's code of recommended practice on local authority publicity. (<http://www.communities.gov.uk/index.asp?id=1133861>) This code of practice emphasises that the role of publicity is to be informative and should be well balanced and objective.

*Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a council's activities, is to be welcomed. This Code is not intended to discourage such publicity.*

Extract from code

The council's communications protocol outlines the council's communications processes. It covers the legal framework, the role of the communications team, principles of effective communication, council spokespeople, clearing and dissemination of press releases, handling media enquiries and interviews, corporate identity and council publications. It also deals with publicising the work of Full Council, the Cabinet, the Overview & Scrutiny Committee and Scrutiny Panels.

The Council's Cabinet is the guardian of the communications protocol. It will be reviewed regularly to ensure it is kept up to date. A copy of the protocol (as approved and updated by the Cabinet) is attached.

There are also clear guidelines for publicity in the run-up to the elections. These guidelines are available from the Head of Communications and will be appended to the communications protocol before the election period commences.

### **Communications Protocol – as agreed by Cabinet 6 February 2007**

#### **Introduction**

The purpose of this protocol is to explain the council's processes, quality standards and principles in relation to communications activity. It offers guidance and a clear set of rules which both officers and members are required to uphold.

It is not the council's communications strategy, which is agreed each year and forms the Communications team workplan. In delivering the communications strategy the council will uphold this protocol at all times.

## **The legal framework**

Local authorities are required by section 4(1) of the Local Government Act 1986 (as amended by the LGA 1988) to have regard to the code of recommended practice on local authority publicity (insert link) in coming to any decision on publicity.

The code recognises that local authorities are accountable to the electorate and local accountability requires local understanding. Local authorities also need to tell the public about the services which they provide. The code encourages effective publicity aimed at improved public awareness of the council's activities. However publicity is a sensitive matter in any political environment because of the impact it can have. It is essential to ensure that proper decisions are made on publicity in accordance with clear principles of good practice. The purpose of the code is to set out those principles.

The council fully adheres to the government's code of best practice on local government publicity in all its communications activity.

## **The role of the communications team**

- i. We will raise awareness and improve understanding of council services through communications, which are timely, accurate, clear and accessible.
- ii. We will aspire to deliver the highest standards of council communications, implementing existing best practice from other authorities.
- iii. We will serve the council and offer our best support and advice to officers and members.
- iv. We will observe all relevant legislation and comply with the Code of Conduct on Local Government Publicity.
- v. We will proactively develop relationships with Island organisations, broadcast, print and specialist media and others to maximise PR opportunities for the council.
- vi. We will use proactive communications to protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- vii. We will use internal communications to engage staff, increase understanding of the One Island/One Council agenda and explain the challenges we face in changing the organisation.
- viii. We will design communication campaigns that change public perceptions and increase take up of services.

## **Principles of effective communication**

- i. **PRIORITY:** Effective communications in terms of informing, listening and explaining to stakeholder groups is regarded as a priority by the authority.

- ii. **STRATEGY:** We will use proactive communications to promote the Island, protect and enhance the reputation of the council, recruit and retain good staff and help win additional resources for the Island.
- iii. **THE MESSAGE:** We are proud of this authority because it delivers good value local services that are raising standards and creating opportunity on the Isle of Wight.
- iv. **OPERATIONS:** The corporate communications team is responsible for the operational delivery of the media relations, publications, web content and core internal communications of the council.
- v. **POSITIVE RELATIONSHIPS:** We will develop positive relationships with Island organisations, media and others to maximise promotional opportunities for the council. We will vigorously defend the reputation of the Council and rebut inaccurate reporting of the council's activities and plans.
- vi. **PLANNING:** The communications team will produce an annual communications work plan based around delivering corporate activities such as the media service and *One Island* and delivering a series of campaigns that support service objectives. We will schedule activity through the Communications Grid to forecast likely demands on time and significant news events. Members and officers must feed news events into the communications team on a weekly basis.
- vii. **ONE VOICE:** Officers and members recognise their leading role in terms of actions and behaviours in building the reputation of the authority. They should act, and communicate consistently, taking responsibility and explaining the reasons for decisions. The credibility of the media team rests on the fact that it is the authoritative and accurate voice of the Council. All media requests are channelled through communications and any direct approaches from journalists should be reported back to the team.
- viii. **PATIENCE AND PERSISTENCE:** Building reputation and strong brand values will take a significant amount of time. It will require discipline, patience and time. Members and officers will have to use every media opportunity, marketing tools such as *One Island*, internal communications and action following consultation to convince the public that the Isle of Wight is providing good value local services.

### **Spokespeople and media comment**

- ix. The usual divide between officer and member comment is based on whether the story contains 'policy' matters (Member comment) or 'operational issues' (Officers' response). In practice the dividing lines can be blurred and so the media team will gauge what sort of spokesman will be required to respond to a story – authoritative or compassionate, officer or Member.

The Council's key spokesmen are: The Leader of the council and his deputy, Cabinet members within their portfolios and Cabinet Secretaries. They will be featured in any council publicity where it relates to their responsibility on the council.

The Chief Executive, Directors and senior managers (as agreed by the communications team) will also act as spokesmen on their area of expertise, ensuring any comment is based on factual information in line with council policy.

Council officers will not discuss council business with the press without the prior permission of the communications team. This includes speaking, emailing, writing or giving interviews. All press enquiries should be referred to the communications team.

No officer should publicise confidential information gained in the course of their work, maliciously undermine the council by adverse or negative comments, take personal issues concerning their employment to the media or bring the council into disrepute by their actions or views expressed.

No member should discuss or disclose confidential or exempt information to the media, impugn the professional integrity of officers, make personal attacks or undermine respect for officers or bring the council into disrepute as a corporate body in any public forum, but this is not intended to inhibit proper political scrutiny of the administration.

- x. The credibility of the media team rests on the fact that it is the authoritative and accurate voice of the council. It is essential that all media requests are channelled through communications and that any direct approaches from journalists be reported back to the team to deal with.

### **Drafting and clearing press releases**

- xi. There is a substantial amount of confusion between a press release and a story. A press release is just one vehicle we use for transferring information from a press office to a journalist. It is not the subsequent story that will appear in the newspaper or on the TV. It is crucially important to remember this when you are drafting or approving press releases. They are really just adverts for a particular story. What will get them covered is the ability to deploy supporting arguments in terms of expert witnesses, new evidence, interesting figures or punchy comments.
- xii. In most cases it is expected that clearance for media comment and press releases will occur by the end of the day when comment or clearance is requested, with a target clearance time of four hours.
- xiii. If clearance is not forthcoming from the Cabinet Member or Director, the communications team will contact the next person in the chain of command to ensure deadlines can be met.

### **Full Council, Cabinet and other decision-making bodies**

A media officer will be assigned to cover the activities of all key decision making bodies to ensure the decisions that are taken are clearly communicated to the relevant target audiences.

Where appropriate press releases will be issued with agendas highlighting key items as agreed with the leader, portfolio holder or chief executive. Quotes may be included from the leader, appropriate portfolio holder or Chairman to explain and publicise council policies and services.

Motions and questions from individual councillors shown on any agenda will not be publicised through the communications team.

If appropriate a press release will be issued following the meeting, describing a decision and quoting the leader, portfolio holder or chairman.

All communication relating to the work of any decision making body must be agreed by the council's communications team. Any comment made by the Chairman of any of these committees in relation to the work of their committee must come through the communications team.

The head of communications will make the decision on requests for press releases from decision-making body chairmen. In the event of a dispute the final decision will be taken by the chief executive.

### **Overview and Scrutiny Committee and Scrutiny Panels**

A media officer will be assigned to cover the activities of the Overview and Scrutiny Committee and the Scrutiny Panels to ensure the work of these bodies is effectively communicated.

Where appropriate press releases will be issued with agendas highlighting key items as agreed with the Chairman of either the Overview and Scrutiny Committee or Scrutiny Panels as relevant. Quotes may be included from the Chairman of either the Overview and Scrutiny Committee or Scrutiny Panel to explain and publicise the work of Committee or Panel.

In the case of both the Overview and Scrutiny Committee or Scrutiny Panels, appropriate senior officers will be consulted on the preparation of press releases.

All communication relating to the work of the Overview and Scrutiny Committee or Scrutiny Panels must be agreed by the council's communications team. Any comment made by the Chairman of the Overview and Scrutiny Committee or Scrutiny Panels in relation to the work of their committee must come through the communications team.

The head of communications will make a decision on requests for press releases from either the Overview & Scrutiny Committee or Scrutiny Panels. In the event of a dispute the final decision will be taken by the chief executive.

### **Individual councillors**

Press releases will not be issued by the communications team on behalf of individual councillors.

Individual councillors should make their own group leaders aware of any media activity they are undertaking and should keep the communications team informed in case of enquiries.

The communications unit will not promote the views of individual councillors.

## **MEMBERS' ALLOWANCES SCHEME**

This Member' Allowances Scheme has been established under the Local Authorities (Members' Allowances) (England) Regulations 2003 (and any amendments to those regulations).

1. This scheme may be cited as the Isle of Wight Council Members' Allowances Scheme.

2. In this scheme,

"councillor" means a member of the Isle of Wight Council who is a councillor;

"co-opted member" means a Co-opted or Independent Member of the Scrutiny Committee and Ethical Standards Committee;

"year" means the 12 months ending with 31 March.

### **3. Basic Allowance**

Subject to paragraph (6), for each year a basic allowance shall be paid to each councillor. The amount of the allowance will be reviewed in accordance with paragraph (8). For the year 2009/2010 the allowance is £7,903.

### **4. Special Responsibility Allowances**

(a) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the authority that are specified in Schedule 1 to this scheme.

(b) Subject to paragraph (6), the amount of each such allowance for 2009/2010 from 17 June 2009 shall be the amount specified against that special responsibility in that schedule. The allowances will be reviewed in accordance with paragraph (8).

### **5. Renunciation**

A councillor or co-opted member may by notice in writing given to the Chief Financial Officer elect to forego any part of his entitlement to an allowance under this scheme.

### **6. Part-year Entitlements**

(a) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor or co-opted member to allowances where, in the course of a year, this scheme is amended or that councillor or co-opted member becomes, or ceases to be, a councillor or co-optee, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

- (b) If an amendment to this scheme changes the amount to which a councillor or co-opted member is entitled by way of any allowance, then in relation to each of the periods
- (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, and
  - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of days in the period bears to the number of days in the year.

- (c) Where the term of office of a councillor or co-opted member begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor or co-opted member to any allowance shall be to the payment to such part of the allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (d) Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a councillor or co-opted member does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such councillor or co-opted member to any allowance shall be to the payment of such part of the allowance referable to each such period (ascertained in accordance with that subparagraph) as bears to the whole the same proportion as the number of days during which his term of office as a councillor or co-opted member subsists bears to the number of days in that period.
- (e) Where a councillor or co-opted member has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (f) Where this scheme is amended as mentioned in sub-paragraph (b), and a councillor or co-opted member has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's or co-opted member's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **7. Payment of Allowances**

- (a) Payments shall be made
- (i) in respect of any allowances, subject to sub-paragraph (b), in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month;
  - (ii) in respect of claims for travelling, for Council business off the Isle of Wight, on the last working day of each month in respect of claims received up to the day 14 days before that date. Claims shall be made on the prescribed forms obtainable from the Members Support Office. The maximum amounts reimbursable are prescribed by the Secretary of State for the Environment; the rates for 2009/2010 are set out in paragraph 12 below. The duties for which these claims are approved are all off Island activity connected with Council business. All such claims must be supported by evidence of expenditure for every item in the claim.
- (b) Where a payment of one-twelfth of the amount specified in this scheme in respect of any allowance would result in the councillor or co-opted member receiving more than the amount to which, by virtue of paragraph (6), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## 8. **Annual Review**

All the allowances shall be frozen for the year 2011/2012. The Independent Remuneration Panel will review the Scheme in 2012.

Motor Mileage Allowances and Subsistence Rates (for off Island business) are reviewed by the Secretary of State, normally on an annual basis.

## 9. **Pensions**

That all councillors who are eligible to join the Local Government Pension Scheme, be able to do so and that it should apply to both Basic Allowance and Special Responsibility Allowance.

## 10. **Dependant Carer's Allowance**

Where a councillor or co-opted member has either:

- a dependant child living with them under the age of 14, or
- cares for a dependant elderly or disabled person

The following are claimable:

For child care: the actual expenditure incurred up to a maximum of £4.93 per hour. This is the rate paid by the Local Government Association (LGA), which reviews it rates annually and therefore the amount quoted is subject to change.

For dependents who are elderly or disabled: the actual expenditure up to a maximum of £10.90 per hour, which is the rate paid by the Isle of Wight Council Adult Services Department under their Direct Payment Scheme. Adult Services review their rates annually and therefore the amount quoted is subject to change.

#### **11. Travel and Subsistence Allowances – on the Island**

Councillors can elect to have an additional sum added to their basic and special responsibility allowance that is payable instead of any claims for travel or subsistence for on Island activity. No other payments can be made for on island travel or subsistence.

This “Expenses Sum” is calculated as follows:

Factor A – distance from Members home to County Hall – 3 bands:  
Band 1 – less than 3 miles, Band 2 – between 3 and 8 miles, and Band 3 – more than 8 miles.

Factor B – type of office held – 4 bands: Band 1 – frontline member (without an SRA); Band 2 – Leader of group with 4 or more members, Vice Chairman of the Council, Vice Chairman of Planning; Band 3 – Chairman of Council, Chairman of Planning, Licensing & General Purposes, Audit, Overview & Scrutiny Committees and Scrutiny Panels; Band 4 – Leader, Cabinet Member.

The two factors are added together to give a “Factor” for each member. All the factors are added together and this is then divided by £21,224. This is the “Amount Factor”. The “Factor” and “Amount Factor” are multiplied together to give the total “Expenses Sum”.

The amount paid to each councillor is fixed at the rate being paid as at 31 January 2012, until the end of their term of office, only to be altered if the councillor changes address or responsibility so that they would be entitled to a different amount in accordance with the two factors set out above. The rate paid will be fixed again after each election for the life of the administration, unless it is altered following a recommendation of the Independent Remuneration Panel.

#### **12. Accommodation and Expenses– Out of Authority**

Whenever a councillor or co-opted member has to travel off the Island on Council Business this paragraph applies.

That wherever possible Members organise their travel and accommodation through the Council which pre books and makes payment. If it is not possible to pre book travel and accommodation then these costs will only be reimbursed against production of a proper receipt. The most efficient form of transport to be used in all circumstances, any changes from this have to be supported by a detailed justification. In addition to paying the cost of the most efficient form of public transport for off island travel the following mileage rates (where it is more efficient not to use public transport) will apply:

## **Motor Mileage Allowances (for OFF ISLAND TRAVEL ONLY)**

### (a) Motorcycles

Up to 150cc	8.5p per mile
151cc to 500cc	12.3p per mile
Over 500cc	16.5p per mile

### (b) Motorcars

All vehicles	40p per mile
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## **13. Co-optees Allowances**

That the following allowances be paid to co-optees on the following:

Chairman of the Ethical Standards Committee	£3,573.00
Ethical Standards Committee (to also include the representatives of the Parish/Town Councils)	£301.00
Education Co-optees	£818.00

That, in addition to the above, the Independent Members and Town and Parish Council representatives of the Ethical Standards Committee (except the Chairman) can claim £30 per case that they consider (and by "case" this means every time a matter is considered by a sub-committee of the Ethical Standards Committee).

## **14. Suspension of Allowances**

That when a councillor or co-opted member is suspended from acting as a Councillor or co-opted member by the Ethical Standards Committee or Adjudication Panel then the Ethical Standards Committee be empowered to suspend in whole or part the allowances payable to that member, for the period of the suspension.

## **15. Reporting to Public**

Each Councillor is required to produce an annual report (no more than 300 words) covering what they have achieved, what they hope to achieve in the following year, and what they have been unable to achieve in the current year. This annual report is to be prepared for the annual Council each year and will not be required in the year of Council ordinary elections, when new and returning members all have the opportunity to set out their aspirations to the new Council.

SCHEDULE I

**SPECIAL RESPONSIBILITY ALLOWANCES**

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, together with the amounts of those allowances for 2011/12. Only one special responsibility allowance will be paid to any member. These allowances are payable in addition to the basic allowance of £7,903.

	<b>Office Holder</b>	<b>Special Responsibility Allowance £ pa</b>
(3)	Leader	23,709
(1.5)	Cabinet Member	11,854
(0.7)	Chairman of the Council	5,532
(0.2)	Vice Chairman of the Council	1,580
(0.7)	Overview & Scrutiny Committee Chairman	5,532
(0.7)	Scrutiny Panel Chairman	5,532
(0.5)	Audit Committee Chairman	3,951
(1)	Planning Committee Chairman	7,903
(0.2)	Planning Committee Vice Chairman	1,580
(0.8)	Licensing & General Purposes Committee Chairman	6,322
(0.2)	Leaders of Groups with four or more members	1,580
(0.9)	Cabinet Secretary	7,113
(1.5)	Chairman of Regulatory Committee*	11,854
(0.7)	Vice Chairman of Regulatory Committee*	5,532

\*The SRA's for these positions will only come into effect if and when the Planning Committee and Licensing & General Purposes Committee are merged to become the Regulatory Committee, after which point the SRA's connected with the Planning Committee and Licensing & General Purposes Committees will also cease.

## *TERMS OF REFERENCE OF OTHER INTERNAL STRUCTURES*

The Council have a number of other internal structures that assist with the development and implementation of Council business. The principle ones are listed below along with the web links to where their Terms of Reference may be viewed:

Directors Team is available from this web site :-

[http://www.iwight.com/council/what\\_is\\_a\\_council/images/DirectorsTeam.pdf](http://www.iwight.com/council/what_is_a_council/images/DirectorsTeam.pdf)

Call Over is available from this web site :-

[http://www.iwight.com/council/what\\_is\\_a\\_council/images/CallOverTermsofReference.pdf](http://www.iwight.com/council/what_is_a_council/images/CallOverTermsofReference.pdf)

Procurement Board is available from this web site :-

[http://www.iwight.com/council/what\\_is\\_a\\_council/images/ProcurementBoardTermsofReference.pdf](http://www.iwight.com/council/what_is_a_council/images/ProcurementBoardTermsofReference.pdf)

# ISLE OF WIGHT COUNCIL PETITION SCHEME

## 1. Petitions

1.1 The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council that meet the requirements set out below will receive an acknowledgement from the council within 10 days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

1.2 There are three types of petitions and these are:

1. Petitions of 2500 or more signatories (to which sections 4 to 10 of this scheme applies)
2. Petitions of less than 2500 signatories (see section 2)
3. Petitions made in relation to Planning, Licensing or other statutory provisions (see section 3).

1.3 Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting (the consideration of the petition may be deferred to a subsequent meeting if the council considers that it requires further information)
- holding an inquiry into the matter
- commissioning research into the matter
- holding a public meeting

- holding a meeting with petitioners
- referring the petition for consideration by the council's overview and scrutiny committee<sup>1</sup>
- writing to the petition organiser setting out our views about the request in the petition

1.4 In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

1.5 If your petition is about something which is the responsibility of another authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision. You can find more information on the services for which the council is responsible [here](#).

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<sup>1</sup> **Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.**

2. Petitions of less than 2,500 signatories
  - 2.1 Petitions containing less than 2,500 signatories should be given or sent direct to the relevant Cabinet Member who will deal with the request contained within the petition as they consider appropriate.
  - 2.2 For the relevant Cabinet Member and how to contact them please see the following web link: <http://www.iwight.com/council/cabinet/>.
  - 2.3 The petition must contain the name and address of the petition organiser and the Cabinet Member shall inform the petition organiser what they intend to do with the petition. This can include:
    - 2.3.1 Noting its contents
    - 2.3.2 Agreeing some form of action
    - 2.3.3 Meeting with some or all of the petitioners to discuss the matter
    - 2.3.4 Taking its contents into account when making any subsequent decisions.
  - 2.4 If there is no named petition organiser than the first named on the petition will be deemed to be the petition organiser.
3. Petitions made in relation to Planning, Licensing or other statutory provisions.
  - 3.1 Petitions which are made under other enactments are excluded from this scheme. Other exclusion are where the petition applies to a planning or licensing application, is a statutory petition (for example, requesting a referendum on having an elected mayor), or is on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures is available here: [planning](#); [licensing](#); [council tax appeals](#); [business rate appeals](#).
4. Petitions of 2,500 or more signatures
  - 4.1 The rest of this scheme relates specifically to petitions containing 2,500 or more signatures.
  - 4.2 Paper petitions, of 2,500 or more signatures should be sent to:

Chris Mathews  
Corporate Governance Manager  
Isle of Wight Council  
County Hall  
Newport  
PO30 1UD

or by email to [chris.mathews@iow.gov.uk](mailto:chris.mathews@iow.gov.uk).

4.3 Petitions can also be presented to a meeting of the council. These meetings take place on a monthly basis except for the months of August and December. Dates and times can be found [here](#). If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact Chris Mathews on 01983 823280 at least 10 working days before the meeting and he will talk you through the process.

## 5. What are the guidelines for submitting such a petition?

5.1 Petitions submitted to the council must include

- a clear and concise statement covering the subject of the petition
- a statement clearly setting out what action the petitioners wish the council to take, including whether the petitioners are seeking a debate at full Council or an officer to give evidence at an overview and scrutiny committee
- the name and address and signature of any person supporting the petition
- the contact details, including an address, for the petition organiser. (This is the person we will contact to explain how we will respond to the petition. If the petition does not identify a petition organiser, we will treat the first signatory on the petition as the petition organiser.)

5.2 Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. Paragraphs 7.2 and 7.3 provide further explanation.

5.3 If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to the petition organiser to explain the reasons.

## 6. Who can sign a petition?

6.1 A petition can be signed by a person of any age who lives, works or studies on the Isle of Wight.

6.2 You can only sign a petition once. The list of signatories will be subject to sample checks by officers and any duplicate or inappropriate signatures will be removed.

## 7. What will the council do when it receives my petition?

7.1 An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again.

7.2 We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our

acknowledgement. For example, your petition may be rejected if the Corporate Governance Manager considers that it:

- contains intemperate, inflammatory, abusive or provocative language
- is defamatory, frivolous, vexatious, discriminatory or otherwise offensive
- contains false statements
- is too similar to another petition submitted within the past six months
- discloses confidential or exempt information, including information protected by a court order or government department
- discloses material which is otherwise commercially sensitive
- names individuals, or provides information where they may be easily identified, eg individual officers of public bodies, or makes criminal accusations
- contains advertising statements
- refers to an issue which is currently the subject of a formal council complaint, Local Ombudsman complaint or any legal proceedings

7.3 When considering whether a petition is vexatious we will use as a starting point the guidance under the Freedom of Information Act 2000, which states “Deciding whether a [Freedom of Information] request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.”

7.4 To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed, including petitioners addresses).

7.5 When a petition is received which relates to a local matter (particularly affecting specific electoral wards), we will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

## 8. Full council debates

8.1 If a petition contains 2,500 or more signatures, it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, if the meeting is due to take place no less than 7 working days ahead. However, where there are fewer than 7 working days until the meeting consideration will take place at the meeting following that. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of petitions.

8.2 The petition organiser will be given five minutes to present the petition at the meeting and, where the petition relates to a ward matter, the ward councillor will also then be invited to comment on the petition for no more than three minutes.

The petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide:

- where the issue is one on which the council's cabinet are required to make the final decision, to make recommendations to inform that decision;
- to take the action the petition requests;
- not to take the action requested for reasons put forward in the debate; or
- to commission further investigation into the matter, for example by a relevant committee.

The petition organiser will receive written confirmation of the council's decision. This confirmation will also be published on our website.

## 9. Evidence to Overview and Scrutiny Committee

9.1 Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

9.2 If your petition contains at least 2,500 signatures, the relevant senior officer will give evidence at a public meeting of the council's overview and scrutiny committee. The senior staff that can be called to give evidence are Directors and Heads of Service, or their nominee. The titles of the Directors and Heads of services are set out in the appendix to this scheme.

9.3 At the meeting the petition organiser will be invited to address the committee for a maximum of five minutes on the issue and, where the petition relates to a ward matter, the ward councillor will also then be invited to comment on the petition for no more than three minutes. The relevant officer will then be required to report to the committee in relation to the subject matter of the petition.

## 10. What can I do if I feel my petition has not been dealt with properly?

10.1 If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's overview and scrutiny committee review the steps that the council has taken in response to your petition. Requests for such a review should be made to the Corporate Governance Manager within 20 working days of being notified of the authority's decision on the petition. The petition organiser must give a short explanation of the reasons why the council's response is not considered to be adequate.

10.2 The committee will endeavour to consider your request at its next meeting if the meeting is due to take place no less than 7 working days ahead. However, where there are fewer than 7 working days until the meeting consideration will take place at the meeting following that.

- 10.3 Should the committee determine we have not dealt with your petition adequately, it may
- instigate an investigation;
  - make recommendations to the council's cabinet; or
  - arrange for the matter to be considered at a meeting of the full council.
- 10.4 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

## 11. Information and advice

- 11.1 For more information and advice, or to discuss a potential petition, please contact:

Chris Mathews  
Corporate Governance Manager  
Isle of Wight Council  
County Hall  
Newport  
PO30 1UD

Tel: (01983) 823280

Email: [chris.mathews@iow.gov.uk](mailto:chris.mathews@iow.gov.uk)

## Titles of Directors and Heads of Service

Chief Executive  
Strategic Director: Children and Young People  
Strategic Director: Community Services  
Strategic Director: Economy and Environment  
Strategic Director: Resources  
Director: Corporate Governance  
Deputy Director: Safeguarding  
Deputy Director: Housing and Community Development  
Deputy Director: Economy and Tourism  
Joint Head of Children's Commissioned Services  
Head of Learning and Achievement  
Head of Adult Social Care  
Head of Community Safety  
Chief Fire Officer  
Head of Planning  
Head of Highways and Public Realm  
Head of Financial Management  
Head of Exchequer and Resident Services  
Head of Strategic Asset Management  
Head of Compliance and Procurement  
Head of ICT  
Head of Strategic Projects  
Head of Legal Services  
Corporate Governance Manager  
Head of HR

# ***RULES OF DEBATE - MOTIONS AND AMENDMENTS***

## **PROCESS**

## **Speaking, Voting and Time Limits**

### **MOTION**

Either:

1. As submitted by a member and included on the agenda. Must be about matters for which the council has responsibility or which affect the Isle of Wight (Procedure Rule 10)

Has to be moved and seconded. No speeches until motion seconded.

OR

2. One of the options, or the recommendations contained in the report, or a Member proposal. Chairman may require motion to be written down if it is not already in writing.

(Original mover has 10 minutes all other speakers 5)

OR

3. Procedural motion without notice

### **DEBATE**

### **AMENDMENT**

Can be moved at anytime during the debate and can only add or omit words in the recommendation. A direct negative is not an amendment. (Procedure Rule 14(6)(a))

The amendment must be moved and then seconded. If not seconded then it falls.

The mover of an amendment only has 5 minutes

Only one amendment may be moved or discussed at any one time (Procedure Rule 14(6)(b))

Members who have spoken on original motion can speak again on the amendment.

A member may accept an amendment to a motion which they have moved, with the consent of both the meeting (signified without discussion) and the seconder of the original motion. This then becomes the substantive motion to be debated and voted on. (Procedure Rule 14(7))

A Member may speak again:

- To move a further amendment
- To exercise a right of reply
- Move a point of order (see below)
- To make a personal explanation (see below)
- To move a procedural motion that the question now be put or to move to the next business or to adjourn
- To move that a Member not be heard/be excluded

### **DEBATE – ON THE AMENDMENT**

Needed if the original mover does not accept the amendment

### **VOTE ON AMENDMENT**

Before the vote on the amendment the mover of the original motion (but not the mover of the amendment) has a right of reply.

Then amendment is voted on.

## **PROCESS**

If AMENDMENT IS **CARRIED** then motion as amended becomes the substantive motion and can be debated further.

If AMENDMENT IS **LOST** then the motion is not amended and the debate on the original motion continues.

Any number of amendments can be moved and dealt with in this manner.

## **DEBATE ON THE SUBSTANTIVE (OR ORIGINAL) MOTION CONTINUES**

## Speaking, Voting and Time Limits

Members who have spoken on the amendment can speak again on the substantive motion (unless they had spoken on the original motion before the amendment).

Before vote is taken mover of the original motion has a further right of reply (5 minutes) even if they exercised the right of reply at the end of the debate on any amendment.

If no other amendments then move to **VOTE ON SUBSTANTIVE** (or original) **MOTION**.

Voting usually simple majority by show of hands. Members need to be very clear in raising their hands. 4 Members may request a recorded vote. Individual Member may request that their vote be recorded. Chair has casting vote.

## **DECISION**

**POINT OF ORDER** - A Member may raise a point of order at any time indicating the rule or point of law which has been broken. The Chair must hear them. A point of order only relates to an alleged breach of those rules of debate or the law.

**PERSONAL EXPLANATION** - A Member may raise this at any time but only where it relates to a part of an earlier speech by that Member which appears to have been misunderstood in the debate

The ruling of the Chair is final

**QUORUM** - The quorum of a meeting of the full council is 10 members (Procedure Rule 7). If the number of members present falls to less than 10 then the meeting cannot continue.

**PUBLIC QUESTIONS** - 15 minutes set aside for all public questions at the beginning of the meeting, this *includes* any submitted written questions (Procedure Rule 8.1).

Public question can be rejected if it:

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

A questioner is entitled to one question and one supplementary question.

**MEMBER QUESTIONS** - Members can ask questions of each cabinet member either:

1. By submitting the question in writing in advance 24 hours before the start of the meeting – there is no time limit for these questions; OR
2. By asking oral questions after each Cabinet member has presented their report and dealt with written questions – 10 minutes is allowed for questions to each cabinet member.

Member question can be rejected if it:

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

A questioner is entitled to one supplementary question.

**EXTENDING TIME** - Full council meetings last for up to three hours – 9pm (Procedure Rule 26) but can be extended (initially by an hour) with a simple majority as long as at least half the members in attendance voting.

**RULES OF DEBATE - MOTIONS AND AMENDMENTS - FLOWCHART**

