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# **Milton Keynes City Council Constitution**

**Made under the Local Government Act 2000**

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<b>2.</b>	Responsibility for Functions	<p>This chapter sets out the way in which functions have been allocated and which decision-making body / person within the Council has responsibility for making those decisions:</p> <ol style="list-style-type: none"> <li>1. Diagrammatic explanation of councillor decision making bodies</li> <li>2. Introduction to Decision Making</li> <li>3. Council (including "Local Choice" Functions)</li> <li>4. Cabinet</li> <li>5. Committees</li> <li>6. Officer Delegations</li> </ol>
<b>3.</b>	Procedure Rules	<p>This chapter sets out the procedural rules relating to all Council activities grouped into the following parts:</p> <ol style="list-style-type: none"> <li>1. Procedure Rules governing meetings and decisions:               <ol style="list-style-type: none"> <li>a) Council Procedure Rules</li> <li>b) Cabinet Procedure Rules</li> <li>c) Overview and Scrutiny Procedure Rules</li> </ol> </li> <li>2. Access to Information Procedure Rules</li> <li>3. Budget and Policy Framework Procedure Rules</li> <li>4. Financial Regulations</li> <li>5. Contract Procedure Rules</li> <li>6. Officer Employment Procedure Rules</li> </ol>

4.	Codes and Protocols	<p>This chapter sets out codes and protocols covering councillor and officer conduct, including:</p> <ol style="list-style-type: none"> <li>1. Code of Conduct for Councillors</li> <li>2. Code of Conduct for Officers</li> <li>3. Protocol for Councillor / Officer Relations</li> <li>4. Councillors' Planning Code of Good Practice</li> <li>5. Social Media Guidance for Councillors</li> </ol>
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## **Chapter 1**

### **INTRODUCTION, SUMMARY AND EXPLANATION**

## CHAPTER 1

### INTRODUCTION, SUMMARY AND EXPLANATION

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1. This document is the Milton Keynes City Council's Constitution. It sets out how the Council operates, how decisions are made, where to find information about the Council and the procedures which are followed to ensure that the Council's decision-making is efficient, transparent and accountable to local people.

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

2. This is a document to help residents, businesses, partners, stakeholders, councillors and officers understand how the Council works.
3. If you have any queries about anything in this Constitution, please contact:  
Peter Brown (Head of Democratic Services)  
Tel: 01908 253671  
Email: [peter.brown@milton-keynes.gov.uk](mailto:peter.brown@milton-keynes.gov.uk)

#### **The Council**

4. Milton Keynes City Council has 57 elected Councillors. Each Councillor represents the residents in their Ward. The overriding duty of councillors is to the whole community, but they have a special duty to represent all constituents in their Ward, including those who did not vote for them.
5. There are 19 Wards in the Council's area. Each Ward is represented by three councillors. Councillors are elected for a four-year term. A third of the councillors are elected every year for 3 years, with no elections in the fourth year.
6. Find out which [Ward](#) you are in and who your councillors are. [See a list of all councillors with their contact details](#)
7. View details of the [political composition](#) of the Council.

#### **Councillors**

8. Councillors are directly accountable to citizens for the running of the Council and councillors must make decisions in the best interests of the Borough as a whole. They are involved in decision making in the Council. Chapter 2 of the Constitution gives details of how councillors make decisions at the Council. Councillors can also represent the Council on external bodies.
9. Councillors have to observe a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises councillors on the Code of Conduct.
10. Councillors also have to register and declare certain interests. You can access the Interests disclosed by individual councillors by clicking on the 'Members Interests' tab under the listing for each [councillor](#).

## How Decisions are Made

11. All councillors meet together a number of times each year as the Full Council. Full Council appoints a Mayor (who is chairman of the Full Council Meeting, performs the Council's civic role and represents the Council in the community) and a Deputy Mayor.
12. The Council operates an "executive" form of governance. This means that the Full Council appoints a Leader of the Council. The Leader then appoints up to 9 other councillors who, together with the Leader, form the Cabinet. The Cabinet is the part of the Council which is responsible for most of the day to day decisions.
13. Each of the councillors on the Cabinet (Cabinet members) is responsible for a particular area of the Council's activities (called "portfolios"). Cabinet members are also called Portfolio Holders current Cabinet portfolios can be found here [Cabinet portfolios](#). Details of how the Cabinet operates are available at the following link: [Cabinet](#).
14. The Full Council also appoints a number of committees to deal with different aspects of the Council's functions, for example, planning and licensing. There are also Scrutiny Committees which help the Cabinet formulate policy and hold the Cabinet to account. See details of the Council's Committees here: [Committees](#)
15. A diagram showing the Council's decision making and scrutiny arrangements involving councillors can be seen as Part 2 of the Constitution.

## The Council's Employees

16. Councillors are supported by the Council's staff/employees (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.
17. The Protocol for Councillor / Officer Relations guides councillors and officers in their relations with one another to ensure the smooth running of the Council. Officers also have to comply with the Code of Conduct for Officers.
18. The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Monitoring Officer and the Section 151 Officer (Chief Finance Officer).
19. The functions and responsibilities which the Council has given to the senior officers are listed in the Officer Scheme of Delegation and in the list of Statutory Officers and Proper Officer Functions.
20. The Council's Corporate Leadership Team comprises the following Officers who shall be regarded as "Chief Officers":
  - 20.1. Chief Executive
  - 20.2. Deputy Chief Executive

- 20.3. Director Adult Services
  - 20.4. Director Children's Services
  - 20.5. Director Environment and Property
  - 20.6. Director Finance and Resources (Section 151 Officer/Chief Financial Officer)
  - 20.7. Director Planning and Placemaking
  - 20.8. Director Law and Governance (Monitoring Officer)
  - 20.9. Director Customer and Community Services
  - 20.10. Director Public Health
21. The recruitment, selection, discipline and dismissal of officers must be done in accordance with the Officer Employment Procedure Rules.

### **Civic Honours**

22. The Council has adopted a protocol for the award of Civic honours (minute ref 2023/24 CL70).

### **Aldermen and Alderwomen**

23. The Council may confer the title of Honorary Alderman and Alderwoman on former councillors who, in the opinion of the Council, have both rendered eminent service to the council and completed 15 years' service with either Milton Keynes City Council or former constituent councils.
24. The Council may invite Honorary Aldermen and Alderwomen to attend Civic Ceremonies, including meetings of the Council. Should an Honorary Alderman and Alderwoman attend a meeting of the Council, they may ask a question, or speak during a debate in accordance with the rules for public questions or public speaking as set out in Council Procedure Rules, specifically Council Procedure Rule 9.
25. Should an Honorary Alderman and Alderwoman be elected to the Council, the use of the title must cease while serving as a councillor.

### **Freedom of the City**

26. The Council may award the Freedom of the City to individuals or organisations in recognition of their exceptional service to the City or because they are a person of distinction.
27. The award of Freedom of the City does not confer any special privileges or rights upon the appointee to speak or vote at Council meetings, beyond the rights and privileges already afforded to the public.



## **Rights of Residents and Members of the Public**

28. Everyone has an equal right to access high quality Council services. Members of the public have rights to:
- 28.1. vote at local elections if they are registered;
  - 28.2. contact their local councillor about any matters of concern to them;
  - 28.3. obtain a copy of the Constitution;
  - 28.4. attend meetings of the Council, its Committees and the Cabinet, except where, for example, exempt / confidential matters are being discussed;
  - 28.5. petition to request a referendum on a Mayoral form of executive;
  - 28.6. submit a petition, ask questions, or contribute to the debates, at meetings of the Council, ask questions, or contribute to the debates, at meetings of Cabinet, the Council's committees and sub-committees and contribute to the debates, at meetings of the scrutiny committees;
  - 28.7. find out from the Cabinet's Forward Plan what major decisions are to be discussed by the Cabinet or decided by the Cabinet, Cabinet members, or officers and when;
  - 28.8. see reports and background papers, and any record of decisions made by the Council, the Cabinet, individual Cabinet members, or officers when taking 'Key Decisions';
  - 28.9. inspect copies of the Agendas for meetings of the Council, the Cabinet, scrutiny committees or any other committees open to the public;
  - 28.10. on payment of a reasonable fee, buy or receive copies of Agendas for meetings of the Council, the Cabinet, scrutiny committees or other public committees;
  - 28.11. contact local Councillors about any matters of concern – [Councillor details](#);
  - 28.12. contribute to investigations by the scrutiny committees;
  - 28.13. complain where there are problems with Council services – [How to Make a Complaint](#); and
  - 28.14. complain to the Commission for Local Administration (the Ombudsman) if the Council has not followed its procedures properly – access the Ombudsman Complaint Form can be accessed at [Ombudsman](#).

28.15. Local Government Ombudsman,  
PO Box 4771,  
Coventry,  
CV4 0EH,  
Tel: 0300 061 0614 or 0845 602 1983  
Text 'call back' to 0762 481 1595  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)

28.16. complain to the Council if you believe there is evidence that a councillor has not followed the Council's Code of Conduct for Councillors and Co-opted Councillors - [Complaints about the Conduct of Members of the Council](#).

29. This Constitution will be kept under regular review.

30. The Council welcomes participation by the public in its work. For further information on your rights as a citizen, please contact the Director Law and Governance at the Civic Offices, 1 Saxon Gate East, Milton Keynes MK9 3EJ. Telephone (01908) 252314  
Email: [meetings@milton-keynes.gov.uk](mailto:meetings@milton-keynes.gov.uk)

**Chapter 2**  
**RESPONSIBILITIES FOR FUNCTIONS**

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## Chapter 2

### RESPONSIBILITIES FOR FUNCTIONS

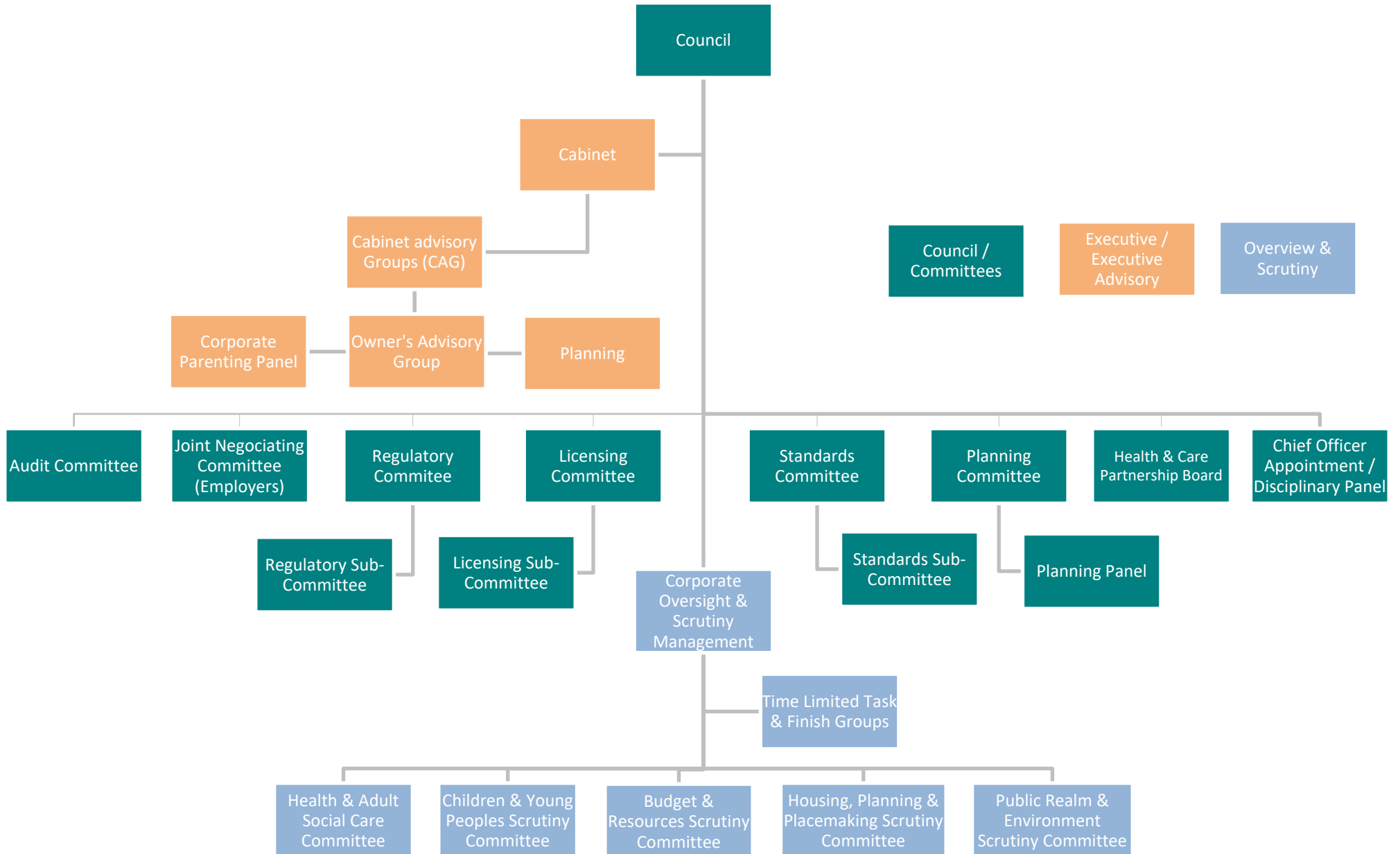
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Part	Title	Contents
1	Diagrammatic Explanation of Decision Making	This part shows a diagram of the Council decision making arrangements.
2	Introduction to Decision Making	This part sets out an introduction to decision making including the principles of good decision making, who makes decisions in the Council and what are Key Decisions
3	The Full Council	This part sets out: <ul style="list-style-type: none"> <li>a) Functions of the Full Council</li> <li>b) Council Meetings</li> <li>c) Policy Framework</li> <li>d) The Budget</li> <li>e) Local Choice Functions</li> <li>f) Appointment to Outside Organisations</li> <li>g) Role of the Mayor and Chairmanship of the Council</li> </ul>
4	The Cabinet	This part sets out: <ul style="list-style-type: none"> <li>a) Role of the Cabinet</li> <li>b) The Leader and Cabinet Members</li> <li>c) General Responsibilities of the Cabinet, Committee and Sub-Committees</li> <li>d) Responsibilities of all Cabinet Members</li> <li>e) Specific Responsibilities of Cabinet members</li> </ul>

<b>Part</b>	<b>Title</b>	<b>Contents</b>
5	Functions of Committees	<p>This part sets out the Functions, Roles and responsibilities of the Committees of the Council, which are:</p> <p>a) Committees</p> <ul style="list-style-type: none"> <li>i) Audit Committee</li> <li>ii) Chief Officer Appointments Panel</li> <li>iii) Corporate Parenting Panel</li> <li>iv) Health and Care Partnership Board</li> <li>v) Joint Negotiating Committee (Employers)</li> <li>vi) Licensing Committee</li> <li>vii) Planning Committee</li> <li>viii) Regulatory Committee</li> <li>ix) Standards Committee</li> <li>x) Statutory Officer Disciplinary Panel</li> </ul> <p>b) Overview and Scrutiny Committees</p> <ul style="list-style-type: none"> <li>i) Corporate Oversight and Scrutiny Management Committee</li> <li>ii) Budget and Resources Scrutiny Committee</li> <li>iii) Children and Young People Scrutiny Committee</li> <li>iv) Housing, Planning and Placemaking Scrutiny Committee</li> <li>v) Health and Adult Social Care Scrutiny Committee</li> <li>vi) Public Realm and Environment Scrutiny Committee</li> </ul>
		<p>c) Joint Arrangements</p> <ul style="list-style-type: none"> <li>i) Buckinghamshire and Milton Keynes Fire Authority</li> <li>ii) Thames Valley Police and Crime Panel</li> </ul>
6	Officer Delegations	<p>This part sets out the Scheme of Officer Delegation and contains a diagram of the officer structure at the Council. It sets out the areas of responsibility of the Senior Officers and Statutory Officers and the arrangements for the discharge of the Proper Officer functions.</p>

## Chapter 2 – Part 1

### Diagrammatic explanation of Councillor Decision Making Bodies and Introduction to Decision Making



## **Chapter 2 – Part 2**

### **Introduction to Decision Making**

1. The Council makes many decisions relating to matters within its area.
2. This Part of the Council's Constitution sets out how these decisions are made so that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions.
3. The Council, the Cabinet, the Leader of the Council and any Committee or Sub-Committee of the Council may delegate a function or decision to another councillor decision making body or to an officer in accordance with this Constitution. This can be on a permanent or one-off basis.
4. The Cabinet has delegated decision-making powers to individual Cabinet members.

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

5. The following principles will apply to all decision makers. Decision makers will:
  - a) take into account all relevant considerations and ignore those which are irrelevant
  - b) undertake a realistic evaluation of alternatives and options
  - c) carry out appropriate consultation
  - d) take decisions which are proportionate to the desired outcome
  - e) consider relevant professional advice
  - f) respect human rights
  - g) approach decision making on a transparent and open basis and decisions will be taken in a public forum wherever possible.

### **Types of decision and the decision-takers**

6. When the Full Council makes a decision, it will comply with the Council Procedure Rules
7. When the Cabinet makes a decision, it will comply with the Cabinet Procedure Rules
8. When the Overview and Scrutiny Committees make decisions, they will comply with the Terms of Reference for Overview and Scrutiny Committees which can be viewed in Chapter 2 Part 5.
9. When Committees and Sub-Committees make decisions, they will comply with the Council Procedure Rules.



## Key Decisions

10. Certain types of decisions made by the Cabinet, individual Cabinet members, Committees and Sub-Committees of the Cabinet are 'Key Decisions'. Except in cases of urgency, these types of decision receive special advance publicity so that members of the public and councillors are able to consider the implications of the decision and so that members of the public have an opportunity to make representation to the decision maker before the decision is made. Key Decisions appear on the Cabinet's Forward Plan.
11. A Key Decision is defined as 'an executive decision which:
  - a) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, and/or
  - b) is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.'
12. For clarification, the Council has defined this element of 'Key Decision' as one where the Council will incur expenditure or savings of greater than £500,000, which is not identifiable either in the approved Capital Programme or Revenue Budget.

## Chapter 2 – Part 3 The Council

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### The Full Council

#### 1. Functions of the Full Council

- 1.1 The following functions are the responsibility of the Council and will be discharged by the Full Council (all Councillors meeting together) unless specifically delegated to another Committee, Sub-Committee, body or officer elsewhere in this Constitution. The Council:
- 1.2 is accountable to its citizens for the proper discharge of all of its functions and the delivery of all its services
- 1.3 will keep under review the running of the Council's affairs and will implement changes where it considers there is a need to do so to improve the way in which the organisation operates, its relationships with the Council's citizens and the delivery of any services in the most effective and efficient way
- 1.4 will adopt the Council's Constitution, including all rules of procedure (Standing Orders) and approve any amendments to it (except where specifically delegated to the Constitution Commission or the Monitoring Officer)
- 1.5 will:
  - a) elect the Mayor
  - b) appoint the Deputy Mayor
  - c) elect the Leader of the Council
  - d) appoint to such other offices and/or positions as may be required under this Constitution or by law.
- 1.6 will adopt the Policy Framework and any of the policies within it
- 1.7 will agree the Council's Budget
- 1.8 will determine any decision which would otherwise be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget
- 1.9 will determine whether functions which are classified as "Local Choice" functions should be reserved to the Council or exercised by the Cabinet
- 1.10 will adopt the Council's Codes of Conduct for councillors and officers and the Protocol on Councillor/Officer Relations

- 1.11 will agree:
- a) the establishment and composition of Committees, other than those which may be established within the Cabinet; and
  - b) The political balance of such bodies as required from time to time.
- 1.12 will agree and amend the terms of reference of its Committees
- 1.13 will consider any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the Cabinet and the Council cannot make a decision in relation to it)
- 1.14 will determine any matter which is referred to it for determination by a Committee other than a Cabinet body
- 1.15 will adopt (or otherwise) Motions submitted in accordance with the Council Procedure Rules
- 1.16 will approve the Councillors' Allowance Scheme for elected Councillors following advice from the Independent Remuneration Panel
- 1.17 will appoint/dismiss the Head of Paid Service, dismiss the Monitoring Officer and the Chief Finance Officer, designate an officer to act as Monitoring Officer and an officer to act as the Chief Finance Officer
- 1.18 will appoint the Returning Officer and Electoral Registration Officer
- 1.19 will appoint officers for particular purposes 'proper officers'
- 1.20 will appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal), where not delegated to a committee of the Council.
- 1.21 will approve the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of council functions
- 1.22 may take decisions relating to the name of the area and may confer the title of Honorary Alderman or Freedom of the Borough
- 1.23 may make decisions relating to the making, amending, revoking, re-enacting, adopting or enforcing byelaws and promoting or opposing the making of local legislation or personal bills
- 1.24 will take decisions in respect of functions which are not the responsibility of the Cabinet, and which have not been delegated by the Council to Committees, officers or elsewhere
- 1.25 will agree any payments or provide other benefits in cases of maladministration etc.

1.26 Nominations to the Council's committees and changes to such nominations, shall be notified by the Council's Group Leaders in writing or by email to the Director (Law and Governance) and shall thereafter be confirmed by the Council.

1.27 There are different types of Council meeting:

- a) The Annual Meeting of the Council, which will be held in May
- b) Ordinary meetings
- c) Extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules.

1.28 All Council meetings will be conducted in accordance with the Council Procedure Rules.

## **2. Policy Framework**

2.1 By law, the Council must have a policy framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the full Council, usually on the recommendation of the Cabinet.

2.2 The policy framework includes:

- a) Future Libraries MK Plan (Annual Library Plan)
- b) Safer MK Plan (Crime and Disorder Reduction Strategy)
- c) Plans and Strategies which together comprise the Development Plan and Development Plan Documents
- d) Youth Justice Plan
- e) Licensing Authority Policy Statement - Gambling Statement of Principles
- f) The Council Plan
- g) The Local Transport Plan
- h) Plans which comprise the Children and Young people's Plan

### 3. Budget

3.1 The Council has a duty to make arrangements for proper administration of financial affairs etc. and each year will set the Council's budget. The budget has a number of elements as follows:

- a) The allocation of financial resources to different services and projects
- b) Proposed contingency funds
- c) Setting the Council Tax
- d) The Council's borrowing requirement
- e) Its capital expenditure
- f) The setting of virement limits.

3.2 The Framework for Cabinet Decisions

- a) The Council will be responsible for the adoption of its budget and policy framework as set out above. Once a budget or a policy framework is in place, it will be the responsibility of the Leader to implement it.
- b) The Budget and Policy Framework is set out later in the Constitution.

### 4. Local Choice Functions

4.1 Certain functions of local authorities are classified as "Local Choice" functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. This means that the Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Cabinet.

4.2 The following table sets out who makes decisions on Local Choice Functions:

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation of Functions</b>
Any function under a Local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Leader	The Council does not currently have any functions under a Local Act.
The determination of an appeal against any decision made by or on behalf of the Authority	Council - 3 Members drawn from the Appeals Commission.	The three Members drawn from the Appeals Commission will have delegated authority to determine the appeal.

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation of Functions</b>
To make arrangements for appeals against exclusion of pupils from maintained schools <sup>1</sup>	Council	The Director Law and Governance shall act as Clerk to Appeals Panels, and shall arrange for the appointment and training of Panel members.
To make arrangements for appeals regarding school admissions <sup>2</sup>	Council	The Director Law and Governance shall act as Clerk to Appeals Panels, and shall arrange for the appointment and training of Panel members.
To make arrangements for appeals by governing bodies <sup>3</sup>	Council	The Director Law and Governance shall act as Clerk to Appeals Panels and shall arrange for the appointment and training of Panel members.
Any function relating to contaminated land	Council	Delegated via the Officers Scheme of Delegation
The discharge of any function relating to the control of pollution or the management of air quality	Council	Delegated via the Officers Scheme of Delegation
The service of an abatement notice in respect of a statutory nuisance	Council	Delegated via the Officers Scheme of Delegation
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Council	Delegated via the Officers Scheme of Delegation
The inspection of the Authority's area to detect any statutory nuisance	Council	Delegated via the Officers Scheme of Delegation
The investigation of any complaint as to the existence of a statutory nuisance	Council	Delegated via the Officers Scheme of Delegation

<sup>1</sup> The making of arrangements pursuant to Section 67(1) and Schedule 18(2) of the 1998 Act (Appeals Against Exclusion of a Pupil)

<sup>2</sup> The making of arrangements pursuant to Section 94(1) and (4) and Schedule 24(2) of the 1998 Act (Admission Appeals)

<sup>3</sup> The making of arrangements pursuant to Section 95(2) and Schedule 25(2) of the 1998 Act (Children to Whom Section 87 Applies: Appeals by Governing Bodies)

<b>Function</b>	<b>Decision Making Body</b>	<b>Delegation of Functions</b>
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interest in land	Leader or Council (as appropriate)	The Leader, or the Council, as the case may be, may delegate some or all of the function to one or more appropriate officers.
The obtaining of particulars of persons' interest in land <sup>4</sup>	Leader or Council (as appropriate)	The Leader, or the Council, as the case may be, may delegate some or all of the function to one or more appropriate officers
The making of agreements for the execution of highways works	Leader	The Leader may delegate some or all of the function to one or more Cabinet Members or one or more appropriate officers.
The appointment of any individual: a) to any office other than an office in which he/she is employed by the Authority; b) to anybody other than: i) the Authority; ii) a Joint Committee of two more Authorities; or c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	Council or Leader in accordance with a scheme to be agreed by the Council	The Council may delegate the appointment of Members to the Cabinet, in accordance with a scheme for appointments to be agreed.
To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Leader	

4.3 Local Choice Functions can be delegated further to other Member bodies and/or officers.

## **5. Appointment to Outside Organisations**

5.1 The Council, Cabinet, or Individual Portfolio Holders (if delegated to them by The Leader of the Council) make appointments to a number of local and regional organisations.

<sup>4</sup> Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

## **6. Role of the Mayor and Chairmanship of the Council - Civic Role**

- 6.1 The Mayor, supported by the Deputy Mayor will perform the Council's Civic role. This entails raising and maintaining the profile of the Council's area and its citizens. The aims and values of the Council will be promoted in an apolitical manner.
- 6.2 The Mayor will decide which civic and ceremonial functions to promote following consultations, where appropriate, with officers of the Council. These functions may include representing the Council at events organised by other local authorities or organisations.
- 6.3 The Mayor is elected at the Annual Council meeting in May. The Deputy Mayor is appointed at the same meeting.
- 6.4 The Mayor is the conscience of the Council and is responsible for:
  - a) upholding and promoting the purposes of this Constitution and interpreting it, where necessary, with advice
  - b) presiding over meetings of the Full Council to ensure that business is carried out efficiently and effectively
  - c) ensuring the rights of Councillors and the interests of the Council's citizens are protected in the running of the Full Council meeting (Guidance on the Role of a Chairman which is relevant for all chairmen of Council meetings)
  - d) ensuring that, at Full Council meetings, matters of concern to local people can be debated through the appropriate Councillors
  - e) ensuring that Councillors not on the Cabinet, or who do not hold the Chairmanship of a main committee, are able to hold those office holders to account
  - f) promoting public involvement in the Council's activities and acting as a link between members of the public and organisations and the Council
  - g) carrying out other roles on behalf of the Council.

## **6. The Deputy Mayor**

- 6.1 The Deputy Mayor will:
  - a) support the Mayor in his/her civic role and will also carry out civic duties on behalf of the civic office
  - b) deputise for the Mayor in his/her absence.
- 6.2 The Deputy Mayor will be appointed in accordance with the selection procedure for the appointment of the Deputy Mayor based on the number of seats held by a particular party group over a period of time agreed by the Council, at its meeting on 12 November 2002 (Minute CL66(d) refers).



## Chapter 2 – Part 4 The Cabinet

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### The Cabinet

#### Role

1. The Cabinet carries out those duties and responsibilities which are not the responsibility of any other part of the Council.
2. Some of the Cabinet's responsibilities may be "Local Choice" functions, which Council has chosen to delegate to the Cabinet.

#### Composition

3. The Cabinet consists of the Leader of the Council, and up to 9 other Councillors. The Leader of the Council is elected by Full Council, but the Leader is responsible for appointing the other Members of the Cabinet, and for notifying the Council of such appointments.
4. No substitution arrangements will apply to the Cabinet, and neither the Mayor nor Deputy Mayor may be appointed to the Cabinet.

### The Leader

5. The Leader will hold office for a period of four years from the date he/she is elected to that office by the Council or until:
  - a) he/she resigns from the office of Leader
  - b) he/she becomes ineligible to be a Member of the Council, either for a specific period, or indefinitely
  - c) he/she ceases to be a Councillor
  - d) he/she is removed from office by a no confidence resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.
6. The exercise of function by the Deputy Leader, when Leader is unavailable, will be subject to any limitations, qualifications or other instructions as may be issued by the Leader in writing to the Director Law and Governance' either generally or in relation to the exercise of particular functions. Where there is a vacancy in the office of Leader, the Deputy Leader will assume the responsibilities of the Leader until the next meeting of the Council.

7. The Leader shall appoint a Deputy who shall be a member of the Cabinet and who shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until he/she is removed from office by the Leader, or he/she ceases to be a Cabinet member.
8. Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of the Full Council as soon as possible, to elect a new Leader.

#### **Other Cabinet Members**

9. Other Members of the Cabinet will hold office until any of the events listed in 5.1-5.3 above apply to them or to the Leader or until the Leader brings their term of office to an end.

#### **Proceedings of the Cabinet**

10. Proceedings of the Cabinet shall be conducted in accordance with the Cabinet Procedure Rules.

#### **Responsibility for Functions**

11. The Leader will ensure that a record is kept of the executive functions which are the responsibility of individual Cabinet members, any Cabinet Committee or Sub-Committee, officers or joint arrangements.

A copy of the Leader of the Council's Executive Scheme of Delegation can be viewed under the Associated Documents section of the Constitution.

#### **Procedure for Taking Portfolio Holder Decisions**

12. Decisions must be made following consultation with one or more of the following officers/councillors as appropriate:
  - a) Chief Executive
  - b) Deputy Chief Executive
  - c) Appropriate Director
  - d) Monitoring Officer
  - e) Chief Finance Officer
  - f) Where there are cross-cutting implications – other appropriate Portfolio Holder(s)
13. The Portfolio Holder must take into account professional, legal and financial advice and implications.
14. If any of the above officers give advice that a decision would fall outside the powers of the Portfolio Holder, the Portfolio Holder shall refer the matter to the Cabinet, or the appropriate Portfolio Holder.

15. Where it is not clear in which Portfolio an issue sits, the Leader will decide.
16. Decisions by individual Portfolio Holders must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.
17. Any decisions by individual Portfolio Holders which constitute Key Decisions must follow the statutory requirements in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## Chapter 2 – Part 5 Functions of Committees

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### Functions of Committees

1. This section sets out the functions, roles and responsibilities of the Committees of the Council, together with the joint arrangements in which the Council is involved. In summary, these are:

#### 1.1 Committees

- a) Audit Committee
- b) Chief Officer Appointments Panel
- c) Health and Care Partnership Board
- d) Joint Negotiating Committee (Employers)
- e) Licensing Committee
- f) Planning Committee
- g) Regulatory Committee
- h) Standards Committee
- i) Statutory Officer Disciplinary Panel

#### 1.2 Overview and Scrutiny Committees

- a) Corporate Oversight and Scrutiny Management Committee
- b) Budget and Resources Scrutiny Committee
- c) Children and Young People Scrutiny Committee
- d) Housing, Planning and Placemaking Scrutiny Committee
- e) Public Realm and Environment Scrutiny Committee
- f) Health and Adult Social Care Scrutiny Committee

#### 1.3 Joint Arrangements

- a) Buckinghamshire and Milton Keynes Fire Authority
- b) Thames Valley Police and Crime Panel

2. The following sections set out the specific responsibilities of each Committee / Sub-Committee:

**(a) Audit Committee**

Membership: 9 councillors (and 3 independent non-voting members).

Quorum: 4

Terms of Reference:

**1. Statement of Purpose**

1.1 The Audit Committee is a key component of Milton Keynes City Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

1.2 The purpose of the Audit Committee is to provide independent assurance to Cabinet and Full Council of the adequacy of the risk management framework and the internal control environment. The Committee:

1.2.1 provides independent review of governance, risk management and control frameworks and oversees the financial reporting and annual governance processes

1.2.2 oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. It also oversees financial reporting of the Council's Statement of Accounts ensuring that any issues arising from the process of drawing up, auditing and certifying the Council's annual accounts are dealt with properly

**2. Constitution and Authority**

2.1 The Committee will be a fully constituted committee of the Council and act independently of the Authority's Executive and scrutiny functions and its membership shall not include Cabinet members

2.2 To help maintain its independence, the Committee has the right to meet privately with the External Auditor and the Head of Internal Audit as considered necessary.

2.3 The business of the Committee will be conducted apolitically.

2.4 The membership of the Audit Committee shall comprise a minimum of 5 Members of the Council and a maximum of three co-opted non-voting members.

2.5 The Committee will meet at least 3 times a year and a quorum of four elected members (including the Chair or Vice Chair) is required for decisions of the Committee to be ratified.

## 2.6 The Committee shall:

- 2.6.1 review matters relating to internal audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's Audit Committee requirements.
- 2.6.2 enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence
- 2.6.3 contribute towards making the authority, its committees and departments more responsive to the audit function.
- 2.6.4 review compliance with the relevant standards, codes of practice and corporate governance policies.
- 2.6.5 act within the Council's Constitution.

## 3. Core Functions

### 3.1 Governance, Risk and Control

- 3.1.1 To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
- 3.1.2 To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- 3.1.3 To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 3.1.4 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 3.1.5 To monitor the effective development and operation of risk management in the Council.
- 3.1.6 To monitor progress in addressing risk-related issues reported to the Committee.
- 3.1.7 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 3.1.8 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.

- 3.1.9 To monitor the counter-fraud strategy, actions and resources.
- 3.1.10 To review the governance and assurance arrangements for significant partnerships or collaborations.
- 3.2 Internal Audit
  - 3.2.1 To approve the internal audit charter.
  - 3.2.2 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
  - 3.2.3 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
  - 3.2.4 To make appropriate enquiries of both management and the Chief Internal Auditor to determine if there are any inappropriate scope or resource limitations.
  - 3.2.5 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Chief Internal Auditor. To approve and periodically review safeguards to limit such impairments.
  - 3.2.6 To consider reports from the Chief Internal Auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
    - a) updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work
    - b) regular reports on the results of the Internal Audit Quality Assurance and Improvement Programme.
    - c) reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and the Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.
  - 3.2.7 To consider the Chief Internal Auditor's annual report:
    - a) The statement of the level of conformance with the Public Sector Internal Audit Standards and the Local Government Application Note and the results of the Internal Audit Quality Assurance and Improvement Programme that support the statement – these will indicate the reliability of the

conclusions of internal audit.

- b) The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.

- 3.2.8 To consider summaries of specific internal audit reports as requested.
- 3.2.9 To receive reports outlining the action taken where the Chief Internal Auditor has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 3.2.10 To contribute to the Internal Audit Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
- 3.2.11 To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- 3.2.12 To provide free and unfettered access to the audit committee chair for the Chief Internal Auditor, including the opportunity for a private meeting with the committee. External audit
- 3.2.13 To support the independence of external audit through consideration of the External Auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments Limited or the Authority's Auditor Panel (if one is appointed) as appropriate.
- 3.2.14 To consider the External Auditor's Annual Letter, relevant reports and the report to those charged with governance.
- 3.2.15 To consider specific reports as agreed with the external auditor.
- 3.2.16 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 3.2.17 To commission work from internal and external audit.
- 3.2.18 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.



### 3.3 Financial Reporting

- 3.3.1 To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- 3.3.2 To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.  
Accountability arrangements
- 3.3.3 To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 3.3.4 To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- 3.3.5 To publish an Annual Report on the work of the Committee.

#### **(b) Chief Officer Appointments Panel**

For the Head of Paid Service and Deputy Chief Executive (5 members on Group Leader Nominations). The Panel must include at least one member of the Cabinet.

Membership: 5 councillors

Quorum: 3

For Directors (3 members on Group Leader Nominations). The Panel must include at least one member of the Cabinet.

Membership: 3 councillors

Quorum: 2

Terms of Reference:

1. To draw up a statement specifying:
  - a) the duties of the officer concerned; and
  - b) any qualifications or qualities to be sought in the person to be appointed
2. To 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.

3. To make arrangements for a copy of the statement mentioned above to be sent to any person on request.
4. To recommend to full Council that Council makes an offer of appointment of the Head of Paid Service.
5. To make an offer of employment as the Deputy Chief Executive, or a Director where no well-founded objection from any Member of the Cabinet has been received.

Note: The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

**(c) Health and Care Partnership Board**

Membership: 18

Quorum: 6 (see ToR 10 below)

Frequency of meetings: Four times annually (usually, June, September, December and March)

1. Health and wellbeing boards are a component of the Health and Social Care Act 2012 and are statutory bodies. The Health and Care Partnership fulfils the requirement to have a board. It is constituted as a committee of Milton Keynes City Council as a Partnership Board.
2. The main functions of the partnership are:
  - a) To ensure local multi-agency health and care strategies are evidence based, preventative, coherent and that our local health and care system is working together effectively.
  - b) To enter into formal agreement with the BLMK Integrated Care Board (ICB) with regard to any functions delegated to Milton Keynes and to oversee and drive progress.
3. In order to do this the partnership will:
  - a) Provide system wide strategic leadership and oversight for improving the health and wellbeing of the people of Milton Keynes.
  - b) Consider any public health issues raised by the Director of Public Health not being addressed elsewhere that require the attention of the partners.
  - c) Consider any safeguarding issues raised by the Safeguarding Partnership, a multiagency group which exists to co-ordinate the work of partners in relation to safeguarding, challenging and supporting partners to deliver on their statutory safeguarding responsibilities.

- d) Keep the BLMK Integrated Care Partnership (ICP) strategic priorities (start well, live well, age well, growth and reducing inequalities) under review, ensuring local action is addressing these.
  - e) Keep the strengths and needs of the local population under review, identifying any areas where more action is required, and where appropriate feeding this into the BLMK Integrated Care Partnership (ICP).
4. The core membership of the board will be made up of:
- a) The Leader of the Council (Chair)
  - b) BLMK ICB Chair (Vice Chair)
  - c) BLMK ICB Chief Executive or representative
  - d) MKCC Chief Executive
  - e) MKCC Director of Adult Services
  - f) MKCC Director of Children's Services
  - g) MKCC Director of Public Health
  - h) MKUHFT Chief Executive or representative
  - i) Central and North West London NHS Trust (CNWL) Chief Executive or representative
  - j) GP representative
  - k) TVP Area Commander
  - l) Bucks Fire and Rescue representative
  - m) South Central Ambulance Service NHS Foundation Trust representative
  - n) Healthwatch representative
  - o) VCS representative (with links to the local Voluntary Sector Alliance)
  - p) MKCC Councillor from each group to include the Portfolio Holder for Adult Services, the Leader of the main opposition group and a representative from the minority opposition party
5. No elected councillor may serve on the partnership and hold a position of Chair of a Milton Keynes City Council scrutiny committee.
6. The independent safeguarding scrutineer will be in attendance. Other representatives may be invited to join the partnership in an advisory or expert capacity by the Chair.

7. Meetings will be held in public except where exempt or confidential information is likely to be disclosed, and the meeting or part of the meeting is held in private. The public will usually be able to watch the meetings live on-line via YouTube. As usual, questions from the public should be submitted in advance of the meeting.
8. Meetings are conducted in accordance with procedural rules applicable to council committees, except where modified by these terms of reference.
9. Core members are expected to attend in person where possible. Core members (other than councillors) are required to nominate deputies. Councillors, intending to nominate a substitute to attend on their behalf should notify Milton Keynes City Council Democratic Services in writing (which can be by email) before the start time for the meeting.
10. The quorum for the Board will consist of six members, of whom no more than half will be Councillors. Only core members will have the right to vote. In line with the national regulations on formal local government committee meetings, members not physically present in the room will not be able to have their vote recorded.

**(d) Joint Negotiating Committee (Employers' Side)**

Membership: 9 councillors

Quorum: 4

Terms of Reference:

1. To consider and approve changes to Staff Terms and Conditions which are locally determined, subject to any financial implications being referred to the Cabinet to determine funding arrangements.
2. To respond to any consultations on nationally determined pay and conditions issues on behalf of the Authority.
3. To establish a Grievance Sub-committee or Grievance Appeal Sub-committee, to:
  - a) deal with all Grievance matters relating to 'relevant officers' as defined in The Local Authority (Standing Orders)(England)(Amendment) Regulations 2015 i.e. Head of Paid Service, Section 151 Officer and Monitoring Officer; and
  - b) operate in accordance with the model procedures laid down in the JNC Chief Executives Handbook.

Note: a member may not sit on a Grievance Sub-Committee and Grievance Appeal Sub-Committee which consider the same grievance.

**(e) Licensing Committee**

Membership: 11 councillors

Quorum: 4

Terms of Reference:

1. Licensing functions relating to Licensing as specified in List B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (The Functions Regulations).
2. Licensing functions arising from the Licensing Act 2003.
3. Licensing functions arising from the Gambling Act 2005.
4. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.
5. Power to institute criminal proceedings for offences under Section 342 of the Gambling Act 2005.
6. Power to exchange information.
7. Functions relating to the determination of fees for premises licences.
8. To establish a sub-committee to consider matters delegated to the Sub-Committee for determination by the Council's Statement of Licensing Policy and Statement of Gambling Principles.
9. The Officer Scheme of Delegation for Licencing Matters can be viewed under the Associated Documents section of the Constitution and at the following link, once adopted by the Licensing Committee.

**(f) Planning Committee**

Membership: 11 councillors

Quorum: 4

Terms of Reference:

1. Planning and Conservation - functions relating to Town and Country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (The Functions Regulations)
2. Power to create footpath or bridleway by agreement.
3. Power to create footpaths and bridleways.
4. Duty to keep register of information with respect to maps, statements and declarations.
5. Power to stop up footpaths and bridleways.

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

30. Power to designate footpath as cycle track.
31. Power to extinguish public right of way over land acquired for clearance.
32. Power to authorise stopping-up or diversion of footpath or bridleway.
33. Power to extinguish public rights of way over land for planning purposes.
34. Power to enter into agreements with respect to means of access.
35. Power to provide access in absence of agreement.
36. Power to make limestone pavement order.
37. Powers relating to the protection of important hedgerows.
38. Powers relating to the preservation of trees.
39. To receive, consider and make recommendations to the Council, Cabinet or other appropriate body on consultation papers relating to any aspects of development control.
40. To establish a panel to determine, with some exceptions, Minor Planning Applications (proposed residential developments of less than 10 dwellings or other new commercial, industrial, retail, office or warehouse proposals of less than 1000 square metres of new floor space) and Other Planning Applications (most changes of use, all householder development, Listed Building and Conservation Area Consent applications and a variety of other types of generally small-scale development proposals).
41. The Officer Scheme of Delegation for Development Management Matters can be viewed under the Associated Documents section of the Constitution.

**(g) Regulatory Committee**

Membership: 11 councillors

Quorum: 4

Terms of Reference:

1. Regulatory Functions specified in list B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (The Functions Regulations) and the Health Act 2006.
2. Health and Safety - functions relating to Health and Safety under any of the “relevant statutory provisions” within the meaning of Part 1 (Health, Safety and Welfare in Connection with Work, and Controlled Dangerous Substances) of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than in the Council’s capacity as an employer.

3. Power to register premises or stalls for the sale of goods by way of competitive bidding.
4. Functions relating to sea fisheries.
5. Power to make closing order with respect to take-away food shops.
6. Power to enforce offences relating to the display of no-smoking signs.
7. Power to enforce offences relating to smoking in smoke free places.
8. Power to enforce offence of failing to prevent smoking in smoke-free places.
9. Power to transfer enforcement functions to another enforcement authority.
10. The determination of individual Dog Control Orders.
11. Any function relating to contaminated land.
12. The discharge of any function relating to the control of pollution or the management of air quality.
13. The service of an abatement notice in respect of a statutory nuisance.
14. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.
15. The inspection of the Authority's area to detect any statutory nuisance.
16. The investigation of any complaint as to the existence of a statutory nuisance.
17. The exercise of functions under Part 8 of the Anti-Social Behaviour Act 2003 (High Hedges), with the exception of fee setting.
18. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interest in land.
19. The obtaining of particulars of persons' interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
20. To establish a sub-committee to consider to consider and determine:
  - a) complaints against drivers and operators of private hire vehicles and Hackney Carriages; and
  - b) Street Trading matters under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982
21. The Officer Scheme of Regulatory Matters can be viewed under the Associated Documents section of the Constitution and at the following link, once adopted by the Regulatory Committee.



**(h) Standards Committee**

Membership: 9 councillors

Quorum: 4

Terms of Reference:

1. To promote and maintain high standards of conduct by Members and co-opted Members of Milton Keynes City Council.
2. To assist parish councils within Milton Keynes to promote and maintain high standards of conduct by their Members and co-opted Members.
3. To grant dispensations in respect of requests made under s33 Localism Act 2011.
4. To establish and maintain arrangements under which allegations against all such Members can be investigated and decided upon in accordance with the requirements of Chapter 7 (Standards) of the Localism Act 2011 within the following framework.

**(i) Statutory Officer Disciplinary Panel**

Membership: 5 members on Group Leader Nominations. The Panel must include at least one Member of the Cabinet and two independent persons.

Note: An independent person is as defined as a person appointed under Section 28(7) of the Localism Act 2011.

Quorum: 2

Terms of Reference:

a) Suspension

To suspend the Head of Paid Service, Monitoring Officer and Chief Finance Officer whilst an investigation takes place into alleged misconduct.

b) Dismissal

To recommend to full Council the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

## Overview and Scrutiny Committees

1. The Council fully supports the role of its overview and scrutiny committees in holding the Cabinet and others to account in discharging its functions. The Council believes that the important parts of the role are:
  - to assist the Council and Cabinet in reviewing its major plans, policies and strategies;
  - to assist with policy formulation; and
  - to undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.
2. The Council's scrutiny function includes responsibility for reviewing the health service provision within its area, health promotion and the health and well-being of local communities. The Health and Adult Social Care Scrutiny Committee will undertake the scrutiny role in relation to health service provision in the Council's area. The Committee discharges the duties imposed on the Council under the relevant Health legislation.

### Role of the Overview and Scrutiny Committees

3. As Milton Keynes City Council has a Cabinet (executive) system it is required by law to have a Scrutiny function to support and scrutinise its executive decision making arrangements.

Scrutiny committees and scrutiny task and finish groups are not 'decision making' bodies, but are bodies which monitor and influence the decision makers. The committees and task and finish groups are made up of non-Cabinet members, and are designed to support the work of the Council in the following ways:

- assisting the executive in research, policy review and development and thus helping drive improvements in public services;
- reviewing and scrutinising decisions to be taken, or ones which have been taken by the Cabinet and officers, also known as acting as a "critical friend", challenging policy and decision makers;
- considering the Council's performance;
- reviewing the work of external organisations operating in the Borough to ensure that the interests of local people are enhanced by collaborative working; and
- enabling the voice and concerns of the public to be heard and listened to.

Each scrutiny committee or task and finish group has its own terms of reference. The scrutiny committees / task and finish groups consider issues by receiving information in a number of ways including by receiving presentations and taking evidence from councillors, Council officers and external witnesses or partners to develop an understanding of proposals or practices.

As scrutiny committees and scrutiny task and finish groups have no decision-making powers they can present their recommendations to the Cabinet, full Council, Council officers, or external partners. The committees will often request a formal response and progress report on the implementation of recommendations that they have provided to various parties.

#### General Responsibilities of all Overview and Scrutiny Committees

- 4.1 To review or scrutinise any decision made, or other action taken, in connection with the discharge of any of the Executive Functions within the remit of the Committee.
- 4.2 To make reports or recommendations to the Council or to the Cabinet with respect to the discharge of any of the Executive Functions within the remit of the Committee.
- 4.3 To review or scrutinise any decision made, or other action taken, in connection with the discharge of any of the Non-executive Functions within the remit of the Committee.
- 4.4 To make reports or recommendations to the Council or any Committee of the Council with respect to the discharge of any of the Non-executive Functions within the remit of the Committee.
- 4.5 To make reports or recommendations to the Council, to the Cabinet or to a regulatory committee on matters within the remit of the Committee which affect the Council's area or the inhabitants of the Council's area.
- 4.6 To consider any representations made in connection with the work of the Committee by a Member of the Council on behalf of her/his constituents.
- 4.7 To appoint advisers from outside the Council to advise the Committees.

The Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

#### Specific Responsibilities of Overview and Scrutiny Committees

5. The following sections set out the specific responsibilities of each Scrutiny Committee:

## **(a) Corporate Oversight and Scrutiny Management Committee**

Membership: Between 9 and 15 councillors

Quorum: 4

Terms of Reference:

1. To undertake the Council's Statutory Scrutiny role in respect of 'The Councillor Call for Action'.
2. To monitor the overall performance of the Council's services and the Council Plan, its delivery and its projects, in order that recommendations may be made to appropriate Council bodies, as necessary.
3. Undertake the Council's statutory scrutiny role in respect of scrutinising and reviewing Crime and Community Safety, including anti-social behaviour and emergency planning.
4. To scrutinise the governance and overall performance of any Council owned companies including Milton Keynes Development Partnership (MKDP).
5. To receive regular updates (either written or verbal) from Chairs of Scrutiny Committees and of Task and Finish Groups, about work programmes and outcomes.
6. To appoint and agree the scope of the work for task and finish review groups.
7. To Scrutinise the involvement of the Council in regional and national partnerships and organisations, and the delivery of significant infrastructure projects to ensure that the involvement provides value and benefit to Milton Keynes.
8. To refer for scrutiny by the relevant scrutiny committee any topics which the Corporate Oversight and Management Committee consider urgent during the year or, in exceptional circumstances, to undertake the scrutiny itself.
9. To review and monitor the decisions of the scrutiny committees and task and finish groups, including the implementation of recommendations made to Cabinet, Cabinet members and other bodies.
10. To allocate to the relevant scrutiny committee call-ins of Cabinet, individual Cabinet members or officer key decisions, where the relevant committee is not self-evident to the Director Law and Governance.
11. To review decisions of Cabinet, individual Cabinet members or officer key decisions called in, where either it is not possible to identify the relevant committee, or where it is not considered appropriate for the relevant committee to consider the call-in.
12. To report to the Council on the work of the overview and scrutiny function on an annual basis.

13. Where it is not practicable to wait to the next meeting of the Corporate Oversight and Scrutiny Management Committee the Director Law and Governance, may in consultation with the Chair and Vice-Chairs of the Scrutiny Management Committee agree any items in accordance with Terms of Reference 5, 7 and 9 above.

**(b) Budget and Resources Scrutiny Committee**

Membership: between 9 and 15 councillors

Quorum: 4

Terms of Reference:

1. To provide dedicated, cross-party consideration of the Budget and the Council's finances with a view to establishing and maintaining resources which are fit for purpose and address the needs and aspirations of the people of Milton Keynes and the Council Plan priorities.
2. To make recommendations on:
  - i) Priority of Services
  - ii) Service efficiencies
  - iii) Value for money
  - iv) Financial strategies
  - v) Risk management of financial proposals.
3. To consider and comment on Procurement, Workforce, ICT and Property issues in the light of the Council's Financial Strategy.
4. To monitor the in-year progress of the Revenue and Capital Budgets for the General Fund and the Housing Revenue Account.
5. To scrutinise and comment upon annual out-turn reports for the Revenue and Capital Budgets and identify learning points.
6. To be consulted during the preparation of the annual Revenue and Capital Strategies and Budgets.
7. To Scrutinise the draft Revenue and Capital Budgets.
8. To make recommendations to the Cabinet on any of the above matters at any time, and to submit comments to the Council in relation to the Cabinet's proposed Revenue and Capital Budgets at the appropriate time.
9. To appoint a planning group to oversee the implementation of the Committee's work programme.

10. To appoint, subject to the agreement of the Corporate Oversight and Scrutiny Management Committee, co-opt persons in a non-voting capacity, to add to the expertise, breath of knowledge and understanding of the work of the Committee.
11. To invite expert witnesses in respect of particular items to be considered by the Committee.
12. To establish a sub-committee to consider all called-in Cabinet, individual Cabinet member or officer decisions, as referred by the Corporate Oversight and Scrutiny Management Committee in accordance with the Overview and Scrutiny Procedure Rules.

**(c) Children and Young People Scrutiny Committee**

Membership: between 9 and 15 councillors

Voting Co-optees:

- 3 x co-opted parent governor representatives; and
- 2 x Diocesan representatives.

Quorum: 4 (not including co-opted members).

Terms of Reference:

1. To scrutinise the provision of services, the achievement of targets and the provision of resources by the Council and its partners for the children and young people of Milton Keynes and their families;
2. To support and challenge the Council and its partners in developing evidence-based policies and strategies which assist in creating positive outcomes for the children and young people of Milton Keynes so that they can be healthy, safe, enjoy their childhood, achieve economic well-being and make a positive contribution to the Borough;
3. To scrutinise, on behalf of the Council, the Corporate Parenting Panel and, in partnership with the Health and Adult Social Care Committee, the work of the MK Together Safeguarding Partnership and the Health and Care Partnership including any appropriate sub-committees or working parties that it may establish;
4. To appoint a planning group to oversee the implementation of the Committee's work programme;
5. To appoint, subject to the agreement of the Corporate Oversight and Scrutiny Management Committee, co-opt persons in a non-voting capacity, to add to the expertise, breath of knowledge and understanding of the work of the Committee; and

6. Invite expert witnesses in respect of particular items to be considered by the Committee.
7. To establish a sub-committee to consider all called-in Cabinet, individual Cabinet member or officer decisions, as referred by the Corporate Oversight and Scrutiny Management Committee.

**(d) Housing, Planning and Placemaking Scrutiny Committee**

Membership: Between 9 and 15 councillors

Quorum: 4

Terms of Reference:

1. To consider and scrutinise the planning, provision and performance of landlord housing services of the Council and Registered Providers (including repairs and maintenance, tenancy arrangements / policies and other management functions) in Milton Keynes.
2. Oversee the role of private landlords in the provision of rental accommodation that is fit for purpose and that said landlords operate in a fair and equitable manner.
3. Seek to ensure through scrutiny that the anticipated needs and aspirations of future Milton Keynes' residents are met in the planning and delivery of new housing developments.
4. Scrutinise (non-financial governance / management) matters relating to the Council's Housing Revenue Account, and in particular, choices about revenue and the priority of capital projects.
5. Scrutinise the planning and implementation of the Council's Regeneration and Estate Renewal Programme, in Milton Keynes, including:
  - a) the anticipated needs and aspirations of Milton Keynes' residents living on estates earmarked for regeneration;
  - b) other health and wellbeing issues such as access to education, training and employment, and youth services;
  - c) the quality, masterplan design and housing tenure mix; and
  - d) the work of individual Project Boards for each regeneration and estate renewal area.
6. Scrutinising regeneration engagement activity including:
  - a) work done by Estate Renewal Forums, parish and town councils and resident-led steering groups, or similar, to ensure that they effectively represent both residents whose homes will be affected by regeneration proposals as well as residents who may be impacted by any other aspects of the regeneration; and

- b) engagement activity delivered by the Council's Community Engagement Team.
7. Delivery of the Council's housing programme, outside of specifically identified regeneration areas / estates.
  8. Development management and strategic planning matters including, the review and development of supplementary planning documents, design briefs and neighbourhood plans.
  9. Scrutiny of the preparation and development of the Council's Local Plan and review of the Council's Strategy for 2050.
  10. To establish a sub-committee to consider all called-in Cabinet, individual Cabinet member or officer decisions, as referred by the Corporate Oversight and Scrutiny Management Committee in accordance with the Overview and Scrutiny Procedure Rules.

**(e) Health and Adult Social Care Scrutiny Committee**

Membership: 9 to 15 councillors and a co-opted representative of Milton Keynes Health Watch in a non-voting capacity

Quorum: 4

Terms of Reference:

1. To undertake the Council's statutory scrutiny role in respect of scrutinising and reviewing any matter relating to the planning, provision and operation of the health service in Milton Keynes.
2. Assist in the provision of improved health and adult social care services to the residents of Milton Keynes by supporting the development of evidence-based policies and strategies by the Council, health service providers and their partners.
3. Scrutinise the adult care services delivered to the residents of Milton Keynes by the Council, its partners and other service providers.
4. Scrutinising the provision of health services in Milton Keynes, such as Milton Keynes University Hospital, The Campbell Centre, GP surgeries and local pharmacies, the achievement of targets and the provision of resources to this end.
5. To scrutinise the allocation of Council and Registered Provider housing and the commissioning, provision and supply of supported housing and services relating to them.
6. Review and assess measures to address homelessness and rough sleeping in Milton Keynes, including the provision of temporary accommodation for those owed a homelessness duty.



7. Scrutinise the priority and adequacy of health non-housing elements in the regeneration areas.
8. To establish a sub-committee to consider all called-in Cabinet, individual Cabinet member or officer decisions, as referred by the Corporate Oversight and Scrutiny Management Committee in accordance with the Overview and Scrutiny Procedure Rules.
9. To establish a Quality Accounts Panel to review and comment on the Quality Accounts of community health providing services for residents of Milton Keynes.

**(f) Public Realm and Environment Scrutiny Committee**

Membership: Between 9 and 15 councillors

Quorum: 4

Terms of Reference:

1. To serve as the Council's statutory scrutiny committee for Flood and Water Risk Management.
2. To scrutinise and review performance in relation to public realm services, including highways, transport and waste collection and disposal.
3. To receive updates and monitor performance of key public realm contracts such as highways maintenance, waste and recycling, street cleaning and landscaping.
4. Scrutiny of the provision of leisure and cultural services provided by the Council and its partners, including parks and green spaces managed by others.
5. To monitor and scrutinise the Council's sustainability and climate change performance (including ecology and biodiversity) including the progress against agreed actions plans and the development of new policies or plans.
6. Scrutiny of the delivery and operation of public transport in Milton Keynes including the operation of transport hubs by external partners in Milton Keynes).
7. To establish a sub-committee to consider all called-in Cabinet, individual Cabinet member or officer decisions, as referred by the Corporate Oversight and Scrutiny Management Committee in accordance with the Overview and Scrutiny Procedure Rules.

**Joint Arrangements**

**(a) Buckinghamshire and Milton Keynes Fire Authority**

Milton Keynes City Council Representatives: 5 councillors

Fire Authority Terms of Reference:

1. To appoint the Authority's Standing Committees and Lead Members.

2. To determine the following issues after considering recommendations from the Executive Committee, or in the case of 2(a) and 2(e) below, after considering recommendations from the Overview and Audit Committee:
  - a) variations to Standing Orders and Financial Regulations;
  - b) the medium-term financial plans including:
    - i) the Revenue Budget;
    - ii) the Capital Programme;
    - iii) the level of borrowing under the Local Government Act 2003 in accordance with the Prudential Code produced by the Chartered Institute of Public Finance and Accountancy; and
  - c) a Precept and all decisions legally required to set a balanced budget each financial year;
  - d) the Prudential Indicators in accordance with the Prudential Code;
  - e) the Treasury Strategy;
  - f) the Scheme of Members' Allowances;
  - g) the Integrated Risk Management Plan and Action Plan;
  - h) the Annual Report.
3. To determine the Code of Conduct for Members on recommendation from the Overview and Audit Committee.
4. To determine all other matters reserved by law or otherwise, whether delegated to a committee or not.
5. To determine the terms of appointment or dismissal of the Chief Fire Officer and Chief Executive, and deputy to the Chief Fire Officer and Chief Executive, or equivalent.
6. To approve the Authority's statutory pay policy statement.

#### **Executive Committee Terms of Reference**

1. To make all decisions on behalf of the Authority, except in so far as reserved to the full Authority by law or by these Terms of Reference.
2. To assess performance of the Authority against agreed organisational targets.
3. To determine matters relating to pay and remuneration where required by collective agreements or legislation.
4. To select on behalf of the Authority the Chief Fire Officer and Chief Executive, and deputy to the Chief Fire Officer and Chief Executive, or

equivalent, taking advice from suitable advisers and to make recommendations to the Authority as to the terms of appointment or dismissal.

5. To consider and make decisions on behalf of the Authority in respect of the appointment of a statutory finance officer ; a statutory monitoring officer; and any post to be contracted to “Gold Book” terms and conditions in whole or in part taking advice from the Chief Fire Officer and suitable advisers.
6. To act as the Employers’ Side of a negotiating and consultation forum for all matters relating to the employment contracts of the Chief Fire Officer and Chief Executive, deputy to the Chief Fire Officer and Chief Executive, or equivalent; and where relevant, employees contracted to “Gold Book” terms and conditions in whole or in part.
7. To hear appeals if required to do so in accordance with the Authority’s Policies.
8. To determine any human resources issues arising from the Authority’s budget process and improvement programme.
9. To determine policies, codes or guidance:
  - a) after considering recommendations from the Overview and Audit Committee in respect of:
    - i) regulating working relationships between members and co-opted members of the Authority and the employees of the Authority; and
    - ii) governing the conduct of employees of the Authority
  - b) relating to grievance, disciplinary, conduct, capability, dismissals and appeals relating to employees contracted to “Gold Book” terms and conditions in whole or in part.
10. To form a Human Resources Sub-Committee as it deems appropriate.

#### Overview and Audit Committee Terms of Reference

##### Overview

1. To review current and emerging organisational issues and make recommendations to the Executive Committee as appropriate.
2. To comment upon proposed new policies and make recommendations to the Executive Committee as appropriate.
3. To review issues referred by the Authority and its other bodies and make recommendations to those bodies as appropriate.
4. To make recommendations to the Executive Committee on:

- a) the Electronic Services Delivery Plan;
  - b) the Brigade Personnel Strategy;
  - c) Levels of Incident Response;
  - d) the Corporate Risk Management Policy;
  - e) the Authority's Information Policy; and
  - f) other such policies and procedures as are required from time to time.
5. To consider and make recommendations to the Authority on the Annual Treasury Management Strategy.

#### Audit

1. To determine the internal and external audit plans and the Internal Audit Strategy
2. To determine the Internal Audit Annual Plan and Annual Report (including a summary of internal audit activity and the level of assurance it can give over the Authority's governance arrangements).
3. To consider and make recommendations action plans arising from internal and external audit reports, including arrangements to ensure that processes which deliver value for money are maintained and developed.
4. To consider and make recommendations to the Executive Committee on reports dealing with the management and performance of the providers of internal audit services.
5. To consider and make recommendations on the external auditor's Annual Audit Letter and Action Plan, relevant reports and the report to those charged with governance.
6. To consider specific reports as agreed with the Treasurer, Internal Audit, Monitoring Officer, Chief Fire Officer, or external audit and to make decisions as appropriate.
7. To comment on the scope and depth of external audit work and to ensure it gives value for money.
8. To oversee investigations arising out of fraud and corruption allegations.
9. To determine Insurance matters not delegated to officers, or another committee.
10. To consider and determine as appropriate such other matters as are required in legislation or guidance to be within the proper remit of this Committee.

## Governance

1. To:
  - a) make recommendations to the Authority in respect of:
    - i) variations to Financial Regulations; and
    - ii) variations to Contract Standing Orders.
  - b) receive a report from the Chief Finance Officer/Treasurer when there has been any variation to the Financial Instructions in the preceding twelve month period.
2. To determine the following issues:
  - a) the Authority's Anti-Money Laundering Policy;
  - b) the Authority's Whistleblowing Policy; and
  - c) the Authority's Anti-Fraud and Corruption Policy.
3. To determine the Statement of Accounts and the Authority's Annual Governance Statement. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Authority.
4. To consider the Authority's arrangements for corporate governance and make recommendations to ensure compliance with best practice.
5. To monitor the Authority's compliance with its own and other published standards and controls.
6. To maintain and promote high standards of conduct by the Members and co-opted members of the Authority.
7. To assist Members and co-opted members of the Authority to observe the Authority's Code of Conduct.
8. To advise the Authority on the adoption or revision of a code of conduct.
9. To monitor the operation of the Authority's Code of Conduct
10. To deal with cases referred by the Monitoring Officer.
11. To advise on training or arranging to train Members and co-opted members of the Authority on matters relating to the Authority's Code of Conduct.
12. To monitor the operation of any registers of interest, of disclosures of interests and disclosures of gifts and hospitality in respect of officers or Members.

## Risk

1. To monitor the effective development and operation of risk management and corporate governance within the Authority.
2. To consider reports dealing with the management of risk across the organisation, identifying the key risks facing the Authority and seeking assurance of appropriate management action.

#### Employees

1. To be a sounding board to help the Authority promote and maintain high standards of conduct by employees of the Authority.
2. To advise the Executive Committee on the adoption or revision of any policies, codes or guidance:
  - a) regulating working relationships between members and co-opted members of the Authority and the employees of the Authority;
  - b) governing the conduct of employees of the Authority; or
  - c) relating to complaints; and
  - d) other such policies and procedures as are required from time to time.
3. To monitor the operation of any such policies, codes or guidance mentioned at 2 above.
4. To comment on the training arrangements in connection with any of the above.

#### General

1. To make such other recommendations to the Executive Committee on the issues within the remit of the Overview and Audit Committee as required.
2. To review any issue referred to it by the Chief Fire Officer, Treasurer, or Monitoring Officer, or any Authority body within the remit of these terms of reference.
3. To consider such other matters as are required in legislation or guidance to be within the proper remit of this Committee.
4. To commission reports from the Chief Fire Officer, the Internal Audit Service, the Monitoring Officer, or such other officer as is appropriate, when the Committee agrees that such reports are necessary.
5. To support the Monitoring Officer and the Treasurer in their statutory roles and in the issue of any guidance by them.
6. To receiving reports from the Monitoring Officer in his/her statutory role or otherwise relating to ethical standards and deciding action as appropriate.

7. To respond to consultation on probity and the ethical standards of public authorities.

**(b) Thames Valley Police and Crime Panel**

Membership: 1 councillor from each of the 14 local authorities in the Thames Valley, as well as an additional co-opted member from Milton Keynes City Council, three co-opted members from Buckinghamshire Council, and two independent co-opted members

Terms of Reference:

1. To examine and review how the Police and Crime Commissioner for Thames Valley, carries out his/her responsibilities of ensuring that Thames Valley Police runs effectively.
2. To support the Police and Crime Commissioner in his/her work.
3. To conduct confirmation hearings for certain key positions, including Deputy Police and Crime Commissioner, Chief Constable and others.
4. To handle non-criminal complaints against the Police and Crime Commissioner.
5. To review the Police and Crime Commissioner's proposed precept for each financial year (the amount which the Commissioner hopes to raise each year through Council Tax to fund policing).
6. To scrutinise and comment on the Police and Crime Commissioner's Police and Crime Plan and Annual Report.

## **Chapter 2 – Part 6 – Officer Delegations**

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These are contained in the Officer Scheme of Delegation and Proper Officer list which do not form part of the Constitution but can be found in the Associated Documents section of the Constitution.

The Head of Democratic Services, in consultation with the Monitoring Officer is authorised to make any amendments to the Officer Scheme of Delegation and Proper Officer List. Any amendments will be reported to the Full Council on a quarterly basis.



**Chapter 3**  
**PROCEDURE RULES**

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## **Council Procedure Rules**



<b>Council Procedure Rules</b>	
1.	Annual Meeting of the Council
2.	Ordinary Meetings
3.	Extraordinary Meetings
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9.	Public (Questions / Speaking / Petitions)
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21.	Suspension and Amendment of Council Procedure Rules
22.	Application to Committees, Sub-Committees and Panels
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## **Council Procedure Rules**

### **1. Annual Meeting of the Council**

The Annual Meeting of the Council will take place on the Wednesday 13 calendar days after the day of local elections, or in a year when there are no local elections on the Wednesday 13 calendar days after the first Thursday in May at 7.30 pm.

The Meeting will:

- (i) elect a person to preside if the Mayor or Deputy Mayor is not present;
- (ii) elect the Mayor;
- (iii) consider a Vote of Thanks to the outgoing Mayor;
- (iv) appoint the Deputy Mayor;
- (v) approve the Minutes of the previous meeting;
- (vi) receive declarations of interest by councillors and Officers;
- (vii) receive any announcements from the Mayor and/or the Chief Executive;
- (viii) receive a report from the Returning Officer in the year of a Council Election;
- (ix) receive a report in accordance with the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 in the year of a Council election;
- (x) elect the Leader in any year in which the Leader's term of office expires, or if the office of Leader becomes vacant;
- (xi) note the appointments to the role of Deputy Leader and to the Cabinet;
- (xii) appoint the Scrutiny Committees and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions, as set out in Part 2 of this Constitution, subject to no members of the Cabinet being appointed to sit on the Audit Committee, if one is appointed;
- (xiii) appoint such voting co-opted members as recommended by the various committees / panels;
- (xiv) appoint representatives to the Fire Authority;
- (xv) appoint a representative to the Thames Valley Police and Crime Panel;

- (xvi) receive the Leader's Scheme of Executive Delegation, as set out in Part 3 of this Constitution, except where the Leader is elected at this Annual Council meeting when the Scheme of Executive delegation will be presented to the Ordinary Council meeting following the Annual Council meeting; and
- (xvii) agree the Calendar of Meetings for the year; and
- (xviii) consider any business set out in the notice convening the meeting.

Unless the Mayor decides to hold the Annual Meeting in two parts when

- (a) a Ceremonial Meeting dealing with items (i) to (iv) above will be held on the Wednesday 13 calendar days after the day of local elections, or in a year when there are no local elections on the Wednesday 13 calendar days after the first Thursday in May at 7.30 pm; and
- (b) a Business Meeting dealing with the remaining items [(v) to (xviii) above] will be held on the Wednesday 20 calendar days after the day of local elections, or in a year when there are no local elections on the Wednesday 20 calendar days after the first Thursday in May at 7.30 pm.

Unless otherwise determined by statute, the Mayor may vary the order of the agenda at his/her discretion and allocate an appropriate time for the transaction of each item.

*Note: The election of a person to preside in the absence of the Mayor, the election of the Mayor and the Leader and the appointment of the Deputy Mayor will follow the procedure set out in Procedure Rule 16.6.*

## **2. Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with the programme decided by Council.

Ordinary meetings will:

- (a) elect, using the procedure set out in Procedure Rule 16.6, a person to preside if the Mayor and Deputy Mayor are not present;
- (b) approve the Minutes of the last meeting;
- (c) receive any disclosures of interest from councillors and Officers;
- (d) receive any announcements from the Mayor, Leader, members of the Cabinet or the Chief Executive;
- (e) receive questions from, and provide answers to, the public;

- (f) receive reports from the Cabinet and the Council's committees, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework, reports of the Scrutiny Committees for debate and from the Standards Committee on ethical standards issues;
- (g) consider questions in accordance with Council Procedure Rule 10;
- (h) consider motions; and
- (i) consider any other business specified in the summons to the meeting.

Unless otherwise determined by statute, the Mayor may vary the order of the agenda at his/her discretion and allocate an appropriate time for the transaction of each item.

### **3. Extraordinary Meetings**

3.1 Those listed below may request the Monitoring Officer to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Mayor;
- (c) the Monitoring Officer; and
- (d) any five councillors if they have signed a requisition presented to the Mayor 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.

3.2 Extraordinary meetings will:

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) receive any declarations of interest from councillors and Officers;
- (c) receive any announcements from the Mayor, Leader, members of the Cabinet or the Chief Executive;
- (d) at the discretion of the Mayor, receive questions from, and provide answers, to the public; and
- (e) consider any other business specified in the summons to the meeting.

Unless otherwise determined by statute, the Mayor may vary the order of the agenda at his/her discretion and allocate an appropriate time for the transaction of each item.

**4. Time and Place of Meetings**

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

**5. Notice of and Summons to Meetings**

The Monitoring 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 Monitoring Officer will send a summons signed by him or her to every councillor 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.

**6. Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to committee, sub-committee and scrutiny committee meetings, references to the Mayor shall also include the chairs of committees, sub-committees or scrutiny committees.

**7. Quorum**

7.1 The quorum of a meeting of the Council will be 13 councillors. During any meeting, if the Mayor counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

7.2 Where these Rules apply to committee, sub-committee and Panel meetings, the quorum will be one third of the membership, or 4 councillors, other than co-opted members, whichever is the greater, except where the committee, sub-committee, or panel comprises either 5 or less councillors, other than co-opted members, when the quorum will be the nearest whole number of councillors to, but not less than, one half of the membership.



## **8. Duration of Meeting**

- 8.1 The Mayor will adjourn the meeting for a period of ten minutes at a convenient time after two hours.
- 8.2 At a convenient time after a meeting has been in progress for three hours from its start time, the Mayor will announce the start of the closure procedure.
- 8.3 The Mayor will allow a maximum of thirty minutes for the completion of the closure procedure.
- 8.4 Once the Mayor has announced the start of the closure procedure, all remaining business shall be formally moved, formally seconded and voted upon without discussion.
- 8.5 At the discretion of the Mayor, short introductory speeches by the mover of a motion or amendment, to a maximum of one minute, will be allowed on each item of business raised during the closure procedure.
- 8.6 Before any matters are considered under the closure procedure, a motion may be moved and seconded, in accordance with Council Procedure Rule 21.1 [Suspension of Council Procedure Rules]), to suspend this Procedure Rule in relation to all, or specified, business remaining.
- 8.7 This Procedure Rule will have precedence over all other relevant Procedure Rules.

Note: Convenient time is at the discretion of the Mayor, but will usually mean at the end of the item under consideration.

## **9. Public**

- 9.1 General
  - (a) Members of the public may, at meetings of the Council, ask members of the Cabinet, the Chair of a Committee, the Chair of a Scrutiny Committee, or a Leader of a political group on the Council questions on matters which the Council has powers or duties or which affects the area of the Council and which fall within their responsibility, other than at the Annual Meeting and, except at the discretion of the Mayor, at Extraordinary meetings.

- (b) The total time allocated for Questions by the Public shall be limited to 30 minutes.

## 9.2 Order of Questions

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

## 9.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than 48 hours (excluding weekends and public holidays) before the start of the meeting.

e.g. If a meeting starts at 6:30 pm on a Tuesday the deadline for questions would be 6:30 pm on the preceding Friday.

The Mayor has the discretion to extend the deadline if the matter is sufficiently urgent and relates to a matter that has arisen in the last 48 hours, subject to the question being submitted a minimum of 30 minutes before the start of the meeting. Each question must give the name and address of the questioner and must name the councillor to whom it is to be put.

## 9.4 Number of Questions

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

## 9.5 Scope of Questions

The Monitoring Officer, or the Mayor, may reject a question if it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the Borough;
- (b) is defamatory, derogatory, frivolous, offensive or vexatious;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) relates to a Council employment or staffing matter; or
- (e) requires the disclosure of confidential or exempt information.

The Monitoring Officer may refer any question if it would be more appropriately dealt with by another body of the Council or by a Council Officer.

## 9.6 Record of Questions

Questions, including supplementary questions and the replies to them, whether given orally or in writing, will be recorded in the Minutes of the meeting. Where a written answer is to be supplied after the meeting at which the question is asked, if possible the written answer be included as an Annex to the minutes.

## 9.7 Asking the Question at the Meeting

The Mayor will invite the questioner to put the question to the councillor named in the question. If a questioner who has submitted a written question is unable to be present, he/she may ask the Mayor to put the question on his/her behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given, or decide, in the absence of the questioner, that the question will not be dealt with. No question will exceed one minute and no answer will exceed two minutes.

## 9.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 9.5 above. No supplementary question will exceed one minute and no answer will exceed two minutes.

## 9.9 Written Answers

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

## 9.10 Reference of Question to the Cabinet, Committee or a Scrutiny Committee.

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

### 9.11 Right to Speak

A member of the public may speak on up to two non-procedural items on any Agenda if notice has been given no later than 15 minutes before the start of the meeting. The Mayor may, at his or her discretion, limit the number of speakers and the time each speaker may speak for. No speech should exceed three minutes. Each member of the public may only speak once on any one item unless the Mayor agrees otherwise. Public speaking on any one item shall not exceed 15 minutes, subject to the Mayor's discretion to extend the time if he / she considers it appropriate.

### 9.12 Petitions

- (a) Petitions should include a clear and concise statement covering the subject to which it relates and what action is being requested from the Council. Requests for the Council to receive a petition should include the name and address of persons supporting the petition.
- (b) Petitions received by no later than 48 hours before the start of the meeting may be presented to the Council.

Petitions received by no later than 48 hours (excluding weekends and public holidays) before the start of the meeting may be presented to the Council.

e.g. If a meeting starts at 6:30 pm on a Tuesday the deadline for petitions would be 6:30 pm on the preceding Friday."

The person presenting the petition will be allowed to address the meeting briefly (not exceeding three minutes) to outline the aims of the petition. The Mayor will refer the matter to the responsible Cabinet member, or Committee Chair within whose terms of reference the matter falls without discussion for a response, unless a relevant item appears elsewhere on the Agenda.

- (c) The Cabinet member, or Committee Chair will provide a response at the Council meeting setting out the action to be taken on the petition.

The person presenting the petition will be permitted to make a statement lasting no longer than one minute in response to the Cabinet member's / Committee Chair's statement.

(d) Scope of Petitions

The Monitoring Officer, or the Mayor, may reject a petition if it:

- (i) is not about a matter for which the local authority has a responsibility or which affects the Borough;
- (ii) relates to a planning application or a specific licence currently being determined by the Council;
- (iii) is defamatory, derogatory, frivolous, offensive or vexatious;
- (iv) is substantially the same as a petition which has been put at a meeting of the Council in the past six months;
- (v) relates to a Council employment or staffing matter; or
- (vi) requires the disclosure of confidential or exempt information.

9.13 Development Control and Licensing Committees

Separate arrangements are in place for the public to ask questions and make representations at meetings of the Development Control and Licensing Committees and are set out in Annexes to the Access to Information Rules.

**10. Councillors' Questions**

10.1 At a meeting of the Council, other than the Annual Meeting or Extraordinary meetings, a councillor may ask the Leader of the Council, any Cabinet member, the Chair of any of the Council's Committees, the Chair of a Scrutiny Committee, or a Leader of a political group on the Council questions on matters which the Council has powers or duties or which affects the area of the Council and which fall within their responsibility

10.2 Every question, which will be limited to one part, will be asked and answered without discussion. Upon receiving the answer, the councillor who put the question shall be allowed one supplementary question, provided that it is relevant to the original question and does not introduce any new subject matter. The supplementary question will be asked and answered orally, but the person to whom the supplementary question has been asked may decline to answer.

- 10.3 The answer to a councillor's question may be given orally and directly, or by reference to published material of the Council which is readily available to councillors, or in writing after the meeting (when the answer will be circulated to all councillors).
- 10.4 Questions, including supplementary questions and the replies to them, whether given orally or in writing, will be recorded in the Minutes of the meeting. Where a written answer is to be supplied after the meeting at which the question is asked, if possible the written answer be included as an Annex to the minutes.
- 10.5 The total time allocated for councillors' questions shall be limited to 30 minutes. Each councillor may ask no more than two questions, not including supplementary questions.
- 10.6 No Question will exceed one minute and no answer will exceed two minutes.

## **11. Notices of Motion**

### **11.1 Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Monitoring Officer not later than 12 noon eight clear working days before the date of the meeting. Receipt of the motion will be acknowledged by the Monitoring Officer.

### **11.2 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 councillor giving notice states, in writing before the commencement of the meeting to which the motion has been submitted, that he/she proposes to move it to a later meeting or withdraw it.

### **11.3 Motions of a Like Intent**

Where two or more motions, submitted in accordance with this Procedure Rule are, in the opinion of the Monitoring Officer, of the same, or similar intent, he / she will either:

- (a) seek agreement to the withdrawal of one or more of the motions to leave one remaining motion; or

- (b) combine the motions, with the agreement of the councillors submitting the motions, with the combined motion being notified to all councillors no later than 12 noon four clear working days before the meeting at which the motion is to be considered.

The combined motion will take the place of the first of the motions submitted in the order on the Agenda and will be in the joint names of the councillor submitting the original motions. The councillor submitting the combined motion will be expected to agree who will move and second the motion.

In the event that councillor decline to withdraw their motions, or do not agree to the motions being composited, the Council will (subject to any ruling of the Mayor) deal with the motions in the order in which notice was received.

#### 11.4 Scope

The Monitoring Officer or the Mayor will rule out of order any Motion which:

- (i) is not about a matter for which the local authority has a responsibility or which affects the Borough;
- (ii) relates to a planning application or a specific licence currently being determined by the Council;
- (iii) is defamatory, derogatory, frivolous, offensive or vexatious;
- (iv) is substantially the same as a motion or petition which has been put at a meeting of the Council in the past six months;
- (v) relates to a Council employment or staffing matter; or
- (vi) requires the disclosure of confidential or exempt information.

## 12. Motions without Notice

The following motions may be moved without notice:

- (a) to appoint a chair 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 councillor arising from an item on the summons for the meeting;

- (f) to receive reports or adoption of recommendations of Cabinet, committees, scrutiny committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council Procedure Rule;
- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a councillor named under Rule 19.2 or to exclude them from the meeting under Rule 19.3; and
- (o) to give the consent of the Council where its consent is required by this Constitution.

### **13. Rules of Debate**

#### **13.1 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.

#### **13.2 Right to require Motion in writing**

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

#### **13.3 Secunder's speech**

When seconding a motion, a councillor may reserve his/her speech until the debate. When the councillor wishes to speak, he/she must indicate to the Mayor.

#### **13.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point or order. No speech may exceed three minutes without the consent of the Mayor.

#### **13.5 When a councillor may speak again**

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



- (a) in exercise of a right of reply pursuant to Council Procedure Rule 13.8;
- (b) on a point or order; and
- (c) by way of personal explanation.

#### 13.6 Amendments to Motions

- (a) All amendments to reports from Cabinet and the Council's committees (Council Procedure Rule 2[f]) and to a motion submitted under Council Procedure Rule 11 (other than those Motions which may be moved without notice under Council Procedure Rules 12 and 13.8) must be submitted in writing to the Monitoring Officer initially by 12 noon two clear working days before the meeting at which the motion is to be considered. Receipt of the amendment will be acknowledged by the Monitoring Officer.

The councillor submitting the amendment must then confirm in writing to the Monitoring Officer by 12 noon one clear working day before the meeting whether the amendment is to go forward, or notify the Monitoring Officer of any changes to the amendment. If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form.

- (b) 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 wordsas long as the effect of (ii) to (iv) is not to negate the motion.
- (c) All amendments submitted and having been moved, and seconded with no speech, will be offered by the Mayor to the mover of the motion for acceptance, if accepted in whole or in part the amendment becomes part of the original motion which remains in the 'ownership' of the councillor moving the original motion.

- (d) If the mover of the motion agrees to accept the amendment, or part of the amendment, any councillor may, at that point, call 'Object' which would require the amendment to be debated by the Council.
- (e) All amendments, or parts of an amendment submitted, and not accepted by the mover of the motion, will be discussed by the Council together with the motion and voted on at the end of the debate in the order in which they were submitted to the Monitoring Officer.
- (f) Where more than one amendment is received and an amendment is agreed when put to the vote, the owner of the substantive motion will be asked by the Mayor if he or she accepts any further amendment in whole or in part. If accepted the amendment becomes part of the substantive motion which remains in the ownership of the councillor owning the substantive motion.
- (g) With regard to amendments which relate to the Cabinet's recommendation of the Council's Annual Budget and level of Council Tax, amendments will be moved and voted on in the order in which they are received from 9.00 am on the working day after the Cabinet's meeting to finalise the recommendation. In the event of a tie the Council will decide the order in which the amendments are moved and voted upon.
- (h) If an amendment is carried, the motion as amended takes the place of the original motion and becomes in the 'ownership' of the councillor moving the amendment. This becomes the substantive motion to which any further amendments are moved.

### 13.7 Withdrawal of Motion

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

### 13.8 Right of Reply

The mover of the motion has the right to sum up after the movers of any amendment(s) have summed up and before the vote on any amendment(s).

The owner of the motion / substantive motion has the right to sum up at the close of the debate on the motion immediately before it is put to the vote; and

The proposer of each amendment has the right to sum up the debate on their amendment in the order in which the amendments were proposed.

### 13.9 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 (with the exception of reports from Cabinet and the Council's committees and to motions submitted under Council Procedure Rule 11 - 'Notice of Motion');

Note: Paragraphs (b), (c) and (e) of Council Procedure Rule 13.6 'Amendments to Motions' will apply to amendments moved under this Procedure Rule.

- (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) that the meeting continue beyond three hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a councillor named under Rule 19.2 or to exclude them from the meeting under Rule 19.3.

### 13.10 Closure Motions

- (a) At the conclusion of a speech of another councillor, a councillor who has not already participated in the debate may move without comment that:
  - (i) the debate be adjourned;
  - (ii) the meeting proceed to the next business;

- (iii) the meeting be adjourned; or
  - (iv) the question be put.
- (b) If the motion to adjourn the debate, proceed to the next business or adjourn the meeting is seconded:
- (i) the Mayor will put the closure motion to the vote without further discussion;
  - (ii) if the motion is carried, the debate will stand adjourned, the meeting will proceed to the next business or the meeting will stand adjourned;
  - (iii) if the motion is lost, the debate will resume.
- (c) If the motion that the question be put is seconded:
- (i) the Mayor will consider whether the question before the meeting has been sufficiently discussed;
  - (ii) if the Mayor considers that it has not, the debate will continue until the Mayor considers that adequate debate has taken place, after which a vote on the closure motion will be taken;
  - (iii) if the Mayor considers that the matter has been sufficiently discussed, the Mayor will put the closure motion to the vote without further discussion; and
  - (iv) if the motion is carried, the Mayor will invite the mover of the original motion and the amendment, if an amendment is under discussion, to reply, and put the question before the meeting to the vote.

#### 13.11 Points of Order and Personal Explanation

- (a) A point of order is a request from a councillor to the Mayor to rule on an alleged irregularity in the procedure of the meeting.
- (b) A personal explanation will be confined to some material part of an earlier speech by the councillor and on which a misunderstanding has occurred.
- (c) A councillor may raise a point of order or a point of personal explanation at any time and is entitled to address the Mayor on the matter immediately; but:

- (i) the councillor who raises a point of order must specify immediately how a Procedural Rule or statutory provision has been broken or infringed;
  - (ii) in either case, the councillor's speech must be confined to the point of order or personal explanation.
- (d) The ruling of the Mayor on a point of order or a personal explanation is final.

#### **14. State of the Borough Debate**

##### **14.1 Calling of debate**

The Leader may call a state of the Borough debate annually on a date and in a form to be agreed with the Mayor.

##### **14.2 Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the debate.

##### **14.3 Chairing of debate**

The debate will be chaired by the Mayor, or other councillor presiding.

##### **14.4 Results of debate**

The results of the debate will be:

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

#### **15. Previous Decisions and Motions**

- 15.1 No motion to rescind or defer action on any resolution passed at a meeting of the Council within the preceding six months, and no motion or amendment which would have the same effect as one which has been rejected at a meeting of the Council within the preceding six months, may be proposed, unless notice has been given as required by Procedure Rule 11. The notice must be signed by at least five councillors. This procedure may not be used:

- (a) if it has been used in the previous six months to try to rescind the same resolution and the motion was rejected; or
  - (b) where a resolution has been successfully rescinded and is replaced by another resolution.
- 15.2 However, if a Committee or Scrutiny Committee considers an issue which has been decided by the Council within the previous six months, and agrees a course of action different from that previously approved by the Council, it must submit its decision as a recommendation to the Council.
- 15.3 Rule 15.1 does not apply to a Committee or Sub-Committee acting under delegated powers, which may rescind, replace, amend, or defer action upon any of its previous resolutions, whenever passed, after receiving and considering an Officer's report recommending departure from a previous resolution, where it considers such departure to be justified in all the circumstances.
- 15.4 No resolution will be rescinded, no action will be deferred, and no matter referred back, where it has already been acted upon, if the rescission or deferment would disadvantage a third party who has become entitled to a right as a result of the resolution, which includes decisions of the Licensing and Regulatory Committees and their sub-committees where a licence or permission has been awarded and the applicant notified of the decision.
- 15.5 A resolution of a Committee or a Sub-Committee passed under delegated powers is deemed to have been passed by the whole Council.
- 15.6 When a councillor intends to submit a motion to rescind a decision, notice must be given to the Monitoring Officer within 24 hours of the decision being published of the councillor's intention to submit a rescinding motion, in order to prevent the decision being implemented. The actual motion must be signed by at least five councillor and be submitted within five working days of the decision being published.
- 15.7 The motion must state the grounds on which the motion is made. The motion must be expressed in terms of the principles of judicial review, that is, that the decision is flawed on the grounds of one or more of:
  - (a) illegality (the Committee misdirected itself in law);
  - (b) irrationality (the Committee took into account irrelevant matters or failed to take into account relevant matters); or
  - (c) procedural impropriety (the Committee failed to follow its own procedures, including rules of natural justice).

## 16. Voting

### 16.1 Majority

Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question is put.

### 16.2 Mayor's casting vote

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

### 16.3 Method of Voting

Unless a recorded vote is demanded under Rule 16.4, the Mayor will take the vote by show of hands and/or by electronic means, or if there is no dissent, by the affirmation of the meeting. Nothing in these Rules will prevent the introduction and use of other methods of voting.

### 16.4 Recorded vote

If a councillor so requests, before the Mayor begins to take the vote, the names of each councillor in attendance will be recorded in the minutes of the meeting showing whether they voted for, against or abstained from voting.

### 16.5 Right to require individual vote to be recorded

Where any councillor requests it immediately after the vote is taken, his/her vote will be recorded in the Minutes to show whether he/she voted for or against the motion or abstained from voting.

### 16.6 Voting on appointments (*including the election of Mayor and Leader*)

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

### 16.7 Voting on Budget Decision Council Tax Setting

That in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, when the Council votes on either setting its budget and / or where making the calculation or issuing the precept, the names of each councillor and whether they vote for or against the motion or abstain from voting will be recorded in the minutes.

## **17. Minutes**

### **17.1 Signing the Minutes**

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

### **17.2 No requirement to sign Minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the Minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of Minutes.

## **18. Exclusion of Public and Press**

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

## **19. Councillors' Conduct**

### **19.1 Respect for Mayor**

When a councillor speaks at a meeting of the full Council he/she must address the meeting through the Mayor. If more than one councillor wishes to speak, the Mayor will determine the order of speakers. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point or order or a point of personal explanation.

When the Mayor indicates that the meeting should come to order, any councillor speaking at the time must stop. The meeting must be silent.

The Mayor may exercise his/her discretion not to require councillors to stand when speaking.

### **19.2 Councillor not to be heard further**

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



### 19.3 Councillors to leave the meeting

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

### 19.4 General disturbance

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

### 19.5 Conflicts of Interest

- (a) Councillors are under a duty to base their decision making on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public.
- (b) A councillor has a potential conflict of interest where any business of the meeting relates to or is likely to affect the subject matter of:
  - (i) a disclosable pecuniary interest as described at Appendix B of the Councillors' Code of Conduct and section 30(3) of the Localism Act 2011; or
  - (ii) an Other Registerable Interest (ORI), or Non Registerable Interest (NRI) as described at Appendix B of the Councillors' Code of Conduct
- (c) A councillor, where present at a meeting (in any capacity) who has a disclosable pecuniary interest, must when prompted by the agenda item, at the commencement of that consideration, or when the interest becomes apparent, disclose to the meeting the existence and nature of that interest and unless a dispensation has been granted by the Council's Standards Committee:
  - (i) not participate in any discussion of that matter at the meeting;
  - (ii) not vote on that matter at the meeting; and
  - (iii) leave the room whilst that matter is being considered.

(d) A councillor (where present at a meeting in any capacity) who has **an other, or non registerable interest**, must when prompted by the agenda item, at the commencement of that consideration, or when the interest becomes apparent, disclose to the meeting the existence and nature of that interest and unless a dispensation has been granted by the Council's Standards Committee:

- (i) not participate in any debate as a member of the body considering the matter;
- (ii) not vote on that matter at the meeting; and
- (iii) leave the room, whilst that matter is being considered, after having exercised any ability to address the meeting as a member of the public.

Note: A councillor may speak on the matter, only if members of the public are also allowed to speak at the meeting, and if they choose to do so they will need to register to speak in accordance with these Procedure Rules.

(e) Where a councillor is present at the meeting where that member is to be called upon to make a decision in the public interest, and that councillor considers they have fettered their discretion in some other way before leaving the room he or she may first exercise the ability to address the meeting as a ward councillor or member of the public in accordance with these Procedure Rules.

## **20. Disturbance by Public**

### **20.1 Removal of member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If he/she continues to interrupt, the Mayor will order his/her removal from the meeting room.

### **20.2 Clearance of part of meeting room**

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

Note: Convenient time is at the discretion of the Mayor, but will usually mean at the end of the item under consideration.

## **21. Suspension and Amendment of Council Procedure Rules**

### **21.1 Suspension**

All of these Council Procedure Rules, except Rule 16.5 and 17.2 (which are mandatory), may be suspended by notice of motion, or without notice if at least one half of the whole number of councillors are present. There will be no discussion on a motion to suspend a Council Procedure Rule. Suspension can only be for the duration of the meeting.

### **21.2 Amendment**

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

## **22. Application to Committees, Sub-Committees and Panels**

22.1 All of the Council Procedure Rules apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4-7, 9 (excluding 9.12), 11-13 (excluding 13.6), 15-21 apply to meetings of Committees of the Council and their Sub-Committees. Only Rules 4-7, 9.11, 11-13 (excluding 13.6), 15-21 apply to meetings of Scrutiny Committees with the necessary alterations applying.

22.2 The following additional Procedure Rules will apply to meetings of Committees, Sub-Committee and Scrutiny Committees:

(a) Unless the majority of councillors present vote for the meeting to continue, any meeting will adjourn *or end* at a convenient time after three hours has elapsed. All meetings will end at a convenient time after four hours has elapsed. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

(b) Motions Without Notice

The following motions may be moved without notice:

(i) to amend a motion; and

(ii) that the meeting continue beyond three hours duration.

(c) Unless otherwise determined by statute, the Chair of a committee, sub-committee, or panel may vary the order of the agenda at his/her discretion and allocate an appropriate time for the transaction of each item.

### 22.3 Signing of Sub-Committee Minutes

In addition to Rule 17.1, where it is stated that the Minutes of the proceedings will be signed at the next suitable meeting, in the case of a Sub-Committee this will be the next meeting of the Sub-Committee, or of the appointing committee, as practicable.

## **23. Substitution on Committees, Sub-Committees and Scrutiny Committees**

23.1 The Monitoring Officer, or his / her authorised representative at a meeting of a body, is authorised to agree substitutions for members of bodies submitted in writing by appropriate Group Leaders, Deputy Group Leaders, the Chair or Group Spokesperson of the body concerned before the scheduled start time of the meeting at which the substitution is to apply. Substitutions may only be made in accordance with the total number of seats allocated to each political group and the agreed balance of seats between the political groups on the body, and appointed substitutes to the Audit Committee must not be members of the Cabinet.

No member of the Cabinet may be substituted to a scrutiny committee.

23.2 Substitute members will have all of the powers and duties of an ordinary member of the body, but will not be able to exercise any special powers or duties (chair, vice-chair or spokesperson) exercisable by the persons they are substituting, unless specifically appointed by the body.

23.3 Substitution to the Development Control and Licensing and Regulatory Committees will only be permitted where substitutes have received the appropriate training and this has been verified by the Monitoring Officer.

## **Cabinet Procedure Rules**



<b>Cabinet Procedure Rules</b>	
1.	Decision Making
2.	Cabinet Meetings
3.	Conflicts of Interest
4.	Cabinet Advisory Groups
5.	Cabinet Committees and Sub-Committees

## **Cabinet Procedure Rules**

### **1. Decision Making**

#### **1.1 Executive Decisions**

The arrangements for the discharge of the executive functions may be set out in the Executive Scheme of Delegation. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an Officer;
- (e) joint arrangements; or
- (f) another local authority.

#### **1.2 The Executive Scheme of Delegation**

At the Annual Business Meeting of the Council, (or the Ordinary Council meeting following the Annual Business Meeting, if the Leader is elected at the Annual Business Meeting), the Leader will present to the Council the Leaders Executive Scheme of Delegation for inclusion at Part 3 of this Constitution. The Executive Scheme of Delegation will contain the following information about executive functions in relation to the coming year:

- (a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (b) the Terms of Reference and Constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (c) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- (d) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

The Leader may make amendments to the Executive Scheme of Delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Director Law and

Governance and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Executive Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole.

Where the Leader determines that delegation be withdrawn from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

The Director Law and Governance will present a report to the next ordinary meeting of the Council setting out the changes made to the Executive Scheme of Delegation by the Leader.

### 1.3 Sub-delegation of Executive Functions

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

### 1.4 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Cabinet member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the



Council's Code of Conduct for Councillors in Part 5 of this Constitution.

#### 1.5 Cabinet decision making

- (a) Executive decisions which have been delegated to the Cabinet as a whole, by the Leader will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.
- (b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. Cabinet Meetings

### 2.1 Chairing Cabinet Meetings

The Cabinet will appoint a person from among its members to preside at its meetings as Chair. The Cabinet will also appoint a Vice-Chair who will preside when the Chair is unable to attend the meeting.

### 2.2 Business at Cabinet Meetings

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

- (a) consideration of the Minutes of the last meeting;
- (b) announcements;
- (c) disclosures of interest, if any;
- (d) questions from members of the public;
- (e) Councillors' Items;
- (f) Questions from councillors;
- (g) matters referred to the Cabinet (whether by a Scrutiny Committee, by the Council or a Committee thereof) for reconsideration by the Cabinet
- (h) matters set out in the agenda for the meeting, which will indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.
- (i) Any operational report from the Chief Executive / Deputy Chief Executive, to be submitted and published as part of the Cabinet Agenda.

- (j) Unless otherwise determined by statute, the Chair may vary the order of the agenda at his/her discretion and allocate an appropriate time for the transaction of each item.

### 2.3 Cabinet Agenda Items

- (a) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any Cabinet member or Officer in respect of that matter. The Director Law and Governance will comply with the Leader's request in this respect.
- (b) Any member of the Cabinet may require the Director Law and Governance to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Director Law and Governance will comply.
- (c) The Director Law and Governance will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the full Council has resolved that an item be considered by the Cabinet. The Cabinet has the right to defer consideration of the item or to refer it elsewhere for consideration.
- (d) There will be a standing item on the agenda for each meeting of the Cabinet for matters referred by Scrutiny Committees, the Council and Committees of the Council, and individual councillors.
- (e) The Chair of the relevant Committee, or a nominated spokesperson, will be allocated up to 3 minutes to present the findings, conclusions and recommendations, subject to the Chair of the Cabinet having the discretion to extend the time as he / she thinks appropriate. The Cabinet has the right to defer consideration of the item or to refer it elsewhere for consideration. When considering a referral from a Scrutiny Committee, the Council or a Committee of the Council, the Cabinet will not receive comment from any councillor or member of the public, other than the person presenting the referral.
- (f) Where the Scrutiny Committee makes a report or recommendations to the Cabinet, the Cabinet is under a duty to;

- (i) consider the report or recommendations;
- (ii) respond to the scrutiny committee indicating what (if any) action the Cabinet proposes, to take;
- (iii) if the scrutiny committee has published the report or recommendations, to publish the response;
- (iv) if the scrutiny committee provided a copy of the report or recommendations to a councillor, to provide the councillor with a copy of the response;

and to do so within two months beginning with the date on which the Cabinet received the report or recommendations.

- (g) Any councillor may place an Item on the agenda of a Cabinet meeting for consideration, by not later than 12 noon eight clear working days before the date of the meeting at which the item is to be considered. The notice of the meeting will give the name of the councillor who asked for the item to be considered. This councillor will be invited to attend the meeting and will be invited to speak. The Cabinet has the right to defer consideration of the item or to refer it elsewhere for consideration.
- (h) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require a meeting to be called in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Deputy Chief Executive, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

#### 2.4 Speaking at Cabinet Meetings

- (a) Any councillor may speak once on any item (with the exception of a referral from a Scrutiny Committee, the Council or a Committee of the Council, unless presenting that referral) being considered by the Cabinet. Each speech shall be limited to a maximum of three minutes.

- (b) In order that members of the public may ask questions of Cabinet members and comment on items before the Cabinet, Council Procedure Rules 9.1 - 9.9 and 9.11, suitably reworded, shall apply to meetings of the Cabinet.
- (c) Any councillor may ask a question of any Cabinet member on issues within their portfolio. 15 Minutes will be allocated at each ordinary meeting of the Cabinet to allow questions to be asked and answered.

Every question, which will be limited to one part, will be asked and answered without discussion. Upon receiving the answer, the councillor who put the question shall be allowed one supplementary question to the Cabinet member who has replied to his or her original question, provided that it is relevant to the original question and does not introduce any new subject matter.

The answer to a councillor's question may be given orally and directly, by reference to published material of the Council which is readily available to councillors, or in writing after the meeting (when the answer will be circulated to all councillors). The supplementary question will be asked and answered orally.

Questions and the oral replies to them will be recorded as part of the Minutes of the Meeting.

Each councillor may ask no more than two questions, not including supplementary questions. Where a written answer is to be supplied after the meeting at which the question is asked, if possible the written answer be included as an Annex to the minutes.

No Question will exceed one minute and no answer will exceed two minutes.

If a questioner, who has submitted a written question is unable to be present, the question will be read out by the Director Law and Governance and a written reply provided by the Cabinet member concerned to the questioner.

## 2.5 Quorum

- (a) The quorum for a meeting of the Cabinet shall be 3.
- (b) The quorum for a meeting of a committee of the Cabinet shall be one quarter of the total number of members of the committee, or two, whichever is the larger.

## 2.6 Location and Time of Cabinet Meetings, Meetings of Cabinet Committees and Delegated Decisions

The Cabinet, Cabinet Committees and Delegated Decisions shall be held at a location and time to be determined by the Leader in the case of Cabinet meetings, the Chair in the case of a Cabinet Committee and the responsible Cabinet member in the case of a delegated decision. Meetings shall not start earlier than 10.00am. When considering where meetings should be held, due regard should be had to the ability of the public to access the meeting.

## 3. Conflicts of Interest

3.1 Members of the Cabinet are under a duty to base their decision making on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between the two, at once, and in favour of the public.

3.2 A Cabinet member has a potential conflict of interest where any business of the meeting relates to or is likely to affect the subject matter of:

(a) a disclosable pecuniary interest as described at Part 2 Paragraph A of the Councillors Code of Conduct and section 30(3) of the Localism Act 2011; or

(b) a personal interest as described at Part 2 Paragraph B of the Councillors' Code of Conduct

(a) A Cabinet member must when prompted by the agenda item, at the commencement of that consideration, or when the interest becomes apparent disclose to the meeting the existence and nature of that interest and unless a dispensation has been granted by the Council's Standards Committee:

(i) not participate in any discussion of that matter at the meeting;

(ii) not vote on that matter at the meeting; and

(iii) leave the room whilst that matter is being debated.

3.4 Where a councillor is present at the meeting where that councillor is to be called upon to make a decision in the public interest, and that councillor considers they have fettered their discretion in some other way before leaving the room he or she may first exercise the ability to address the meeting as a ward councillor or member of the public in accordance with these Procedure Rules.

#### **4. Cabinet Advisory Groups**

- 4.1 The Cabinet or individual Cabinet members may appoint Cabinet Advisory Groups to examine and advise on topics selected by Cabinet, or by a Cabinet member. The Advisory Group's specific remit / terms of reference and membership will be determined by the Cabinet / Cabinet Member.
- 4.2 Cabinet Advisory Groups are informal meetings which are not defined in legislation and have no decision making or spending powers. The Cabinet or the individual Cabinet member can decide, having regard to the issues being considered, whether an Advisory Group should take place in public.
- 4.3 Cabinet Advisory Groups enable councillors who are not members of the Cabinet to be more closely involved with issues of greatest importance to the Council. Cabinet Advisory Groups may also include non-councillors and Officers.
- 4.4 Cabinet Advisory Groups will report to the Cabinet / Cabinet Member.

#### **5. Cabinet Committees and Sub-Committees**

- 5.1 Cabinet committees and sub-committees can only comprise members of the Cabinet. There is no power to appoint or co-opt other councillors or other individuals.

## Overview and Scrutiny Procedure Rules



<b>Overview and Scrutiny Procedure Rules</b>	
1.	What will be the Number and Arrangements for Scrutiny Committees?
2.	Who may sit on Scrutiny Committees?
3.	Co-optees
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20.	Matters within the Remit of more than one Scrutiny-Committee



## **Overview and Scrutiny Procedure Rules**

### **1. What will be the Number and Arrangements for Scrutiny Committees?**

The Council will appoint Scrutiny Committees as it considers appropriate from time to time. The general Terms of Reference of Scrutiny Committees.

The Corporate Oversight and Scrutiny Management Committee may also appoint Task and Finish Groups for a fixed period, on the expiry of which they shall cease to exist. Task and Finish Groups may also be appointed by the Corporate Oversight and Scrutiny Management Committee at the request of the Council and the Cabinet.

### **2. Who may sit on the Scrutiny Committees?**

All Councillors, except Members of the Cabinet, may be members of a scrutiny committee.

### **3. Co-optees**

Each scrutiny committee may consider and recommend to the Corporate Oversight and Scrutiny Management Committee the appointment of appropriate people as non-voting co-optees.

Subject to Rule 4 below, any request by a scrutiny committee to appoint appropriate people as voting co-optees, in accordance with the Local Government Act 2003, will be subject to approval by the Council.

### **4. Education Representatives**

Each relevant scrutiny committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (a) 1 Roman Catholic diocese representative; and
- (c) 3 parent governor representatives.

A relevant scrutiny committee in this paragraph is a scrutiny committee of the Council as an Education Authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the scrutiny committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

## **5. Meetings of the Scrutiny Committees**

There shall be at least four but up to five ordinary meetings of each scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An additional meeting may be called, with the agreement of the Chair of the Corporate Oversight and Scrutiny Management Committee, by the Chair, by any three Members of the Committee, or by the Director Law and Governance, if he / she consider it necessary or appropriate. Before the Chair of the Corporate Oversight and Scrutiny Management Committee gives his / her agreement he / she will, if possible, consult with the Vice-Chair(s). If there is no Chair of the Corporate Oversight and Scrutiny Management Committee, or if the Chair of the Corporate Oversight and Scrutiny Management Committee is unable to act, then the agreement of the Vice-Chair(s) will suffice.

## **6. Quorum**

The quorum for a scrutiny committee shall be as set out in the Council's Procedure Rules 7.2 in Part 4 of this Constitution.

## **7. Who Chairs Scrutiny Committee Meetings?**

Chairs of scrutiny committees will be drawn from among the councillors sitting on the committee, and subject to this requirement, the committee may appoint such a person as it considers appropriate as chair.

## **8. Work Programme**

Scrutiny Committees will be responsible for agreeing their work programmes. Scrutiny committees will be able to propose items to the Corporate Oversight and Scrutiny Management Committee for inclusion in their work programme.

## **9. Agenda Items**

Any councillor shall be entitled to give notice to the Director Law and Governance that he/she wishes an item to be considered by a scrutiny committee. On receipt of such a request the Director Law and Governance will refer the matter to the relevant Scrutiny Committee Planning Group for them to consider whether to include the item in their Work Programme, taking account of the urgency of the particular item.

In addition, any Parish or Town Council in the City, or any Area Consultative Forum, may notify the Director Law and Governance that they wish an item to be considered by a scrutiny committee. On receipt of such a request the Director Law and Governance will refer the matter to the relevant Scrutiny Committee Planning Group for them to consider whether to include the item in their Work Programme, taking account of the urgency of the particular item.

## **10. Policy Review and Development**

- (a) The role of the scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of the budget and policy framework, scrutiny committees may make proposals to the Cabinet for developments in so far as they relate to matters within their Terms of Reference.
- (c) Scrutiny committees may hold enquiries and investigate the available options for future direction of policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

## **11. Reports from Scrutiny Committees**

- (a) Once it has formed recommendations on proposals for development, the scrutiny committee will submit them (alongside reports or other relevant information) to the Director Law and Governance for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If, in exceptional circumstances, a scrutiny committee cannot agree on one single final report with optional recommendations, if appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or Cabinet shall consider the report of the scrutiny committee within one month of it being submitted, or at the next available meeting when appropriate notice can be given (whichever is soonest).

## **12. Making sure that Scrutiny Reports are considered by the Cabinet**

- (a) The agenda for the Cabinet meetings shall include an item entitled 'References from Other Bodies'. The reports of scrutiny committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within one month of the scrutiny committee completing its report / recommendations. Where there is no Cabinet meeting within one month, the references shall be considered at the next available Cabinet meeting, or with the agreement of the Cabinet member and relevant Overview and Scrutiny Committee Chair, at an appropriate delegated decision meeting.
- (b) Where a scrutiny committee prepares a report for consideration by the Cabinet in relation to a matter where the Council has delegated decision-making power to an individual member of the Cabinet, then the scrutiny committee will submit a copy of its report to him/her for consideration. At the time of doing so, the scrutiny committee shall serve a copy on Director Law and Governance. The Cabinet member with delegated decision-making power must consider the report and respond in writing to the scrutiny committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Director Law and Governance and the Leader. The Cabinet member will also attend a future meeting of the Scrutiny Committee to present the response.
- (c) The Cabinet's Forward Plan and timetable for decisions and intentions for consultation will be available to all scrutiny committees. Even where an item is not the subject of detailed proposals from a scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## **13. Rights of Scrutiny Committee Members to Documents**

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

#### **14. Councillors and Officers giving Account**

- (a) Any scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, any scrutiny committee, or the Chair of the relevant scrutiny committee on its behalf, may require any Cabinet member, the Chief Executive, Deputy Chief Executive, Director, or Assistant Director to attend before it to explain in relation to matters within their remit:
- (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement the Council policy; and/or
  - (iii) their performance
- and it is the duty of those persons to attend if so required.
- (b) Where any councillor or Officer is required to attend a Scrutiny Committee under this provision, the chair of that Committee will inform the Director Law and Governance. The Director Law and Governance shall inform the councillor or Officer in writing giving at least five working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or Officer is unable to attend on the required date, then the Chair of the scrutiny committee shall in consultation with the councillor or Officer, arrange an alternative date for attendance to take place within a maximum of 28 days from the date of the original request.

#### **15. Attendance by Others**

A scrutiny committee, or the Chair of the committee on its behalf, may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and Officers in other parts of the public sector and shall invite such people to attend.

## 16. Call-in

- (a) When a decision is made by the Cabinet, an individual Cabinet member or committee of the Cabinet, or a key decision is made by an Officer with delegated authority from the Cabinet or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the Civic Offices normally within three days of being made. Members of all scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless it is called in.
- (c) During that period, the Director Law and Governance shall call-in a decision for scrutiny by a sub-committee of the appropriate scrutiny committee if so requested in writing by any 2 Members of the Council, the chair or clerk of any Parish or Town Council, on behalf of the Parish or Town Council, or any 20 residents of the City, and shall then notify the decision taker of the call-in. In submitting the request to the Director Law and Governance for a decision to be called-in, the requester must specify a reason/reasons for calling in the decision. The Director Law and Governance shall call a meeting of the sub-committee on such a date as he/she may determine, where possible, after consultation with the chair of the committee, and in any case within ten days of the expiry of call-in period, after the receipt of the call-in.

### Notes:

- (a) A recommendation to the Council is not an Executive decision and therefore cannot be called in [Council – 12 April 2005 – Minute CL114(b)].
- (b) A councillor requesting that a decision be called-in cannot sit as a member of the scrutiny committee when the item is being considered [Council - 14 June 2005 – Minute CL21(b)(iii)].
- (c) A Councillor requesting that a decision be called in must not have a Disclosable Pecuniary Interest, Other, or Non-Registerable Interest (as defined by the Code of Conduct for Councillors) in the decision.

- (d) Where as a result of any mediation meeting the decision maker, or where the decision maker is the Cabinet, the responsible Cabinet member, provides assurances or undertakings, in relation to the implementation of the decision and the person calling in the decision for review confirms their agreement in writing prior to the meeting of the scrutiny sub-committee, then:
- i) A notice shall be published confirming the mediation outcome;
  - ii) the Chair, in consultation with the Vice-Chair will cancel the meeting; and
  - iii) if requested by the Chair and Vice Chairs, a report on the outcome of the call-in being will be reported to the next meeting of the committee.
- (e) If, having considered the decision, the scrutiny sub-committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further twenty working days, amending the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scrutiny sub-committee meeting, or the expiry of the period in which the sub-committee should have been held.
- (g) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no authority to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person may choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider the matter within twenty working days of the Council request. Where the decision was made by an individual, the individual will reconsider the matter within twenty working days of the Council request.

- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

#### Exceptions

- (i) In order to ensure that call-in is not abused, nor causes unreasonable delay, a decision, or decision to similar effect may only be called in once in any six-month period.

#### Call-In and Urgency

- (j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Corporate Oversight and Scrutiny Management Committee, who before giving his/her agreement will, if possible, consult with the Vice-Chair(s), must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair(s) may agree on behalf of the Chair. In the absence of both the Chair and Vice-Chair(s), the Chief Executive's or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### **17. Call-in of Decisions Outside the Budget or Policy Framework**

- (a) Where a Scrutiny Committee/Budget and Resources Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Director Law and Governance, the Monitoring Officer and/or Chief Finance Officer.



- (b) In respect of functions which are the responsibility of the Cabinet, the relevant Officer's report shall be to the Cabinet with a copy to every councillor. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Officer's report and to prepare a report to Council in the event that the Director Law and Governance, the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Corporate Oversight and Scrutiny Management Committee if the Officer concerned concludes that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the appropriate Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee/Budget and Resources Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten working days of the request by the Scrutiny body. At the meeting it will receive a report of the decision or proposals and the advice of the Officer. The Council may either:
  - (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Director Law and Governance, the Monitoring Officer and/or the Chief Finance Officer.

## **18. The Party Whip**

When considering any matter in respect of which a member of a scrutiny committee is subject to a party whip, the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

## **19. Procedure at Scrutiny Committee Meetings**

- (a) Scrutiny committees shall consider the following business:
  - (i) Minutes of the last meeting;
  - (ii) disclosures of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the scrutiny committee;
  - (v) the business otherwise set out on the agenda for the meeting; and
  - (vi) the Corporate Oversight and Scrutiny Management Committee will also consider submissions from members of the public requesting that consideration is given to scrutinising a particular Council service, or a matter over which the Council has influence. Written notice of submissions must be submitted to the Committee Services and Scrutiny Manager not later than 12 noon eight clear working days before the date of the meeting.
- (b) Where the scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee may prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## **20. Matters within the Remit of more than one Scrutiny Committee**

Where a matter for consideration by a scrutiny committee falls within the remit of one or more other scrutiny committees, the decision as to which scrutiny committee will consider it will be resolved by the Corporate Oversight and Scrutiny Management Committee.

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## **Access to Information Procedure Rules**



<b>Access to Information Procedure Rules</b>	
1.	Scope
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4.	Notice of Meetings
5.	Access to Agenda and Reports before the Meeting
6.	Supply of Copies
7.	Access to Minutes etc. after the Meeting
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22.	Regulatory Committees

## **Access to Information Procedure Rules**

### **1. Scope**

These Rules apply to all meetings of the Council, the Cabinet (and its committees), area committees (if any) the scrutiny committees, committees, the Standards Committee, the Audit Committee, regulatory committees and all sub-committees thereof (together called meetings).

### **2. Additional Rights to Information**

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

### **3. Rights to Attend Meetings**

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

### **4. Notices of Meetings**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at the Civic- Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ (the designated office).

### **5. Access to Agenda and Reports before the Meeting**

- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's website at least five clear days before the meeting.
- 5.2 The Director Law and Governance will send a notice and agenda for any meeting to every member of the Council.
- 5.3 Where reports are prepared after the summons has been sent out, the Director Law and Governance shall make each such report available to the public as soon as the report is completed and sent to councillors.
- 5.4 If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

### **6. Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Director Law and Governance thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage, copying and any other necessary costs for transmission.

## **7. Access to Minutes etc. after the Meeting**

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

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

## **8. Background Papers**

### **8.1 List of Background Papers**

The Director Law and Governance 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:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report, but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

### **8.2 Public Inspection of Background Papers**

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

## **9. 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 the Civic Offices.

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 Confidential Information - Requirement to Exclude Public**

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



## 10.2 Exempt Information - Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, unless the meeting agrees that the public interest in disclosing the information outweighs the reasons for the information not being 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.

## 10.3 Meaning of Confidential Information

"Confidential information" means information furnished to the Council by a Government department upon terms which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by law or by the order of a court.

## 10.4 Meaning of Exempt Information

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

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	Reports which relate to: <ul style="list-style-type: none"><li>• employees, a former employee, job applicants</li><li>• occupiers or former occupiers of council accommodation,</li><li>• applicants or recipients, or former recipients of any service provided by the Council</li><li>• applicants or recipients or former recipients of any financial assistance provided by the Council</li><li>• protected informants in relation to civil matters.</li></ul>
2. Information which is likely to reveal the identity of an individual.	Reports where personal data could be revealed indirectly. Names, addresses or telephone numbers can identify individuals.

<b>Category</b>	<b>Condition</b>
<p>3. Unless that information is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Acts (as defined in section 2 of the Companies Act 2006)</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Industrial &amp; Provident Societies Acts 1965 to 1978</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 2011</li> </ul> <p>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<ul style="list-style-type: none"> <li>• Financial or business affairs are defined to include contemplated as well as past or current business activities</li> <li>• This exemption covers the financial or business affairs of the Council itself</li> <li>• It covers the financial or business affairs of individuals and companies, charities etc. registered in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act)</li> <li>• This covers reports about contracts and negotiations for the acquisition/disposal of property or supply of goods or services, the identity of the Council or any other person offering any particular tender for a contract for the supply of goods or services and the making of grants to external organisations</li> </ul>
<p>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.</p>	<ul style="list-style-type: none"> <li>• Labour relations means matters which may be the subject of a trade dispute under the Trade Union and Labour Relations Act 1992, such as pay and terms and conditions of employment.</li> <li>• Employee means a person employed under a contract of service</li> <li>• Office holder in relation to the authority, means the holder of any paid office appointments which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</li> </ul>

<b>Category</b>	<b>Condition</b>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	This covers legal advice given by a professional legal adviser, i.e Legal Services or external solicitors and barristers. It applies where no litigation is contemplated or pending (e.g. general advice on non-contentious matters), as well as in connection with legal proceedings by or against the Council.
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.	The wording of this exemption covers reports about proposed action under regulatory legislation such as planning, licensing and environmental health
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	The wording of this exemption covers reports about criminal investigations and prosecutions undertaken by the Council, and any actions which might be taken to prevent crime occurring. This would include information about a protected informant in relation to any criminal investigations.

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

## **11. Exclusion of Access by the Public to Reports**

11.1 Nothing in these Rules authorises or requires the Council to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of the Director Law and Governance, it contains or may contain confidential or exempt information or advice from a political assistant.

Any reports to a meeting containing such information or advice will be marked "Not for Publication's together with the category of information likely to be disclosed.

## **11.2 Recording etc. of meetings**

The Council supports the principle of transparency at its meetings that are open to the public and recognises the right to report its meetings in accordance with the Openness of Local Government Bodies Regulations 2014.

## **12. Application of Rules to the Cabinet**

12.1 Rules 13-24 apply only to the Cabinet, its committees and other executive decision making processes. If the Cabinet its committees, an individual member or an officer take a key decision then they must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.3 of this Constitution.

12.2 Generally meetings of executive decision making bodies must be held in public. However, members of the public must be excluded where:

- (a) It is likely in the view of the nature of business to be transacted or the nature of the proceedings if a member of the public was present during that item, confidential information (see above rule 10.3) would be disclosed to them.
- (b) The decision-making body concerned passes a resolution to exclude the public during that item where it is likely in the view of the nature of business if a member of the public were present during that item, exempt information (see above rule 10.2) would be disclosed to them.
- (c) A lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

## **13. Procedure before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a document (called here a forward plan) has been published in connection with the matter in question;
- (b) at least twenty eight clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notices of meetings).

## **14.The Forward Plan**

### **14.1 Contents of Forward Plan**

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision maker is an individual, his/her name and title, if any, and where the decision taker is a body, its name and details of membership;
- (d) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed is available;
- (e) that other documents relevant to those matters may be submitted to the decision maker;
- (f) the procedure for requesting details of those documents (if any) as they become available;
- (g) the date on which, or the period within which, the decision will be taken;
- (h) a list of the documents submitted to the decision maker for consideration in relation to the matter and
- (i) whether the public and press are likely to be excluded from the meeting as the report contains exempt information.

## **15.General Exception**

15.1 Where the publication of the intention to make a key decision in line with Rules 13 and 14, it is impracticable, decisions may only be made:

- (a) where the decision maker (through the Director Law and Governance) has informed the Chair and Vice Chairs of the Scrutiny Management Committee, or if there is no such person, each member of the Scrutiny Management Committee by notice in writing, of the matter which the decision is to be made;
- (b) where the Director Law and Governance has made available at the Civic Offices for inspection by the public and published on the Council's website a copy of the notice given pursuant to clause (a) above;

- (c) after five clear working days have elapsed following the day on which the Director Law and Governance made available the notice referred to in clause (b) above.
- 15.2 Where the above paragraph applies to any matter Rules 13 and 14 need not be complied with in relation to that matter.
- 15.3 As soon as reasonably practicable after the Director Law and Governance has complied with 15.1 above the Director Law and Governance must:
  - (a) make available at the Civic Offices a notice setting out the reasons why compliance with Rules 13 and 14 is impracticable; and
  - (b) publish notice on the Council's website.

## **16.Special Urgency**

- 16.1 Where the date by which a key decision must be taken means that Rule 15 (General Exception) cannot be followed, then the decision may only be made if:
  - (a) the Director Law and Governance, on behalf of the decision maker (if an individual, or the Chair of the body making the decision) obtains the agreement of the Chair of the Scrutiny Management Committee that the taking of the decision is urgent and cannot reasonably be deferred.
  - (b) Before the Chair of the Scrutiny Management Committee gives his / her agreement he / she will, if possible, consult with the Vice-Chair(s).
  - (c) If there is no Chair of the Scrutiny Management Committee, or if he / she is unable to act agreement must be sought from the Vice-Chair of the Scrutiny Management Committee who does not represent the Group forming the Council's Executive, or if he / she is unable to act, the Mayor, or in the absence of the Mayor, the Deputy Mayor, that the taking of the decision is urgent and cannot reasonably be deferred.
- 16.2 As soon as reasonably practicable after the Director Law and Governance has obtained agreement from the relevant party that the decision is urgent and cannot reasonably be deferred the Director Law and Governance must:
  - (a) make available at the Civic Offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred; and
  - (b) publish that notice on the Council's website.
- 16.3 In the case of decisions taken in accordance with 16.1 which affect individual Wards of the Borough, the Director Law and Governance will attempt to inform the Ward councillor(s) within the time available.

## **17. Report to Council**

17.1 If an executive decision has been taken which was not treated as a being a key decision and the relevant scrutiny committee is of the opinion that it should have been treated as a key decision (i.e. subject to rules 13-16 above), the scrutiny committee may require the executive responsible for the decision to submit a report to the Council within such reasonable time as the scrutiny committee specifies.

17.2 The power to require a report rests with the scrutiny committee, but is also delegated to the Director Law and Governance, who shall require such a report on behalf of the scrutiny committee when so requested by the chair or any five councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

### **17.3 Executives' Report to Council**

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

### **17.4 Quarterly Reports on Special Urgency Decisions**

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

## **18. Record of Decisions**

18.1 As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, or after an individual member had made an executive decision) the Director – Law and Governance, or if the Director – Law and Governance was not present at the meeting, the person presiding, or the individual member making the decision must ensure that a written statement is produced for every executive decision made which includes the information specified in paragraph 2 below.

18.2. The statement referred to in paragraph 1 above must include:

- (a) the name of the decision making body;
- (b) a record of the decision including the date it was made;
- (c) a record of the reasons for the decision;

- (d) details of any alternative options considered and rejected by the decision-making body/member at the meeting at which the decision was made;
- (e) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body/ declared by the member which made the decision; and
- (f) in respect of any declared conflict of interest, a note of dispensation granted.

18.3 The record must be produced as soon as reasonably practicable and in any event, within 3 working days of the decision.

18.4 Records produced under this section and reports considered at the meeting must be available for inspection by members of the public as soon as is practicable at the offices of the authority and also on the website.

18.5 Where a request is made by a newspaper for copies of the documents as set out in 18.4 above the documents must be supplied on payment of postage, copying or other necessary charge for transmission.

## **19. Decisions by Individual members of the Cabinet**

19.1 Reports intended to be taken into account

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

19.2 Provision of copies of reports to the Scrutiny Management Committee

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

19.3 Record of individual decision

Individual member decisions are to be recorded as at Rule 18.2 above.

## **20. Scrutiny Committees - Access to Documents**

20.1 Rights to copies

Subject to Rule 20.2 below, a member of an Scrutiny Committee will be entitled to a copy of any document which is in the possession or control of the Executive, including but not limited to; its committees, panels or individual members and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees, groups or panels; or
- (b) any decision taken by an individual member of the Cabinet.



The executive must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear days after the executive receives the request

## 20.2 Limit on rights

No member of a scrutiny committee is entitled to a copy:

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
  - (i) an action or decision that that member is reviewing or scrutinising; or
  - (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

Where the Executive determines that a member of an scrutiny committee is not entitled to a copy of a document, or part of any such document for a reason set out in paragraph 20.1, it must provide the scrutiny committee with a written statement setting out its reasons for that decision.

## 21. Additional Rights of Access for Councillors

### 21.1 Additional rights to access documents by Councillors

All councillors will be entitled to inspect any document which is in the possession or under the control of the executive, including, but not limited to, its committees, panels or individual members and contains material relating to any business to be transacted at any public meeting unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information.

Documents covered by this section must be made available at least 5 clear days before the meeting, where the meeting is convened at shorter notice, when the meeting is convened.

### 21.2 Nature of Rights

The rights conferred above are in addition to any other rights that a member of the Council may have, including their common law right to access information on a 'need to know' basis

No reference regarding access to reports, and background papers will confer a right to access those documents in draft form.

## **22. Regulatory Committees**

The Procedure for Public Participation at Development Control Meetings and the Procedure for the Determination of Licensing Applications can be viewed in Chapter 7 (Associated Document), or by clicking the links.

**COUNCILLORS' ACCESS TO INFORMATION – A HIERARCHY OF RIGHTS**

1. This document supplements Access to Information Procedure Rule 21.
2. The rights of access to information by Councillors are a complex mix of relevant legislation, legislation specific to local government and common law rights given to Councillors by the Courts. Councillors may also seek advice in confidence from the Director - Law and Governance.

**What is the Hierarchy of Rights?**

3. The law relevant to access to information by Councillors includes the following:
  - (a) **The Freedom of Information Act 2000.** This makes non-personal information freely available to all, with limited exceptions.
  - (b) **The Data Protection Act 1998.** This relates to personal information, and generally makes this non-disclosable except in certain circumstances.
  - (c) Local Government Legislation:
    - (i) **Access to Information provisions of the Local Government Act 1972.** This gives the public access to Committee Minutes and Agenda, and to background material relevant to those documents.
    - (ii) Other legislation (Local Government (Cabinet Arrangements) (Meetings and Access to Information) Regulations 2012)) ensures that Councillors are entitled to material relevant to public / private meetings of the Leader and Cabinet (and decision making by individual portfolio holders).
  - (d) Common Law Rights give Councillors the right to inspect Council documents insofar as this is reasonably necessary to enable a Councillor to perform his/her duties as a Councillor – this is known as the 'need to know' basis.
4. However, these rights do not apply to draft documents, to the advice of a political advisor or to most exempt / confidential information (see 17 and 18)). Additionally, Councillors do not have any right to a roving commission through Council documents – mere curiosity is not sufficient.

**Navigating the Hierarchy of Rights**

**Freedom of Information Act 2000**

5. **In broad terms, if the information being sought by a Councilor is non-personal, then the Freedom of Information Act 2000 allows access to most Council documentation.**
6. The Freedom of Information Act would, for example, allow access to information about the construction of a new leisure facility (unless it were

subject to an exemption) but could not be used to gain access to information about a named individual's record of housing waiting list applications – this is covered by the Data Protection Act 1998 (see below).

7. In certain circumstances, access to documentation via the Freedom of Information Act can be subject to an exemption, although some exemptions are not absolute and subject to a further test about whether it is in the public interest to release the information.
8. Examples of exemptions under the Freedom of Information Act are:
  - (a) Work in progress (draft reports, for example) need not be disclosed.
  - (b) Information subject to a data-sharing protocol (e.g. between all Councillor organisations of the Crime and Disorder Partnership) should not be released until all organisations have each agreed to disclosure. This is to ensure that crime & disorder and fraud investigations are not prejudiced.
  - (c) Commercially sensitive information.
  - (d) Where the disclosure of information would likely inhibit the free and frank provision of advice, the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice or would be likely otherwise to prejudice the effective conduct of public affairs.

### **Data Protection Act 1998**

10. If the information sought by a Councillor relates to an identified living individual, then the Data Protection Act applies
11. There are 2 classes of Data Protection – “normal” personal information and “sensitive personal information”. Sensitive personal information includes:-
  - (a) Racial or Ethnic Origin
  - (b) Religious beliefs
  - (c) Trade Union Councillorship
  - (d) Physical or Mental health
  - (e) Actual or alleged criminal offences and criminal records
  - (f) Sexual life
  - (g) Political opinions.
12. Councillors can access personal information about people held by the Council, where they have established a ‘need to know’. Where ‘normal’ personal information is involved, unless additional consent has been granted by the individual concerned, information about an individual can only be used for the purposes for which that information was obtained.

13. Putting the above together, a Councillor who can demonstrate they have a need to know information about a named individual's housing waiting list application or about a housing maintenance repair may be entitled to it, but only for the purposes it was intended.

Where a Councillor has been contacted by a resident in their Ward who requires them to advocate with the Council on their behalf, the resident should set out in writing that this is the case, or the Councillor should be able to demonstrate (for example by way of an email from the resident) that the resident has raised the matter with them.

14. The Council has a duty to ensure that personal information disclosed to Councillors using the above procedures is used strictly for the purposes for which it is disclosed and that Councillors will keep the information secure and confidential (and then disposed of in a similarly careful manner).
15. Councillors must observe the Code of Conduct and all the provisions of the Constitution. Officers will automatically assume that Councillors will treat personal information in accordance with the previous paragraph.
16. Where Councillors wish to access 'sensitive' personal information additional steps are required:
  - (i) Either explicit consent of the person concerned must be obtained; or
  - (ii) If this is not practicable, Councillors must make a specific request under the provisions of the Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002.

**Access to Information Provisions of the Local Government Act 1972 / Local Authorities (Cabinet Arrangements) (Meetings and Access to Information) Regulations 2012**

17. Where a Councillor cannot obtain information under the Freedom of Information Act (for example because it is commercially sensitive and an exemption applies) or the Data Protection Act (because a Councillor cannot establish a need to know the personal information) then the information may still become available to Councillors at a later date via Committee agenda, and the right to see background material associated with such an agenda.
18. Once a matter has reached the stage where it is before a Committee / Cabinet/ Delegated Decision, then Councillors of that Committee / Cabinet would have a 'need to know' all relevant information (including any which is exempt, or confidential).

The local practice at Milton Keynes City Council is to accept that all Ward Councillors have a need to know exempt or confidential information relating to executive decisions.

19. Councillors also have additional rights of access to material in the possession/control of the Leader and Cabinet (rather than Council Officers) relating to public/private meetings of the Cabinet or to any decision taken by an individual portfolio holder.
20. However, the above rights do not apply to draft documents, to the advice of a political advisor or to most categories exempt /confidential information (unless it relates to an executive decision (local practice) or a Scrutiny Committee require such exempt / confidential information as part of actions / decisions it is scrutinising).

### **General**

21. Legal Advice (where Legal Services is providing legal advice to one of its in-house clients at the Council) may be non-disclosable due to legal professional privilege.
22. Information supplied under the Data Protection Act 1998 must not be used or disclosed for political purposes.
23. Requests for Information under the control of Officers should normally be made to the relevant Director.
24. Requests for information under the control of the Leader and Cabinet should normally be made to the Leader and/or the relevant Portfolio Holder.
25. Councillors must not put undue pressure on Officers to release information to which the Councillor is not entitled to have access.
26. Should a Director need advice as to whether information can be released to a Councillor s/he should contact the Director - Legal & Governance.
27. The additional access to information rights given to Councillors is to allow them to do their jobs as Councillors. Confidential or exempt information should only be used in appropriate circumstances, in accordance with the proper performance of their duties as Councillors. Information should only be passed between Councillors if both Councillors can demonstrate a "need to know".
28. Any complaints by a Councillor about the non-disclosure of information should be made in writing to the Director - Legal & Governance, whose decision shall be final as far as the Council is concerned.
29. However, if the Councillor remains dissatisfied, the Councillor may be able (under FOI) to refer the matter to the Information Commissioner.

## **Budget and Policy Framework Procedure Rules**



<b>Budget and Policy Framework Procedure Rules</b>	
1.	The Framework for Cabinet Decisions
2.	Process for Developing the Framework
3.	Decisions Outside the Budget and Policy Framework
4.	Urgent Decisions Outside the Budget and Policy Framework
5.	Virement
6.	In-Year Changes to Policy Framework



## **Budget and Policy Framework Procedure Rules**

### **1. The Framework for Cabinet Decisions**

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

### **2. Process for Developing the Framework**

The process by which the budget and policy framework will be developed is:

- (a) Before a plan/budget needs to be adopted, the Cabinet will publish initial proposals for the budget and policy framework, having first canvassed the views of local stakeholders as appropriate, and in a manner suitable to the matter under consideration. Details of the Cabinet's consultation process will be included in relation to each of those matters in the forward plan and published at the Council's main offices and through the Council's web page. Any representations made to the Cabinet shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where a Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- (b) The Cabinet's initial proposals will be referred to the Budget and Resources Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Director (Law and Governance) who will forward them to the Budget and Resources Scrutiny Committee. The Budget and Resources Scrutiny Committee will canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the Cabinet. The Budget and Resources Scrutiny Committee will report to the Cabinet on the outcome of its deliberations. The Budget and Resources Scrutiny Committee will have six weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Budget and Resources Scrutiny Committee of the time for response when the proposals are referred to it.
- (c) Having considered the report of the Budget and Resources Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Budget and Resources Scrutiny Committee.

- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council will have before it the Cabinet's proposals and any report from the Budget and Resources Scrutiny Committee.
- (e) The Council's decision will be publicised in accordance with Chapter Two and a copy will be given to the Leader. The notice of decision will be dated and will state either that the decision will be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without modification), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.
- (f) If the Leader objects to the decision of the Council, he/she will give written notice to the Director (Law and Governance) to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Director (Law and Governance) will take steps to convene a further meeting of the Council to reconsider its decision and the decision will not be effective pending that meeting.
- (g) The Council meeting must take place within ten working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council will be reconsidered in the light of the objection, which will be available in writing for the Council.
- (h) The Council will, at that meeting, make its final decision on the matter on the basis of a simple majority, and the decision will be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (Virement and In-Year Adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **3. Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (Virement) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any Officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is

contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.

- (b) If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any Officers or joint arrangements discharging executive functions want to make such a decision, they will take advice from the Director (Law and Governance), the Monitoring Officer and/or the Chief Finance 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 any 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 and Policy Framework**

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or Officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the chair of the Scrutiny Management 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 chair of the Scrutiny Management 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 chair of the Scrutiny Management Committee, the consent of the vice-chair(s) 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**

Steps taken by the Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or Officers or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules.

## **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, a committee of the Cabinet, an individual Member of the Cabinet or Officers or joint arrangements discharging executive functions 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 of 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;
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change; and
- (e) where the chair of the Scrutiny Management Committee agrees that the proposed change is sufficiently minor in the context of the policy concerned and is an appropriate change in the circumstances.

## Financial Regulations



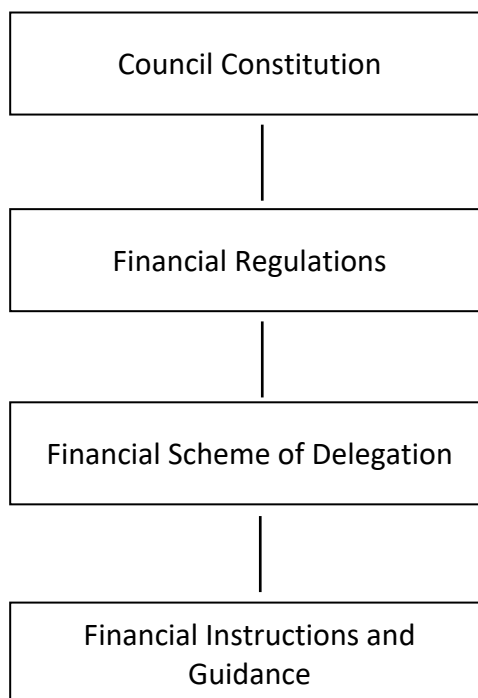
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# Financial Regulations

## 1. Introduction and Responsibilities

- 1.1. These Financial Regulations provide the framework and overarching rules for the financial administration of Milton Keynes Council ('the Council') and help ensure the Council has sound financial governance, support us to deliver value for money and minimise the risk of legal challenge. They are not intended to constitute a set of detailed rules to respond to every situation.
- 1.2. The Director for Finance and Resources (the Council's Section 151 Officer/Chief Financial Officer [CFO]) will issue financial instructions and guidance to assist colleagues to interpret and follow this framework. These will be published on the Intranet under 'Finance'.

### Milton Keynes Financial Governance Framework



## Legal Framework

- 1.3. Section 151 of the Local Government Act 1972 states that “every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.
- 1.4. The officer designated by the Council as having the statutory responsibility set out in Section 151 of the 1972 Act as Chief Financial Officer (CFO) is the Director for Finance and Resources.
- 1.5. The Council has put in place a Procurement and Financial scheme of delegation, which is annexed to the Leader’s Executive Scheme of Delegation (within the Constitution) These set out the level of authority each officer or councillor can only operate within. It is important that officers refer to this document alongside these Financial Regulations.
- 1.6. When making any financial decision the Officer will need to fully consider the level of appropriate financial control(s) required. If the Officer has any doubts as to the appropriateness of a financial proposal or correctness of a financial action, the Officer should consult in advance with the Director for Finance and Resources.
- 1.7. It is important to remember that these Financial Regulations are here to help both the Council meet its responsibilities and legal obligations but also to support Officers to make robust decisions. Where Officers do not observe Financial Regulations, the Financial Scheme of Delegation, Codes of Practice and financial instructions, it may result in action under the Council’s disciplinary procedures.
- 1.8. All references to Directors are also applicable to the Chief Executive, unless specified to the contrary.
- 1.9. These Financial Regulations should be read in conjunction with the, Contract Procedure Rules and the Financial Scheme of Delegation.
- 1.10. The Director for Finance and Resources is responsible for maintaining a continuous review of the Financial Regulations and the Financial Scheme of Delegation and submitting any additions or changes necessary for approval. The Director for Finance and Resources is also responsible for reporting, where appropriate, breaches of the Financial Regulations to the Council and/or to Cabinet members. The Director for Finance and Resources is authorised to temporarily suspend Financial Regulations in exceptional circumstances, and where such suspension is authorised, a written record of this will be kept.
- 1.11. All Directors should ensure that any financial procedures/ guidelines produced by their Service Group are consistent with Financial Regulations, the Financial Scheme of Delegation, Codes of Practice and financial instructions and that Internal Audit are fully engaged in this process.



## **Responsibilities**

### **Responsibilities to the Council**

- 1.12. All Councillors and Officers are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They should strive to achieve value for money and avoid legal challenge to the Council. These assets and resources belong to the whole Council and not to any individual, service or service group.
- 1.13. These responsibilities apply equally to Councillors and Officers when representing the Council on outside bodies.

### **Personal Responsibilities**

- 1.14. Any person who uses or is responsible for the Council's resources and assets should be familiar with the requirements under these Financial Regulations and their limits of delegated authority under the Financial Scheme of Delegation. If anyone is in any doubt as to their obligations, then they should seek advice from their Senior Finance Manager.
- 1.15. Any Officer (including employees of subcontractors) must report immediately to their manager, supervisor or other responsible Officer any illegality, impropriety, serious breach of procedure or serious deficiency in the provision of service he or she suspects or becomes aware of. Officers are able to do this without fear or recrimination providing they act in good faith via the Council's Whistle Blowing policy. In such circumstances managers must record and investigate such reports and take appropriate action including reporting this to the Director for Finance and Resources. Compliance with the Council's Anti-Fraud and Corruption policy and Code of Conduct for Officers is mandatory for all colleagues.

### **Chief Financial Officer**

- 1.16. The Director for Finance and Resources maintains on behalf of the Council an adequate and effective system of internal audit of the accounting records and internal control systems of the Council.
- 1.17. Section 114 of the Local Government Finance Act 1988 requires the CFO to report to the full Council or the Executive (as appropriate) and the external auditor if the authority or one of its Officers:
  - has made, or is about to take, a decision which involves incurring unlawful expenditure;
  - has taken, or is about to take, an unlawful action which has resulted or would result in a loss of deficiency to the Council; or
  - is about to make an unlawful entry in the Council's accounts.
- 1.18. Section 114 of the 1988 Local Government Finance Act also requires the Council to provide the Chief Financial Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114.

- 1.19. Reference to the Chief Financial Officer includes those authorised by him or her to undertake the various functions concerned.

## **Directors**

- 1.20. Directors are responsible for ensuring that Financial Regulations are observed throughout all areas under their control and:
- (a) provide the Director for Finance and Resources with information and explanations as he or she feels is necessary to meet his/her obligations under Financial Regulations;
  - (b) consult with the Director for Finance and Resources and seek approval of any actions liable to affect the Council's finances materially before any commitments are incurred;
  - (c) ensure that Cabinet Members are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Director for Finance and Resources;
  - (d) inform the Director for Finance and Resources of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;
  - (e) wherever any matter arises which may involve irregularities in financial transactions consult with the Director for Finance and Resources and, if a serious irregularity is confirmed, report the matter to the Chief Executive, appropriate Cabinet member and the Head of Internal Audit;
  - (f) ensure the legality of the actions taken by the services within their Service Group(s).
- 1.21. Directors to make all staff in their service groups aware of the existence and content of the Council's Financial Regulations, the Financial Scheme of Delegation and other internal regulatory documents and expectation that these are followed.
- 1.22. The Cabinet has agreed underlying key principles which are reissued/revised each year within the medium term financial plan (the latest of which can be found on modern.gov) and its annexes.

## **2. Financial Planning and Estimates**

### **Budget Preparation**

- 2.1. The Corporate Leadership Team (CLT)/Cabinet continually review the medium term financial position of the Council taking into account the Council's performance plans and anticipated future levels of capital and revenue resources.

- 2.2. Directors/Assistant Director are responsible for preparing Service Group financial plans and ensuring they are clearly aligned with relevant service plans and the Council Plan; for ensuring that prior approval is given by the full Council or the Cabinet/CLT (as appropriate) for any measures that are likely to extend or reduce the Council's services or policy objectives, and for new commitments for which there would otherwise be no agreed budget.
- 2.3. In accordance with the Council's Financial Scheme of Delegation, Directors and their appointed budget holders, have powers to incur revenue expenditure in carrying out the functions allocated to them provided
  - the expenditure is lawful;
  - procurement rules have been complied with;
  - expenditure is within the approved revenue budget or capital spend approval;
  - expenditure is in respect of Council policy; and
  - consultations, where relevant, have taken place with the appropriate stakeholders including relevant Directors and Cabinet Members.

### **Emergency Expenditure**

- 2.4. A Director may in order to meet the needs of an emergency which they believe falls under Section 138 of the Local Government Act 1972 incur expenditure other than as permitted under para 2.3. This action will need to be reported to the Director for Finance and Resources and section 20 of Contract Procurement Rules
- 2.5. However, as soon as the incident is resolved and there is no risk to public safety the expenditure should be reviewed to ensure that ongoing costs are subject to the processes set out in these regulations e.g. the continuation of expenditure on a service has been secured through an appropriate procurement/recruitment process.

## **3. Budget and Medium Term Financial Planning**

### **What is financial planning?**

- 3.1. The medium term financial planning process is an integrated process with the corporate and service planning process. This is to ensure that the annual budget reflects the the Council's priorities and that service plans explain consistently how priorities will be delivered within the resources available. The medium term financial plan produces the framework for future resource allocation decisions to support the delivery of the council plan.
- 3.2. The cycle for budget and medium term financial planning is set out overleaf.

**Table 1: Medium Term Financial Planning (MTFP) budget planning stages**

	<b>Budget process</b>	<b>Corporate process</b>	<b>Usual Timescale</b>
1.	Refresh/develop medium term financial strategy in light of known issues and funding assumptions	Use year-end performance data, and other research and intelligence to shape the review of priorities at a corporate and service level.	Feb – March
2.	Set and apply planning assumptions		April - July
3.	Begin combined service and financial planning process for managers including peer challenge		April - July
4.	Councillor discussion and approval of high-level budget strategy	Development of draft service priorities and plans alongside financial plans	June / August
5.	Identification of amendments due to reflect known activity changes and proposals to reduce costs resulting in pressures and savings		June - November
6.	Robustness, validation and challenge review	Detailed work by services and councillors on service planning and priorities alongside budget considerations resulting in the finalisation of the corporate plan.	September – November
7.	Draft budget proposals considered by councillors		December
8.	Public consultation		December / January
9.	Final budget approved by councillors and council tax set.		February

**Improved budget process**

- 3.3. All Budget managers as part of the budget setting process will need to identify in each of their service areas the following:
- (a) Base budget position;
  - (b) Unavoidable expenditure;
  - (c) Avoidable expenditure/investment proposals;
  - (d) One-off expenditure;
  - (e) Budget reduction and income proposals;
  - (f) Officers – full-time equivalent (FTE’s);
  - (g) Key risks; and

- (h) How their budget and proposals link with key activity data.
- 3.4. The budget planning process is an iterative process and the key stages in the budget setting cycle are noted above in **Table 1**.
  - 3.5. The development of the medium term financial framework, review of the wider economic climate and other external factors begins early in the financial year, with an initial overview reported by colleagues to councillors in June/August each year. This MTFP informs the detailed budget setting process for the following year.
  - 3.6. Directors will draft initial budget options for consideration by Councillors and the Budget Scrutiny Committee in October / November / January each year (part of stages 6 and 7 in Table 1 above) to enable a period of challenge and validation by Councillors.
  - 3.7. The Corporate Leadership Team (CLT)/Cabinet will keep under review the medium term financial position of the Council taking into account the Council's performance plans and anticipated future levels of capital and revenue resources. This will include a review of the MTFP risk register and updating risks with current developments and actions as part of the budget setting process.
  - 3.8. Directors need to complete an annual review of income and ensuring that budgets are adjusted in line with the agreed budgetary guidance, with exceptions to the Income Policy being highlighted. An explanation for exceptions to the Income Policy must be provided to the relevant Senior Finance Manager to ensure that this can be approved by Councillors.
  - 3.9. The MTFP is a financial framework for looking beyond the next annual budget, and provides an overview of the financial outlook over the medium term based upon enabling the delivery of the corporate priorities. The MTFP as a minimum sets out the annual budget year plus three further years projections. The MTFP approved by Council in February each year covers the following four financial years.
  - 3.10. Various external factors will influence the planning assumptions underpinning the MTFP and these will cover some of the following variables:
    - (a) Corporate priorities;
    - (b) Levels of council tax;
    - (c) Likely impact of inflation in the current and future economic climate; and
    - (d) Future spending reviews and funding allocations to local authorities from central government.
  - 3.11. Each Service Group will need to review their respective future funding pressures over the period of the MTFP and indicate how the increased demands on services will be addressed in future years.

- 3.12. As part of the budget setting cycle, an update to the MTFP report approved by Councillors each February. This outlines the key planning assumptions that the Council will need to consider as it sets its budget for the following financial year and the subsequent MTFP period.
- 3.13. The MTFP is updated in September and the headline position reported alongside the draft budget to reflect a better understanding of assumptions before the final budget is approved. The full MTFP is finally updated alongside the final budget in February, to set the context for the approval of the budget and as a starting point for future financial planning.

### **Budget Finalisation**

- 3.14. The Cabinet reviews the draft budget and submits its final budget proposal to Council together with supporting summaries, statements and reports. The budget report will also recommend the Council Tax to be levied for the ensuing year.
- 3.15. The Cabinet will also approve the Business Rates Baseline, under the Localisation of Business Rates legislation.
- 3.16. The Council will:
  - (a) Approve the Council's annual Council Tax Base (this is currently delegated to Cabinet by the Council on 13 January 2004 [Minute CL94(d) refers];
  - (b) Approve the Council's Revenue Budget and Capital Programme and set the level of Council Tax for each year within statutory deadlines and requirements;
  - (c) Note the estimated financial requirements for future years and the context this provides for budget decisions.

## **4. Capital Programme Preparation**

### **Background**

- 4.1. The medium term financial plan includes;
  - (a) The Capital Strategy;
  - (b) A forecast of potential capital resources; and
  - (c) A forecast of potential capital expenditure.
- 4.2. The Cabinet have also agreed a number of underlying key principles upon which the capital programme will be developed in the future. These are reissued/revised each year within the medium term financial plan (the latest of which can be found on modern.gov).

- 4.3. The Finance Team develops a view of the resources available in the medium term to provide a context for Service Groups. All Service Groups are asked to identify their long-term investment needs, which are included within the Capital Programme Pipeline, whilst those projects required over the medium term being submitted for detailed review and challenge as part of the medium term capital programme process.

## **Approach**

- 4.4. The Council's strategic approach to capital planning is developed alongside detailed asset management plans (AMPs) to ensure that the Council's strategic investment needs, together, with the ongoing maintenance demands of the assets are being addressed.
- 4.5. Project managers will need to prepare project appraisals for all capital projects to be considered prior to inclusion in the Capital Programme. The appraisal is in the format of the START documentation used for all project administration, and will identify a project sponsor and a project manager who will be accountable for delivery of the scheme.
- 4.6. The START document includes the project mandate, business case and project initiation document. This will include a financial annex showing the expected costs for each scheme, including future revenue costs associated with operating the asset and 'whole life' costs such as decommissioning, and identify the source of funds through which the project is to be financed (including, where appropriate, leasing) , together with procurement, communications and benefits plans.
- 4.7. Projects submitted for inclusion in the capital programme must be reviewed by the designated Programme Board and evaluated under the approved evaluation scheme which prioritises investment decisions. This will take account of how well their projected outputs match the Council's priorities set out in the Council Plan, value for money, the availability of resources in the short and medium term before submission.
- 4.8. All START documentation will be reviewed by a designated Programme Board and where supported signed off by the relevant board. The Corporate Programme Board (chaired by the Deputy Chief Executive) will review all START forms and proposals submitted by Programme Boards and make the final decision on what prioritisation and recommendations are made to Cabinet. Projects which are fully funded by grant or third party funding, with no current or future capital or revenue impact will be ring-fenced from the prioritisation process, unless alternative use for the grant has been identified. Project START documents and Cabinet approval are still required for such schemes, to enable informed decision-making and appropriate monitoring.

- 4.9. A draft programme will be submitted to Cabinet alongside the draft budget proposals, and again with the final budget proposals in February before passing for recommendation for approval by Council in February. The approved programme will then be implemented from April of the following year.
- 4.10. New allocations which are requested outside of this timeframe will only be considered in exceptional circumstances and with appropriate justification. The final decision on whether a new scheme allocation should be presented to Cabinet rests with the Corporate Portfolio Board. Where this is agreed, this will be included as part of the Quarterly Financial Management Reports to Cabinet where a final decision will be made. Where a scheme or schemes require additional borrowing, increasing the Councils Capital Financing Requirement any decision will need to be referred to Council for approval.
- 4.11. All capital projects must have resource allocation and spend approval in accordance with the Scheme of Delegation before any expenditure is committed. Projects must have received resource allocation to be part of the approved programme, normally as part of the budget process. Projects must receive spend approval to begin spending as part of the approved programme. Spend approval is requested through the relevant Programme Board and in consultation with the Corporate Programme Board to ensure that appropriate steps have been taken and confirmation that all funding is in place (both the initial capital outlay and the on-going revenue costs) and project planning is complete prior to approval from Cabinet.
- 4.12. There is an expectation that larger schemes are given multi-year approvals and, again where appropriate, spend approvals may be sub-divided to reflect key stages in the scheme.
- 4.13. Colleagues may submit for inclusion in the five-year programme schemes that are not expected to start in the first year. If these are prioritised by Councillors, they may be included as indicative schemes in future years, to be reviewed for final approval when they are due to start.
- 4.14. The de minimis value for individual schemes to be included in the capital programme is £20k, unless specifically agreed by the Director for Finance and Resources.
- 4.15. All capital projects will also need to ensure that they follow the appropriate procurement processes.

## **5. Tariff and Section 106 Agreements**

### **Background**

- 5.1. The Council has taken on the MK Tariff from the Homes and Communities Agency (HCA). The MK Tariff is a forward funding model where government investment has enabled infrastructure to be developed to enable housing and business growth.



The MK Tariff is governed by legal agreements between developers and the Council as the Tariff operator. The Tariff programme will be subject to public consultation alongside the capital programme in February. This process will represent a resource allocation stage.

## **Approach**

- 5.2. There will be a detailed approval process for Tariff projects, in line with the Council's approach to the capital programme, which will allow spend approval to be granted. For projects being developed by the Council this is integrated with the current Capital Programme. No Tariff funding will be allocated until spend approval has been granted. External parties delivering projects under the Tariff will be liable for their own risks.
- 5.3. The forward funding of the Tariff cash flow must be managed within the profile agreed with the HCA, and the risks inherent in the Tariff must be managed in accordance with the Tariff risk management plan, which will be subject to a biennial review with the Department of Levelling Up, Housing and Communities and the HCA.
- 5.4. Spending and income on the Tariff will be reported quarterly as part of the budget monitoring report. S106 balances are available through Exacom on the Council's website.
- 5.5. The Director for Finance and Resources will review at least annually the Tariff Risk Management Plan including a financial assessment of the projected future financial liability under the Tariff risk share agreement and report this to Cabinet. The budgetary implications of this should be identified and if necessary proposals made to Cabinet to fund this.
- 5.6. The Council as part of its Planning role will enter into negotiations with developers to secure planning gains through section 106 agreements. The Head of Planning is responsible for ensuring that contributions are negotiated in line with the Council's policy framework and any reductions are fully justified through robust challenge of viability assessments.
- 5.7. Allocation of S106 for Council-led schemes will require sign off from the S106 Officer to confirm appropriate conditions have been met and will also need to follow the approved council processes for capital schemes.

## **6. Virements (or Transfers) Between Budgets**

### **Definition**

- 6.1. A virement is the balanced transfer of spending power [or budget] from one place to another, i.e. the overall budget does not change. Virements should support the Council's policies and not result in enhanced service levels or budget commitments beyond the base budget. This section refers to three types of virements: supplementary estimates; revenue virements and capital virements.

## **Supplementary Estimates**

- 6.2. Supplementary estimates will only be used where the Council wishes to amend its budget requirement, for example, increase or reduce overall net expenditure..

## **Revenue Virements**

- 6.3. Directors can request a budget virement providing it meets the following criteria:
  - (a) Virements should only apply to the transfer of funds within their areas of delegated budget responsibility;
  - (b) Proposals should be consistent with approved Council policy;
  - (c) There should be no consequential revenue effects in later years;
  - (d) There are some restrictions on the type of budgets that can be vired i.e. recharge budgets and capital charges cannot be vired. There are also legal restrictions preventing budgets being moved between different revenue accounts such as the HRA and GF. It would not normally be expected that salary budgets should be vired. In all cases the Director for Finance and Resources or their nominated representative must be consulted.
- 6.4. The Director for Finance and Resources or their nominated representative can approve the following virements:
  - (a) Technical virements – virements which properly reflect the intentions as set out in the Council budget, for example, changes to the Council structure or the detailed allocation of budget savings once consultation has been undertaken and internal recharges.
  - (b) Virements as set out in paragraph 6.3 above.
- 6.5. The following virements can only be approved by Cabinet, if recommended by the Director for Finance and Resources:
  - (a) Virements between Service Groups (except for technical virements).
  - (b) Virements which do not meet one or more of the required conditions.
- 6.6. A quarterly report on virement activity will be provided to the Director for Finance and Resources, and included in the Financial Management Report.

## Contingencies

- 6.7. Transfers from Reserves to revenue budgets require the approval of the Director for Finance and Resources or designated Deputy s151 Officer(s). These should be reported to Cabinet on a quarterly basis. Reserves form part of the Councils overall budgetary framework and can only be used for the purpose(s) that they were created for. Where a separate contingency is held as part of the annual budget this can only be drawn on with the approval of the Director for Finance and Resources and will be reported to Cabinet on a quarterly basis.

## 7. Forecasting and Monitoring

### Procedure

- 7.1. Each Director responsible for a revenue or capital budget will need to:
- monitor and control expenditure within their approved budget and be accountable for the actions of budget managers in accordance with the reporting timetable issued by the Director for Finance and Resources;
  - report progress including the current and forecasted position against their budget in accordance with the guidance and timetable set using the Council's approved financial management systems, to ultimately report to Cabinet in the budget monitoring report in consultation with the Director for Finance and Resources;
  - highlight any significant risk which may impact on the forecast; and
  - keep the Director for Finance and Resources informed of any actual or likely changes which will/may have a significant impact on current or future budgets as soon as this is identified.
- 7.2. The Director for Finance and Resources will also provide guidance on and co-ordinate the budget monitoring process and the form, basis, supporting information and timetable for the preparation thereof.
- 7.3. Budget managers are responsible for contacting the relevant Senior Finance Manager with any requests for carryover of budgets including project funding which will only be approved by the Director for Finance and Resources where:
- (a) there is sufficient funding to complete the project within the service budget; and
  - (b) there is good reason why the expenditure could not have been completed during the financial year.
- 7.4. The Director for Finance and Resources will report to Cabinet on a quarterly basis on the budgetary position across revenue and capital, including details of financial forecasts, risks and actions being taken to achieve the overall budgetary objectives. Reporting to CLT will be carried out on a monthly basis.

## 8. Management of Approved Capital Projects

### Procedure

- 8.1. Directors are responsible for managing the overall capital programme for their Service Group, via a designated Programme Board. This includes:
  - (a) ensuring that the overall actual and forecast outturn for the current year is not in excess of the level of spend approval
  - (b) ensuring commentary on the project progress is correct; and
  - (c) the forecast outturn is as accurate as possible and that projects are well managed and controlled in accordance with the Council's project management framework. Regard must also be made to the overall actual and forecast outturn over the whole life of all approved schemes.
  - (d) Where actual or forecasted spend has or is likely to exceed the level of spend approval this should be reported at the earliest opportunity to the relevant Programme Board and the Director for Finance and Resources together with reasons for this and any measures being taken to address this.
- 8.2. Directors are authorised to spend on any scheme (for which they have delegated responsibility) up to the spend approval included in the latest approved capital programme for that scheme. The approved programme comprises only projects for which spend approval has been given by Cabinet. In year expenditure should be managed within the in-year programme budget, as well as total expenditure over the life of each scheme.
- 8.3. As part of the monitoring process, Directors must provide the Director for Finance and Resources with a written explanation of all significant in-year under and overspends compared to spend approval. This must include plans to address the under / over spending as appropriate.
- 8.4. Proposed additions to the programme during the financial year should be considered by the relevant Programme Board and where supported submitted to the Corporate Portfolio Board for final clearance prior to submission to Cabinet for formal approval, supported by a project START document. Cabinet has delegated authority from Council to authorise, once the programme has been set, to approve new capital schemes and variations to existing schemes, subject to funding being available and the schemes being in accordance with the Council's objectives and priorities. Exceptions outside of the usual annual budget process will only be taken in exceptional circumstances and must be fully justified as this can lead to sub-optimal investment decisions when taken as a standalone funding decision.

- 8.5. Directors should ensure that appropriate and adequate information is maintained for each scheme, showing as a minimum:
- (a) planned start date and any subsequent revisions;
  - (b) planned completion date and any subsequent revisions;
  - (c) gross value of scheme (both capital and revenue expenditure); expenditure to date;
  - (d) forecast final outturn (including an up to date cashflow);
  - (e) budgeted expenditure for the current year;
  - (f) expenditure during the current year to date;
  - (g) forecast outturn for the current year; and
  - (h) estimated carry forward expenditure to the following year.
- 8.6. Cabinet approval is required for all changes to resource and spend approval. Except in urgent circumstances, approval for these will normally be requested as part of the quarterly Financial Management Report to Cabinet.
- 8.7. Where actual or forecast expenditure on a scheme varies from the spend approval any agreed variances should be reported to Cabinet as part of the quarterly Financial Management Report for information.
- 8.8. Where it is not possible to take programme changes to Cabinet due to the need to make an urgent or speedy decision, the rules contained within the Constitution on delegated decision-making and urgent decisions will apply.
- 8.9. At the completion of capital projects a benefits realisation report will be prepared for and signed off by the relevant Programme Board. The Programme Board will be accountable and report to the Corporate Programme Board on an exceptions basis across their portfolio of projects. Benefit realisation reports will be published.

## **9. Record of Contracts for Capital and Revenue**

### **Procedure**

- 9.1. Each Director will need to maintain sufficient records for all contracts. These should be held on the Corporate Contract Management System (Intend). Directors are responsible for ensuring that these records are complete and accurately recorded.
- 9.2. Directors must appoint a nominated Contract Manager to oversee the delivery of each contract within their area of responsibility. The Contract Manager is responsible for ensuring that the contract is delivered and that payments or income related to the performance of the contract are in line with the relevant contract provisions. Contract monitoring should be recorded on the Intend Contract Management System.

- 9.3. The specific requirements of contract processes are set out in Contract Procedure Rules which can be found on the intranet and are applicable to all contracts.

## **10. Year End and Statement of Accounts**

### **Closing the accounts**

- 10.1. The Director for Finance and Resources will issue guidance and a timetable on the processes that are required for successful closure of accounts.
- 10.2. Each Service Group is responsible for ensuring that they follow the timetable and that all expenditure is properly accounted for during the year. In particular, that all goods receipting and raising of debtors is undertaken correctly. If there is any doubt over what is required budget managers should consult their Senior Finance Manager.
- 10.3. The Director for Finance and Resources will report on the financial outturn to the Cabinet and will require each Service Group to provide explanations for any major variations between forecasts in month 9 and actual expenditure at the end of the year.
- 10.4. The Director for Finance and Resources will compile the draft statement of accounts and provide this to the Council's external auditors by the statutory deadline each year. The Audit Committee will be provided with a copy of the draft accounts and will be asked to approve the audited accounts by the statutory deadline each year.

### **Accounting Policies**

- 10.5. The Director for Finance and Resources will:
  - (a) determine accounting policies, systems and procedures and the form of financial records and statements in accordance with statute and recognised best practice (defined by International Financial Reporting Standards (IFRSs), CIPFA Accounting Codes of Practice and International Accounting Standards (IAS));
  - (b) provide guidance and advice on all accounting matters;
  - (c) monitor accounting performance to ensure an adequate standard for all services; and
  - (d) certify all financial returns, grant funding applications and claims and other periodic financial reports required of the Council.
- 10.6. Each Director will:
  - (a) implement accounting procedures and adopt the form of financial records and statements as determined by the Director for Finance and Resources;

- (b) obtain the approval of the Director for Finance and Resources prior to introducing or changing the form or method of existing accounting systems and procedures, financial records or statements. Approval is to be requested from the Director for Finance and Resources or nominated representative in writing. The request must give details of the proposed change and the anticipated benefit from the change, an estimate of the costs involved and the proposed implementation date. Internal Audit should be involved prior to any decision being made;
- (c) complete and pass to the Director for Finance and Resources financial returns and other financial reports requiring certification in good time;
- (d) keep a proper segregation of duties for staff with financial responsibilities;
- (e) supply information in a timely manner and in the format as requested by the Director for Finance and Resources to support the production of the statement of accounts;
- (f) review the basis and level of fees and charges on at least an annual basis and ensure the resulting fees and charges are submitted as requested by the Director for Finance and Resources for approval through the annual budget process;
- (g) ensure levels of income received are compared to budgeted income on a regular basis and differences are promptly investigated and addressed;
- (h) ensure all debts raised are accurate, have been agreed with the third party, are raised promptly and maintained on a regular basis. Every effort must be made to recover income owed to the Council;
- (i) ensure budget managers support the Recovery Team as appropriate with actions for collectable debts. Where this function has been retained by the Service Group the relevant Director will ensure wherever possible outstanding sums are recovered. This includes ensuring further recovery action is taken where debts remain unpaid;
- (j) where debt collection has been retained by the Service Group, ensure budget managers inform the Director for Finance and Resources where the opportunity to collect a debt has been exhausted to enable the debt write-off process to be initiated. For the avoidance of doubt, budget manager approval is not required to write off historic unrecoverable debt.

10.7. All accounting procedures will be determined by the Director for Finance and Resources. Where procedures and records are maintained in a Service Group other than that of the Service Group of Resources, the appropriate Director will be responsible for ensuring they are compliant

with the appropriate accounting policies, processes and audit requirements.

- 10.8. The Director for Finance and Resources will:
- (a) ensure that proper financial processes are followed with regard to financial planning and monitoring;
  - (b) ensure compliance with relevant Accounting Codes of Practice and the Prudential Code; and
  - (c) maintain adequate accounting policies and records to satisfy external audit and other regulatory bodies.

## **11. Income and VAT**

### **Introduction**

- 11.1. It is important that all income due to the Council is accounted for in accordance with the Council's Income Policy and collected, banked and properly accounted for. This includes income received by electronic means such as debit/credit cards, internet, telephone and direct debits.
- 11.2. All budget managers are responsible for raising and collecting income in a timely and accurate manner.
- 11.3. Wherever possible, charges for services should be collected in advance of delivery. Budget managers should validate that a payment has been received prior to service delivery.
- 11.4. Where monies are received for a service on or before delivery without the need to present an invoice this income is normally treated as un-invoiced.

### **Prohibited application of income**

- 11.5. Expenditure must never be made out of income collected (other than valid refunds).
- 11.6. Income must not be added to imprest/petty cash balances.
- 11.7. Personal cheques must not be cashed out of income collected on behalf of the Council.

### **Recording and billing**

- 11.8. Un-invoiced income collected should be entered promptly into the Council's income system. When payment is made by credit or debit card, the card details should not be recorded under any circumstances and the payment details should be made only via a card payment system approved by the Director for Finance and Resources. When receiving payment by debit or credit card and the customer is present, under no circumstances should the card details be recorded or payment made other than electronically via insertion into a Council-approved chip and pin device. It is important to follow these rules as non-compliance risks a substantial fine for breaching the payment card industry's security rules.



Cash handling should be kept to a minimum. Directors/ Group Heads of Service should only collect income as cash when other payment routes are not available and must put in place additional controls if any income is agreed to be collected in cash. These arrangements must provide that:

- (a) colleagues are appropriately trained in income collection, accounting and cash handling arrangements;
  - (b) sufficient separation of duties are in place;
  - (c) official receipts are available on request;
  - (d) proper records are kept;
  - (e) VAT is properly accounted for;
  - (f) all money received is banked as soon as practicable and no later than one week after receipt;
  - (g) where it is necessary for cash to be held prior to it being paid into the Council's bank account, it should be kept in an appropriate secure environment;
  - (h) any insurance limits on safes are adhered to; and
  - (i) security of staff and customers is maintained when cash collections are involved.
- 11.9. When paying money in on behalf of the Council, it is important to ensure that there is a matching record providing appropriate details of the deposit, including:
- (a) the amount of the cheque;
  - (b) suitable coding for the income system;
  - (c) the customer's name;
  - (d) the official receipt number; and
  - (e) the officer's name.
- 11.10. The relevant Director will need to ensure that any debts raised are accurate, appropriate and due to the Council.
- 11.11. Budget managers are responsible for setting out the basis of the charge to the recipient of the service and that the amounts billed are consistent with the approved list of fees and charges.
- 11.12. The following process must be followed for all billing:
- (a) Only billing systems approved by the Director for Finance and Resources may be used.
  - (b) A debtor account must be opened (if an account has not previously been created) using the approved financial / billing system, including grant income.
  - (c) Invoices must be raised in a timely manner (within 5 working days of the debt being identified);

an accurate record of the debt; and

- (d) state the period and goods/services the invoice covers.
  - (e) If the service provided is for a long period, an invoice may be raised at regular periods during the provision of the service.
  - (f) If an invoice is disputed by the debtor this will be noted by the Recovery Team. This disputed invoice is then passed to the relevant budget manager.
  - (g) The budget manager must resolve any dispute within 14 working days or notify the Recovery Team if a dispute takes longer to resolve.
  - (h) If a credit note or adjustment to a future bill is required this must be authorised in accordance with the Financial Scheme of Delegation. Under no circumstances can a valid debt which is uncollectable be written off in full or part by the use of a credit note.
  - (i) Debts not paid on time will be processed through the debt recovery process, which includes issuing reminder letters and may include referral to a debt collection agency or legal proceedings depending on any statutory requirements.
  - (j) If debt collection is not successful, the debt is written off in accordance with section 12 below.
- 11.13. Instalment payments should be agreed by the Recovery Team Manager, based on a reasonable belief that there is no means of immediate payment.
- 11.14. All debts for write-off consideration should be compiled on a quarterly basis for approval. All write-offs must be approved by the Director for Finance and Resources or his/her authorised nominee (as set out in 12 below).
- 11.15. The Council's debt position and performance including sums written off will be reported to Cabinet on a quarterly basis as part of the regular Financial Management Report.

### **Accounting and Managing VAT**

- 11.16. A key part of the Council's accounting arrangements include the management, reporting and recovery of VAT.
- 11.17. The Director for Finance and Resources is responsible for ensuring that appropriate processes are in place to submit monthly VAT returns to optimise the recovery of VAT on the cost of goods, supplies and works.
- 11.18. Service Groups need to follow relevant financial instructions and procedures in relation to VAT to apply VAT on fees and charges correctly. The treatment of VAT on fees and charges should be considered at the time of introducing or revising charging schemes and advice must always be sought from the Director for Finance and Resources before proceeding.

- 11.19. The Director for Finance and Resources is responsible for managing the Council's VAT liabilities including the 5% Partial Exemption Limit, with the aim of minimising liabilities through effective tax planning, including Electing to Waive Exemption.
- 11.20. Contact with HMRC in relation to VAT issues or inspections should be channelled through the Director for Finance and Resources.

## **12. Bad Debts/Write-offs/Loss of Income**

### **Background**

- 12.1. The Council always seeks to maximise revenue collection. However, in certain circumstances debts will be deemed to be uncollectable.
- 12.2. Where debts are "cancelled" because they have been incorrectly raised (e.g. wrong amount, wrong debtor) or "waived" because a clear policy decision (agreed with the Director for Finance and Resources) has been taken not to charge or to reduce the charge of an amount otherwise properly payable by a debtor then the following process does not apply.

### **Approval process**

- 12.3. The Director for Finance and Resources or his/her nominated member of staff may approve the write-off of any amounts properly charged, but deemed uncollectable, in the following cases:
  - a) Bankruptcy, liquidation or in the case of an individual death (where every effort should be made to minimise the loss);
  - b) The company having ceased trading and there being no assets;
  - c) Court decisions.
- 12.4. Other bad debts or loss of income, not falling into these categories, may be written off in accordance with the Financial Scheme of Delegation.

## **13. Banking Arrangements**

### **Procedure**

- 13.1. The Council's banking arrangements are the responsibility of the Director for Finance and Resources. Bank accounts can only be opened with the approval of the Director for Finance and Resources or his/her nominated member of staff. All new bank accounts must include Milton Keynes City Council (or "MKCC") in their title.
- 13.2. The Director for Finance and Resources or his/her nominated officer must approve the signing arrangements for each bank account including the names of colleagues authorised to sign cheques and issue instructions to the bank and the limits of their authority.
- 13.3. Directors are responsible for ensuring that all bank accounts within their Service Group (imprests) are operated properly and reconciled at least once a month.

- 13.4. Directors must ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet or the Council, following consultation with the Director for Finance and Resources.
- 13.5. All monies collected must be handled and banked in accordance with section 11.9.

## **14. Treasury Management**

### **Procedure**

- 14.1. All investments and borrowing will be made in the name of Milton Keynes Council.
- 14.2. All securities which are the property of, or are in the name of, the Council and will be recorded, managed and monitored by the Director for Finance and Resources.
- 14.3. The Director for Finance and Resources will produce a treasury management strategy statement and treasury management policy statement and submit them to Cabinet and then to Council each year. The Director for Finance and Resources will report quarterly on treasury management activities against the approved strategy, and will revise the treasury management strategy as appropriate and submit to Cabinet/Council for approval.
- 14.4. All treasury management activities (investment and borrowing) will be conducted by the Director for Finance and Resources in line with the relevant CIPFA Code of Practice and Cross-Sectoral guidance notes for Treasury Management in the Public Services and the CIPFA Prudential Code for Capital Finance in Local Authorities.
- 14.5. Adequate division of duties must exist between arranging and settling of transactions. Additional segregation must exist between arranging and recording of transactions.
- 14.6. A separate Treasury Management Practices manual is maintained which sets out the detailed operational arrangements that are to be followed to ensure that the Council's cash and debts are managed in line with legislation, relevant codes of practice and the Council's own Strategy.

## **15. Pension Bonds and Guarantee**

- 15.1 The implications of pension related risks need to be considered:
  - (a) at the outset of any procurement exercise;
  - (b) in all other circumstances, prior to entering into, or varying any contract.

- 15.2 The general position is that contractors are responsible, during the contract term, for paying all pension contributions relating to relevant employees engaged by them in a council contract. This includes any increases to the pension contribution rates during the contract and any exit deficit pertaining to such contract period except where the Council has agreed to act as the guarantor.
- 15.3 Contractors are also responsible where applicable, for the costs of any pension bond that may be set by the administering authority or the actuaries. This requirement should be explicit in the tender documentation.
- 15.5 Where it is proposed that the Council is to act as Guarantor and a Bond is not required, the relevant Director must complete a risk assessment to support this decision. This should be agreed with the Director of Finance and Resources prior to the commencement of the procurement. The decision making process for this should follow the Councils normal key decision thresholds based on the total estimated contract value.
- 15.6 Director for Finance and Resources may also at his/her discretion agree to accept a cash deposit in lieu of a pension bond requirement from a contractor. Such acceptance shall be based on risk assessment and subject to approval by Cabinet or Cabinet Member where appropriate.
- 15.7 Where pension pass through arrangements apply, contribution rates and review points within the contract must be set following an actuarial review and approval by the Director Finance and Resources.
- 15.8 Pension and Performance bond arrangements must follow the rules laid in section 30 of the Contract Procedure Rules.

## **16. Payment of Grants and Benefits to External Bodies**

### **Procedure**

- 16.1. All claims must be correctly certified and submitted only if all conditions are met. Directors must nominate an accountable Officer for each grant within their areas of responsibility. The Director or designated Officer is responsible within their Service Group for examining, verifying and certifying grant/benefit payments. Certification means that:
- (a) the grant/benefit payment has not been paid previously;
  - (b) the payment is lawful and in accordance with the Council's policy;
  - (c) the payment is arithmetically correct; and
  - (d) the grant is within budget provision.
- 16.2. When making payments for which external funding can be claimed, Directors need to be aware of any conditions/obligations laid down by the external funder that the Council must meet (e.g. monitoring of spending)

and be satisfied that these conditions/obligations are being met. Any shortfall in grant will be met from within the individual budget of the responsible officer.

- 16.3. Where funding is dependent on the achievement of outputs, these must be evidenced and monitored accordingly by the responsible officer(s). Where any changes to the use of the grant funds arise, these must be approved by the grant originator.
- 16.4. The approval of the Cabinet or Cabinet Member (via a Delegated Decision) needs to be sought before a Director provides assistance to any outside body by way of loan, grant or guarantee over £100k in any one financial year.
- 16.5. Before seeking Cabinet or Cabinet Member approval, each Director provides a record justifying the proposed award of the grant or guarantee, with a full business case to the Director for Finance and Resources.
- 16.6. Any proposal to give a grant or guarantee to an external body must take into account procurement law and subsidy control prohibitions with advice from legal, finance and corporate procurement obtained as necessary and reflected accordingly in the business case to Director for Finance and Resources and the report to Cabinet/Cabinet Member.

## **17. Grants Received from External Bodies**

### **Managing grants**

- 17.1. The Director for Finance and Resources or Deputy s151 Officer(s) must be consulted on the financial and probity implications of all projects involving funding from external sources (e.g. Lottery grants, European Social Funds etc) prior to any application.
- 17.2. In promoting or committing the authority to any externally funded projects Directors must ensure adherence to any terms laid down by the Director for Finance and Resources.
- 17.3. The Director for Finance and Resources is responsible for accounting for non-specific Government Grants received and receivable.
- 17.4. Directors are responsible for:
  - (a) building in any agreed financial implications (e.g. matched funding) into the budget strategy;
  - (b) ensuring that all external funding agreed with external bodies is received and is properly recorded in the Council's accounts, liaising with the Corporate Finance Team;
  - (c) ensuring that the relevant Senior Finance Manager is aware of and agrees all bids for external funding;

- (d) ensuring that external funding which is sought supports the Council's service priorities;
  - (e) ensuring that any matched funding requirements relating to external funding agreements are provided for in the budget prior to any external funding agreement being concluded;
  - (f) ensuring that necessary approvals are obtained before external funding agreements are concluded; and
  - (g) investigating ways of maximising income.
- 17.5. Where the use of external funding for projects requires a financial commitment from the Council for which budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the relevant Director, in conjunction with the Director for Finance and Resources, will provide a written report to Cabinet giving a full appraisal of the financial implications for the Council of the scheme both in the current year and beyond. This report should also set out the ways that the external funding sought supports the Council's service priorities.
- 17.6. Where funding is used to support additional service provision or contributes to existing service provision then the Director responsible should have an exit strategy in place to deal with the expiry of the grant.
- 17.7. Each Director nominates a named responsible (senior) Officer to be accountable for the performance and financial monitoring of each project. The responsible Officer should agree deadlines for the preparation of claims and returns with the relevant Senior Finance Manager prior to Director for Finance and Resources sign-off.
- 17.8. Written approval must be obtained from the funder which clearly shows the approved allocation, the purpose of the grant and the financial period to which it relates.
- 17.9. The responsible Officer, prior to submission of any grant claim, confirm that all expenditure declared is eligible in accordance with the relevant funder's criteria, including purposes and deadlines.
- 17.10. Grant claims and monitoring returns working paper files must include an internal authorising form signed by the relevant Senior Finance Manager and must be submitted within the funder's timescales.
- 17.11. Where receipt of funds from a third party (i.e. match funding) is part of any grant submission, Directors must follow the guidance which has been provided by the Director for Finance and Resources.
- 17.12. The manner in which external funding is managed will be in accordance with Council policy, Contract Procedure Rules and these Regulations, in addition to the funder's own requirements.
- 17.13. Grant claim working papers should be maintained in a form agreed by the Director for Finance and Resources.

## **General Grants**

- 17.14. The Director for Finance and Resources is responsible for ensuring that all information required by the Government, which is to be taken into account in the annual settlement is available and updated where necessary in line with any information requests received.
- 17.15. The Corporate Finance Team will monitor any announcements during the year of changes to central government financing. As part of this any discussions by the DLUHC Settlement Working Group will be reviewed and the possible implications of changes taken into account in financial planning reports to CLT and Councillors.
- 17.16. The Budget and Resources Scrutiny Committee will be informed of any developments in central government funding and will be fully informed of announcements of government grants.

## **Specific grants**

- 17.17. The Government provides a number of grants for specific purposes. It is the responsibility of Service Groups to ensure that these are recorded correctly and that estimates and forecasts are updated properly.
- 17.18. Each Director will ensure that Senior Finance Manager is informed of any changes in specific grants and that forecasts properly reflect these changes.
- 17.19. Where one of the conditions of a specific grant is that expenditure is time limited, it is the responsibility of the relevant budget manager to ensure that any spending associated with the grant is also limited to the same timescale to ensure that the authority does not become liable for further expenditure.

## **Grant letters and conditions**

- 17.20. Each external body that provides a grant to the authority will stipulate certain terms and conditions within the grant offer letter which are specific to each grant offer. It is good financial management practice to ensure that all colleagues responsible for the administration of grants adhere to the following principles:
  - (a) Grant claims and returns are completed accurately and in accordance with the scheme terms and conditions;
  - (b) Grant claims and returns are supported by systems of internal control, including systems of internal financial control and internal audit, which are both adequate and effective in practice;
  - (c) Grant claims and returns are completed in a timely fashion so that deadlines are met; and



- (d) All grant claims and returns are supported by adequate working papers, including where applicable, non-financial records, which:
- satisfy the statutory requirement of the Chief Finance Officer of a local authority to maintain adequate records in relation to claims;
  - document the basis of the claim or return and the derivation of the information it contains;
  - are kept in a form what will help the process of certification at the end of a financial year; and
  - ensure grants are audited if required.

17.21. The Council's external auditors have a responsibility to certain external grant-paying bodies to review the information contained in a claim or return and to express a conclusion whether the claim or return:

- (a) is in accordance with the underlying records (claims and returns between the de minimis amount and the threshold); and
- (b) is fairly stated in accordance with the relevant terms and conditions (claims and returns over the threshold).

## **18. Security and Control of Assets**

### **Proper Use of Assets**

- 18.1. Officers are all expected to ensure the proper use and safeguarding of Council owned and controlled assets. This includes stocks, stores, furniture, equipment, vehicles, cash, land and buildings, software and information.
- 18.2. Council assets can only be used for Council business. Surplus assets should be disposed of in accordance with Council procedures. The Director for Finance and Resources is responsible for ensuring that the Corporate Asset Management Plan supports the strategic approach to capital as well as complying with best practice and guidance issued by the Government, including s123 of the Local Government Act 1972.
- 18.3. Directors are responsible for other asset management plans prepared for the Council's key assets such as Highways, Maintenance, Vehicles, and ICT. In some instances these will be encompassed within the appropriate strategy.
- 18.4. It is the responsibility of Directors to ensure compliance with the measures, processes and policies outlined in the asset management plans and to ensure the maintenance and annual review of an inventory of their Service Group's assets including those leased or loaned to the Council.

- 18.5. Directors are responsible for the use and occupation of land and properties in their Service Group. They must take all reasonable steps to safeguard them. Directors are responsible for providing timely information on the assets under their control to effect adequate insurance arrangements through the Council's Insurance Team. Risk assessments must be maintained to ensure their security and safety for staff, users and other parties.
- 18.6. No Council property is to be removed otherwise than in the ordinary course of business or used otherwise than for the Council's purposes.

### **Management of Assets**

- 18.7. Acquisitions and disposals must be made in accordance with Council rules and procedures; and where this relates to land and properties Cabinet approval is required in accordance with the provisions in section 19 below. The disposal of all property should be reported to the Director for Finance and Resources to be reflected in the resources available to the capital programme and reported to Cabinet via the Quarterly Financial Management Report.
- 18.8. Directors must report annually to Corporate Finance Team any changes to assets within their Service Group (e.g. specialist equipment and attractive/portable items) valued over £500, which are not covered by the ICT and Property inventories, so that where appropriate revisions to the Council's balance sheet can be made.
- 18.9. The Head of ICT and Print will maintain a central inventory of all ICT equipment, including mobile devices. The Head of Property and Facilities will maintain an inventory of all office furniture, fixtures and fittings.
- 18.10. Directors should also ensure that adequate business continuity arrangements are in place in the event of disaster or system failure.

### **Care and Education Contracts for Individuals**

- 18.11. These regulations recognise that within areas such as Adult Social Care, Children's Social Care contracts and Special Education Needs (SEN) residential and day school contracts there may be:
  - a) 'block' contracts - where a number of beds, places or services are provided by the contractor at pre-agreed pricing schedules, to which the Council may refer users over the contract period; or
  - b) 'spot' contracts - one-off contracts meeting an individual user's needs, or contracts where a number of beds, places or services are provided by the contractor without pre-agreed prices, such prices to be agreed upon each referral of a user over the contract period.
- 18.12. The Directors of Adult Services and Children's Services will seek to maximise the use of block contracts where this represents best value for the Council and meets the individual needs of the person requiring care and/or education.

- 18.13. The relevant Directors will ensure that the purchasing of placements provides value for money. The relevant Directors will also, where feasible, enter into framework and/or approved provider arrangements to improve quality and value for money.
- 18.14. The following provisions apply to contracts referred to in 18.11 above:
- (a) All Contract Procedure Rules apply to block contracts;
  - (b) A Director may award spot contracts, which will be reviewed at least annually as part of the review of whether the service provided continues to meet the needs of the service user;
  - (c) 'Spot' contracts which meet the financial threshold for Light Touch Regime (LTR) services must follow the rules detailed in 35 of the Contract Procedure Rules. Any 'spot' contracts which do not comply with the LTR provision under section 35 of the Corporate Procurement Rules, must comply with the Emergency Procedure detailed in section 20 of the Contract Procurement Rules.

### **Leasing**

- 18.15. For leased assets, Service Groups should verify with the Director for Finance and Resources that these have been categorised and recorded correctly in accordance with International Financial Reporting Standards and CIPFA Code of Practice. If in doubt colleagues should consult the Corporate Finance Team. This applies to all assets including property, land, equipment and vehicles.
- 18.16. No leasing agreement should be entered into without the prior agreement of the Director for Finance and Resources or Deputy Section 151 Officer(s). For all leases involving land and or buildings these must be approved by the Head of Property and Facilities. All decisions on leasing should be considered as part of the initial approval process for the project and will require START documentation to be completed prior to any formal approval. All maintained schools leasing should be approved by the Director for Finance and Resources prior to commitment, with the exception of those leases entered into through the use of the Schools Buyer Network.

### **Surplus Assets**

- 18.17. Surplus, obsolete or unserviceable items (with the exception of leased items that must not be disposed of without the authorisation of the Director for Finance and Resources need to be disposed of in accordance with the directions set out below:
- a) If possible surplus but operational equipment should be offered (at nil cost) to other areas of the Council. A record is to be maintained of such offers. Where another area of the Council can make use of the equipment it will be transferred from one inventory to the other.

- 18.18. If the above fails to identify another area that will make use of the asset an estimate should be made of the items commercial value and opportunities for its sale will be explored through the Procurement Team.
- 18.19. The relevant Director will determine whether to sell the item(s) commercially (preferred option where possible) or offer the items for sale to staff.
- 18.20. Where a commercial sale is selected the Director will approve whatever sale method is considered to produce the most income for the Council. In determining the sale value it should be borne in mind that most such disposals will require VAT to be applied.
- 18.21. Asset disposal proceeds will be treated as capital receipts rather than revenue income (subject to the de minimis limit) and must not be recognised as revenue income
- 18.22. All disposals and sale proceeds must be notified to the Director for Finance and Resources.
- 18.23. Where the provisions identified above are applied but do not identify the sale of surplus items, consideration can be given to the disposal of items to voluntary groups for no payment. Consideration must be given to the donation of items to voluntary groups formally supported by the Council or the Mayors charity. (The Council maintains an annual grant process that provides funding for voluntary groups that can be used to identify potential recipients of surplus items).
- 18.24. Where the provisions do not identify a new owner for the surplus items they may be destroyed/disposed of/recycled through Council waste systems.

## **19. Acquisition and Disposal of Land and Buildings**

- 19.1. The rules set out in this section apply to the Acquisition and Disposal of all land and buildings including acquisitions of land and buildings pursuant to Section 106 planning agreements.
- 19.2. For the purposes of this paragraph 19, the following definitions will apply:
  - (a) "Appropriate Director" means the relevant Director to which the Acquisition or Disposal relate.
  - (b) "Disposal" means the transfer to a third party of an interest in Council land and/or buildings including the transfer of leasehold or freehold.
  - (c) "Acquisition" means the acquisition of an interest in land and/or buildings where the acquiring party is the Council even where the Council is not funding the Acquisition.
  - (d) "Unavoidable Expenditure" means the revenue expenditure in any lease on rent, rates and service charge throughout the period of the lease anticipating that the Council will exercise any option to

maintain the lease throughout the contractual term and/or options are exercised to extend the contractual term.

- (e) “The Relevant Decision Making Body” means the full Council or the Cabinet or a Cabinet Member or a relevant Officer where authority has been properly delegated to such Officer.
- (f) “Valuation” means the valuation prepared in accordance with paragraph 19.9 below
- (g) “Valuer” means a person who is qualified to value land and property by virtue their qualification which is approved by the Royal Institution of Chartered Surveyors.

### **Procedure**

- 19.3. Any proposal for the Acquisition and Disposal of land or buildings, whether freehold or leasehold, needs to be referred to the Director for Finance and Resources and Head of Property and Facilities.
- 19.4. The Acquisition and Disposal of land or buildings by the Appropriate Director should have due consideration to the Council’s strategic approach to capital and be executed as part of the Revenue Budget or Capital Programme as appropriate. All such transactions must only be completed after appropriate consultation and the completion of a detailed financial appraisal which has been authorised by the Director for Finance and Resources.
- 19.5. The Director for Finance and Resources maintains a detailed record of all land and buildings owned by the Council.
- 19.6. Directors are responsible for providing information in a form specified by the Director for Finance and Resources to ensure that this record is accurate, complete and up to date.
- 19.7. The Director for Finance and Resources is responsible for advising the Property Team of any Acquisitions or Disposals, to meet appropriate accounting requirements. This includes the maintenance of the Council’s asset register to reflect all transactional activity in a timely manner.
- 19.8. Acquisition and Disposal of land must be agreed in accordance with the Leader’s Executive Scheme of Delegation.
- 19.9. All legal advice obtained in connection with land and building transactions must be commissioned through the Head of Legal.

### **Valuation**

- 19.10. The Appropriate Director should ensure that an appropriate valuation for each Acquisition and Disposal of land and buildings has been acquired through the Head of Property and Facilities.
- 19.11. The Valuation shall relate to the whole of the Council’s interest in the land and buildings, and in addition, where the Relevant Decision Making Body

has resolved to dispose of less than the whole of that interest, shall also relate to that part of the whole interest, which is to be disposed of.

- 19.12. In assessing the costs relating to Acquisitions and Disposals, as a minimum, the following will be taken into account by the Valuer.

### **Acquisitions**

- 19.13. The cost of freehold Acquisition of land and buildings will relate to the capital sum paid by the Council to third parties whether or not this is funded by the Council.
- 19.14. The cost of the leasehold Acquisition of land and buildings includes any premium paid or received and the total of all other Unavoidable Expenditure over the lifetime of the lease together with the cost of fitting out the accommodation for the Council's use whether or not funded by the Council.

### **Disposals**

- 19.15. The value attributable to a freehold Disposal of land and buildings will relate to the valuation carried out by the Valuer of the whole of the Council's interest in the Land and Buildings to be disposed of irrespective of the consideration to be obtained on disposal.
- 19.16. The savings occasioned by the leasehold disposal of land and buildings include the savings of Unavoidable Expenditure by the Council. The cost of premiums, dilapidations and reinstatement obligations paid to third parties are also to be included.

### **Consultations and Approvals**

- 19.17. The Appropriate Director must ensure that consultation with the Ward member(s) and Parish Town Council(s) have taken place before the disposal of land and buildings in their area, together with consultation with the appropriate Cabinet Portfolio holder, as defined in the Leader's Executive Scheme of Delegation
- 19.18. Approval must be obtained from the Relevant Decision Making Body in all of the following circumstances:
- (a) Before any Acquisition and Disposal;
  - (b) Where a proposed Disposal would be for a value less than that at which the land/building has been valued (under value disposal within the meaning of Section 123 of the Local Government Act 1972). This includes instances where such under value disposal would be covered under the General Disposal Consent Order 2003;
  - (c) Before any application is made to the Secretary of State for consent pursuant to Section 123 of the Local Government Act 1972;
  - (d) Where there is a reserve price to be applied to a Disposal by way of auction under section 19.21 below; and

- (e) Where on a Disposal, the offer proposed for acceptance is not the highest offer available to the Council.

### **Method and Marketing**

- 19.19. Where the Council disposes land, the method of marketing shall be determined by the Valuer in consultation with the Appropriate Director and subject to the provisions below.
- 19.20. As a minimum, disposals will be advertised in an appropriate publication as determined by the Valuer except for a Disposal with a value of less than £50,000, where the Valuer considers that such an advertisement is unnecessary.
- 19.21. If pursuant to section 19.19, the Valuer considers the advertisement unnecessary, the reasons for that decision will be set out in writing and given to the Appropriate Director.
- 19.22. Where the Disposal is to be made by public auction the auction shall be subject to a reserve price determined by the Valuer in consultation with the Director for Finance and Resources and such reserve price shall take into account the Valuation of the property and the obligation of the Council to receive the best consideration.

### **Acceptance of Offers**

- 19.23. The provisions of section 123 of the Local Government Act 1972 which among other obligations require the Council to obtain the best consideration reasonably obtainable where transferring ownership of property must always be taken into consideration.
- 19.24. Except where approval has been granted by the Relevant Decision Making Body in accordance with section 19.17 above, the highest offer shall be accepted and such acceptance shall be subject to satisfactory reference, conditions and approvals of funding. Appropriate due diligence should be carried out before accepting an offer to ensure that the Council is meeting its Money Laundering obligations.

### **Contracting, Public Subsidy and Tax Planning in land transactions**

- 19.25. Officers should note that transactions which on the face may appear to be land transactions could be caught by procurement rules and thereby bringing such transactions under the ambit of Public Contracts Regulations 2015.
- 19.26. Where a land transaction is caught by the Public Contracts Regulations 2015, an appropriate procurement exercise will be required and the Council would be in breach of procurement law if this is not followed.
- 19.27. As part of any proposed Acquisition and Disposal therefore, the Appropriate Director and Valuer must engage early on with finance, legal and the Corporate Procurement Team to ensure that appropriate advice is received on matters pertaining to tax, procurement and Public Subsidy.

- 19.28. No contract for the Acquisition or Disposal of land and buildings shall be entered into unless in a form approved by Director Law and Governance.

## **20. Small Value Assets (Inventory)**

### **Security**

- 20.1. Small value assets are those such as cameras and instruments which are held by Service groups to assist in the delivery of services.
- 20.2. Service groups hold a number of small value assets. Whilst the total value of these assets is likely to be small relative to the overall value of the Council's assets, there would nonetheless be an expectation that the items are securely held and accounted for so long as they have a value to the service.

### **Inventory**

- 20.3. For items with a value greater than £500 the relevant Director should follow paragraph 18.8 Any item purchased with a value greater than £20k will need to follow the processes and approvals required for the Capital Programme prior to acquisition.

## **21. Stocks and Stores**

### **Managing and Accounting for Stock**

- 21.1. Stocks and stores are those assets held for a period pending use or sale. The assets may be individually valuable or collectively valuable and controls are necessary over their receipt, storage, issue and use.
- 21.2. There are two elements:
- (a) A reference to stores held mainly as consumables with relatively low value; and
  - (b) Stock/stores with a value greater than £5,000 which include items principally used in delivering revenue services or capital projects – typically highways and transport stores.
- 21.3. In relation to consumables a member of staff should be identified by the relevant manager as being responsible for the store. It would be their responsibility to ensure that there is restricted access to the store with an appropriate level of security.
- 21.4. In relation to stocks/stores which have a significant value (e.g. over £5,000 ) Directors are required to nominate an Officer who is responsible for the store and the stock contained within it. Stock checks should be undertaken at appropriate frequencies to confirm the quantity and value of stock held is correct. A copy of the stock position should be submitted to the relevant Senior Finance Manager at the end of each financial year in accordance with the approved timetable and detail required.



## 22. Fleet Management

### Management of Fleet

- 22.1. The acquisition, hire or lease of fleet must be approved by the Director of Environment and Property who will determine the most appropriate procurement route and terms. The Director of Environment and Property will consider the use of existing plant, equipment and vehicles as part of this decision.
- 22.2. The relevant Director (the User) needs to ensure all Officers using fleet assets are properly trained and where appropriate certificated in their use, e.g. driving licences and insurance for vehicles, training and health and safety for plant and equipment.
- 22.3. The Director responsible for the fleet and plant will:
  - (a) Ensure there is a business need (a business case completed by the User) before any item of fleet or plant is purchased, leased or hired. The business case for each item of plant or vehicle must be retained. A review of the business need for all vehicles, plant and equipment must be undertaken on an annual basis.
  - (b) Maintain effective security for all vehicles and plant, and where appropriate fit real time tracker devices and other security measures.
  - (c) Maintain a drivers instruction leaflet outlining the key issues for fleet users. Changes to the instruction leaflet will be agreed with the Director for Finance and Resources and internal audit.
  - (d) Ensure all assets are serviced and maintained safely.
  - (e) Ensure the following information is recorded for all vehicles and plant:
    - (i) Type of vehicle or plant, e.g. van, saloon car, Flat bed lorry.
    - (ii) What and when the vehicle or plant item will be used (in particular the use of the vehicle must identify whether the service need is 24/7 or whether the vehicle might be available for others to use).
    - (iii) Duration of need with start and finish dates.
  - (f) Where the vehicle is not to be kept overnight on Council land or premises, then the express permission of the Director of Environment and Property is required. This will also need to be checked with the Councils Insurance team to confirm that there is no impact on cover. Private use of Council vehicles is strictly prohibited. The Directors of Environment and Property will send an asset register to finance annually by the published deadline

- 22.4. When the User's nominated driver collects the vehicle fleet staff will:
- (a) Check the driver's driving licence and take a copy for their records.
  - (b) Ask the driver to read the Drivers Instruction leaflet and sign it, with the driver retaining one copy and Fleet Management retaining one copy.

## **23. Orders for Goods and Services**

### **Background**

- 23.1. The rules set out in this section are critical to ensuring that all procurement undertaken by the Council is lawful, properly authorised by an appropriate Officer; and within the amount provided by the Council's budget.
- 23.2. The Financial Scheme of Delegation sets approval limits for the authorisation of purchase orders (also known as "official order"). Officers should not delegate their authorisation rights to an Officer of a lower rank unless absolutely necessary.
- 23.3. An official order can only be authorised by those roles set out within the Financial Scheme of Delegation which is limited to permanent Council employees except as authorised by the Director for Finance and Resources.
- 23.4. Any variation to the ordering system must be approved by the Director for Finance and Resources.
- 23.5. Segregation of duties must be observed. The same user cannot request and authorise orders.

### **New suppliers**

- 23.6. When carrying out a procurement, Officers should consider any existing contracts already in place and wherever possible use current suppliers. These existing suppliers should provide good value for money and therefore colleagues need to balance their use and testing the market for more competitive suppliers.
- 23.7. Where the market is tested by quotes or tenders any new suppliers to be used will need to be added to the system at the earliest opportunity.
- 23.8. If a supplier has not previously been used by the Council, Officers should not make a commitment to purchase until the supplier has been created on ERP, and the purchase order approved. Officers should also consider any requirement for quotations or tenders, along with any unusual terms and conditions requested by the prospective supplier. Appropriate advice should be obtained from Legal Services and the Corporate Procurement Team prior to making any commitment.

- 23.9. Officers should note that the process of creating a supplier in the Council's systems includes authorisation for all orders over £25k from Corporate Procurement Team in respect of quotation/tendering rules and from the Procurement Strategic Lead in respect of payment terms not in accordance with the Council's policy of 30 days. Any other concerns about the terms of a prospective supplier should be referred to Legal Services.
- 23.10. Officers are required to follow a separate protocol regarding the appointment and use of agency staff whether this is to cover permanent roles, temporary role or project roles. Details of the protocol are available on the Council's Intranet together with these regulations.

### **Payment via procurement card**

- 23.11. Where Officers make use of procurement cards to procure goods or services they should ensure that such transactions are properly authorised and accounted for in the procurement card system by the cardholder or authoriser.
- 23.12. Where goods and services are made through contracts where Corporate Procurement have an agreed supplier with an embedded procurement card, normal order/approval processes will not apply. Such arrangements are only entered into where there are large numbers of small value transactions.
- 23.13. The use of procurement cards removes the requirement for an official order and creation of supplier accounts.

### **Use of 'Onebill' arrangements**

- 23.14. At the discretion of Corporate Procurement Team, some services are centrally procured and paid under contract. There are a number of scenarios for such an arrangement, including:
- (a) single invoice posted directly to service areas – official order not required.
  - (b) single invoice posted to a co-ordinating service for subsequent charge-out via internal trading – official order required.
  - (c) use of 'embedded' procurement card, so that all requisitions are charged to this card, with a monthly journal to service areas – official order not required.
- 23.15. Budget managers will be able to review details of costs charged to them. This may be by direct access to the relevant supplier system.

### **Issuing an official order**

- 23.16. All purchase orders must be raised on the Councils Corporate Financial System (ERP). Where an alternative system is to be used for a specialist contract this must be approved by the Director of Finance and Resources.

- 23.17. Prior to raising an official order, the colleagues involved should ensure that the order will comply with any rules relating to tenders and quotations. If the Council has a contracted supplier for the goods/services in question, this supplier must be used unless there is prior agreement from the Procurement Strategic Lead. In the absence of a contracted supplier, Officers are expected to make every effort to secure the best terms for the Council.
- 23.18. Where works are to be commissioned it essential that the ordering officer(s) consider whether this falls within the scope of the Construction Industry Scheme (CIS). Where this is the case, the ordering officer must ensure that the CIS details for the supplier held by the Council are current and also ensure that the supplier is requested to clearly identify exempt amounts on each of their invoices issued under CIS, or clearly state when an invoice is outside of CIS.
- 23.19. All orders must be authorised before issue to the supplier.
- 23.20. In a genuine emergency an order may be raised in other ways, but an official order must be issued as a priority on the next working day.
- 23.21. All colleagues must make themselves aware of the process for procuring goods and services and should allow sufficient time for any order to be raised.
- 23.22. In requesting an order, colleagues must ensure that the correct price is quoted, unless there is a valid reason for a price not to be quoted, taking account of any relevant discounts as agreed by the supplier in the quotation or tender.
- 23.23. Officers should ensure that the category coding of orders is appropriate for the goods/services being procured.
- 23.24. Authorisers must ensure that there is sufficient budget before allowing an order to be issued. This requires that the budget code used on the order is correct.
- 23.25. Officers involved in issuing orders should ensure that they have no conflict of interest regarding the order being issued. Any suspected conflict should be referred through line management.
- 23.26. An order must only be issued once to avoid duplication of cost and payment. If an order is in error it should be amended as soon as possible. In the rare event that an order is in error and needs to be raised again, the original order must be cancelled to ensure that no further invoices can be processed and the replacement order must not include any cost already invoiced on the original order.

### **Receipt of goods/services**

- 23.27. All goods must be checked on receipt. If satisfactory, the order should be goods received at the earliest opportunity. Delivery notes should be

retained by the ordering department in order to support any goods receipt.

- 23.28. In respect of services received, goods receipting should be undertaken on a reasonable basis. It will often be sufficient to goods receipt based on discussion and agreement with the supplier of amounts to be billed, but it may be necessary to complete estimated goods receipting at year/month end if the unbilled amounts involved are considered to be significant.
- 23.29. If goods/services received are considered to be unsatisfactory, the relevant officer should notify the supplier at the earliest opportunity and agree remedial action.
- 23.30. Goods received into stock must be held in a suitable location to safeguard against loss.

### **Dealing with invoices**

- 23.31. All official orders require suppliers to send their invoices directly to the Payable Team based in Cambridge. If an invoice is received in the service area in error, the recipient must advise the supplier of their error and immediately pass the invoice to the Payables Team.
- 23.32. When the invoiced quantity exceeds the quantity goods receipted, the invoice will be processed and automatically blocked for payment. Similarly when the invoiced unit price exceeds (outside tolerance) the authorised unit price on the order, the invoice will be processed and automatically blocked for payment.
- 23.33. A blocked invoice results in an email to the Officer who authorised the order. This email must be acted on promptly, either by contacting the supplier to agree an appropriate credit note and/or by increasing the goods receipting and/or order price to allow the invoice to be paid.
- 23.34. Invoices which do not quote sufficient information to enable them to be processed or are otherwise inappropriate (for example written in pencil) will be returned to the supplier requesting submission of a valid replacement invoice. No officer or its contractors should amend or alter invoices to enable payment.
- 23.35. Certificates for contract payments will not be accepted as invoices – the supplier must submit VAT invoices for the certified amount.
- 23.36. Invoices will be retained for six years.

### **Management of orders**

- 23.37. Officers must ensure that all live orders for their area are reviewed as a minimum once every month. The review must identify and act on any unusual live orders.

## **24. Imprests/Petty Cash**

### **Operation of Imprests and Petty Cash**

- 24.1. Imprests/petty cash should only be used for emergency or minor payments where other procurement routes are not possible. In this event, heads of service or Directors can request the Director for Finance and Resources to provide an appropriate level of Imprest/petty cash.
- 24.2. Imprest/petty cash accounts must never be used to bank income.
- 24.3. Accounts must never be used to cash personal cheques or for any other expenditure not within the remit of the Council.
- 24.4. Each individual payment needs to be separately detailed in the finance system and referenced to the associated receipt.
- 24.5. Imprest claims must be maintained directly in the finance system at least once a week, with claims being finalised (approved) at least once a month.
- 24.6. If leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest/petty cash account, the responsible Officer must account to the Director for Finance and Resources for the amount advanced.
- 24.7. Officers responsible for imprests/petty cash must provide an annual statement showing all individual payments exceeding £50 (including copy receipts), explaining why these were made from an imprest and attaching evidence of proper authorisation according to the Financial Scheme of Delegation.
- 24.8. Officers responsible for imprests/petty cash must re-apply for their account on an annual basis, explaining the ongoing need and noting what other options have been considered.
- 24.9. Accounts may be frozen or closed if Officers fail to comply with the requirements above.

## **25. Reimbursement of Expenses and Payment of Allowances**

### **Procedure**

- 25.1. Methods of procurement should be in accordance with the Contract Procedure Rules.
- 25.2. All claims by employees for reimbursement of mileage and business expenses need to be submitted to payroll in the approved form via ERP.
- 25.3. Receipts must be provided for all expenditure claimed wherever possible. A valid VAT invoice must be obtained where any recoverable value.
- 25.4. All claims for a financial year are to be submitted not later than one month following 31 March in any year.
- 25.5. Authorisation of claims must be completed by the line manager of the claimant whose responsibility it is to ensure that expenditure has been incurred wholly, exclusively and necessarily in respect of Council duties.

## **26. Payment of Grants to External Bodies**

### **Payment Responsibility**

- 26.1. Where grants to external bodies are agreed by the Cabinet it is the responsibility of the relevant Service Group to ensure that the payment is made in accordance with the terms agreed by the Cabinet.

## **27. Partnerships**

- 27.1. A 'partnership' is defined as a joint working arrangement where partners:
- (a) are otherwise independent bodies or groups;
  - (b) agree to co-operate to achieve common goals;
  - (c) create a new organisational structure or process, separate from their own organisations to achieve these goals;
  - (d) jointly plan and implement an agreed programme;
  - (e) share relevant information;
  - (f) pool risks and rewards; and
  - (g) have dual accountability to both the partnership and their own organisation.

### **Entering into a new partnership**

- 27.2. All Councillors and Officers currently involved in or considering 'partnership' working should have regard to the Council's Partnership guidance.
- 27.3. It should be noted that the selection of partners must be underpinned by a procurement process as set out in Contract Procedure Rules except for the following circumstances:
- (a) where there is no exchange of funds (e.g. information sharing only);
  - (b) where the Council is providing grant funding (e.g. to a voluntary sector body, where that body would be expected to undertake a procurement exercise) for the delivery of a service, supply or works (e.g. this would not apply where funding depends upon detailed specified requirements);
  - (c) where it is permitted, required or encouraged by law (e.g. joint committee, pooled budgets and integrated services with Health Trusts).
- 27.4. As this area can be complex and legal challenges can arise the approval of the Chief Executive, Director for Finance and Resources and Director of Law and Governance must be sought before formal discussions are held with potential partners.

- 27.5. Any financial relationship with a partner must be fully documented and approved.
- 27.6. Where the entering into a partnership requires a financial commitment from the Council, either immediate or potential, for which the budget provision is not available, or where the acceptance of external funding would lead to a financial commitment beyond the current year, the approval of the Cabinet must be secured before the Director commits the Council to any partnership agreement. In addition, a clear exit strategy and risk share approach must be in place prior to entering into any partnership agreement.

### **Management of partnerships**

- 27.7. The Director(s) of the applicant Service Group is responsible and accountable for the performance and financial monitoring of each partnership. A risk assessment should be maintained in relation to the Council being a party to each partnership.
- 27.8. Where receipt of funds from a partner or third party (i.e. matched funding) is part of any grant submission, Directors must adhere to the guidance which has been provided by the Director for Finance and Resources.
- 27.9. Internal Audit's rights of access to all Officers, buildings and information, explanations and documentation required to discharge the audit role should be written into the appropriate agreements with these organisations. This is the responsibility of Directors.

### **Limited liability partnerships**

- 27.10. This regulation sets out the Council's approach when working with the limited liability partnerships (LLPs) of the Council.
- 27.11. Partnership arrangements may be used as a means of acquiring goods, works or services. Approval of a partnership arrangement requires that:
  - (a) Costs and income are provided for in the Council's budget;
  - (b) Arrangements are in place for accurate accounting for costs and income;
  - (c) Sufficient controls are in place for the successful operation of the partnership, including arrangements for sufficient access to financial and other records;
  - (d) Carry forward arrangements have been determined;
  - (e) A formal risk assessment has taken place and a management strategy devised; and
  - (f) An auditing regime has been established.



## **Background**

- 27.12. The Council owns / part owns two limited liability partnerships:
- Milton Keynes Development Partnership (MKDP) – which is a development vehicle for the Council and has taken on the assets purchased from the Homes and Communities Agency.
  - Develop (MK) – which is together with MKCC, a parent of MKDP.

### **Milton Keynes Development Partnership (MKDP)**

- 27.13. The ongoing services which MKDP will provide to the Council will be set out in Service Level Agreements (SLAs) and the cost of providing these agreements will be fixed. MKDP are a contracting authority and MKCC must follow relevant procurement rules before appointing MKDP to do any works.
- 27.14. The ongoing services the Council will provide to MKDP will be set out in SLAs. The cost of these SLAs will be agreed with the LLP. If the LLP requires additional services from the Council a discussion will need to be undertaken with the relevant service manager to determine if there is sufficient capacity to meet this request. If additional costs will be incurred by the Council then these costs should be agreed in advance of the work and met by the relevant LLP.
- 27.15. Where appropriate, charging for SLA services (both to and from the LLP) will be managed by the finance function. Any agreements for meeting additional costs (both to and from the LLP) are subject to the Financial Regulations/ Financial Procedure Rules relating to sales and purchasing, except that procurement/tendering rules do not apply in this instance.

## **28. Voluntary Sector**

### **Procedure**

- 28.1. Where the Council enters into partnerships with the voluntary sector to provide services to the public an SLA must be agreed with the relevant community group unless proper contract arrangements are in place. All proposals for payments to the voluntary sector must be reviewed by legal for any subsidy control issues approval prior to the partnership being agreed.
- 28.2. Monitoring of the contract or SLA as appropriate should be on a regular basis and any discrepancies from this will be reported to the relevant Director.

## 29. Internal Audit Arrangements, Fraud and Corruption

### Internal audit

- 29.1. The Council will maintain an adequate and effective internal audit service in accordance with the latest Accounts and Audit Regulations and in line with the CIPFA Code of Practice for Internal Audit in Local Government and professional auditing standards. Internal Audit will review, arrange and report upon:
- (a) whether operations are being carried out as planned and objectives and goals are being met;
  - (b) the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation, or externally;
  - (c) the completeness, reliability and integrity of information, both financial and operational;
  - (d) the extent to which the Council's assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud and corruption, waste, extravagance, abuse, ineffective management and poor value for money; and
  - (e) the economy, efficiency and effectiveness with which resources are employed.
- 29.2. Internal Audit will have an unrestricted range of coverage of the Council's operations and therefore has authority to:
- (a) enter at any time Council premises or land subject to any statutory or contractual restrictions that may apply, e.g. health and safety;
  - (b) access all records, documents, correspondence, information and data relating to all areas of business of the Council regardless of how the information is held and remove records as necessary for the purposes of their work (including records of the Council's agents and contractors);
  - (c) require and receive such explanations as are necessary concerning any matter under examination; and
  - (d) require any employee or agent of the Council to produce cash, stores or any other Council property under their control.
- 29.3. This access applies not only to the Council but also to:
- (a) organisations to whom the Council has given grants;
  - (b) organisations with whom the Council contracts; and
  - (c) partner organisations in any scheme for which the Council has responsibility as lead body.
- 29.4. Directors in consultation with Procurement will provide appropriate access to safeguard the interests of the Council this is explicit in the

appropriate agreements/contracts with the aforementioned external organisations.

- 29.5. Internal Audit will have unobstructed direct access and the right of report to the Chief Executive, colleagues, heads of service, the Monitoring Officer, the Council's external auditors, the Cabinet, the Leader, the Cabinet member with responsibility for Audit and the Chair of the Audit Committee.

### **30. Risk Management and Insurance**

- 30.1. The Director for Finance and Resources is responsible for the development, monitoring and review of the Council's risk management policy, which is approved Audit Committee each year, and is the Council's principal risk management adviser and co-ordinator.
- 30.2. Each Director is responsible for identifying, assessing, controlling and recording risks within his/her Service Group using GRACE and will undertake a quarterly review of Service Group risk, which may be subjected to internal audit review.

### **Business Continuity**

- 30.3. A business continuity plan should be in place for all high value/high risk contracts.
- 30.4. Directors through their service managers are responsible for ensuring the continuity of their own services.
- 30.5. Directors/Group Heads of Service will give guidance on the appropriate service priorities to aid planning and recovery of services.
- 30.6. Directors will determine the appropriate level of business continuity planning for each of their services working with the Council's Business Continuity Officer. Directors are responsible for ensuring that their Business Continuity Plans are up to date and tested at regular intervals to ensure they remain effective.

### **Preventing Fraud and Corruption**

- 30.7. All Officers , Councillors, agents, contractors and strategic partners have responsibilities to protect the funds they administer on behalf of the Council. Council resources must be administered to the benefit of the taxpayer and not the inappropriate personal benefit of any of the above.
- 30.8. All Officers , Councillors, agents or contractors of the Council have a responsibility to bring to the attention of the Head of Internal Audit, Director for Finance and Resources or their Director any suspected fraud, corruption or irregularity.
- 30.9. The Head of Internal Audit, in consultation with the Director for Finance and Resources if appropriate, will take such steps as considered necessary by way of investigation or report. Wherever possible the Director and the Officer referring concerns is to be kept informed.

## **Insurance**

- 30.10. The Council maintains various policies and internal risk management measures to protect the Council's interests.
- 30.11. The Council, through the Shared Lead Authority arrangements with Cambridgeshire County Council has delegated the day to day management of its insurance function. The Insurance Manager has delegated authority to enter into insurance arrangements on behalf of the Council with the exception of schools who under delegated budget authority can select their own insurance provider. The main tendering arrangements for the Council's insurance must be awarded within the Council's normal procurement rules, which would usually be Cabinet.
- 30.12. The Insurance Team hold a central record of the Council's insurance policies and claims. Authority to manage claims, including settlements is delegated to the Insurance Team. The Insurance Team report directly to the Director for Finance and Resources and provide quarterly management reports on insurance activity and losses.
- 30.13. Where incidents occur which might give rise to a claim this must be reported to the Insurance Team at the earliest opportunity, preferably the same day that the event takes place. Service Groups are required to strictly follow the advice of the Insurance Team including communications with potential claimants, third party insurers etc. The Insurance Team must be involved in any discussions about potential settlements and if appropriate will lead this process.
- 30.14. To ensure best practice and manage future risk 'near miss' reporting will be used to ensure that the Council's systems and processes are effective.

## **Acronyms used in this document**

- CFO – Chief Financial Officer
- CLT – Corporate Leadership Team
- GF – General Fund
- HCA – Homes and Communities Agency
- HRA – Housing Revenue Account
- SLA – Service Level Agreement
- DLUHC – Department of Levelling Up, Housing and Communities

## CONTRACT PROCEDURE RULES



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<ul style="list-style-type: none"> <li>17 Execution</li> <li>18 Contract Register</li> <li>19 Report of Non-Compliance</li> <li>20 Emergency Procurement Authorisation</li> <li>21 External Framework Agreements</li> <li>22 Creation of Internal Framework Agreements and DPS</li> <li>23 Contracts reserved for Mutuals</li> <li>24 Concession Contracts</li> <li>25 Contract Management</li> <li>26 Contract Variations</li> <li>27 Contract Extensions</li> <li>28 Social Value ( More for MK)</li> <li>29 Insurance</li> <li>30 Performance Bonds and Parent Guarantees</li> <li>31 Leasing</li> <li>32 Land Transactions</li> <li>33 Subsidy Control</li> </ul>	

<b>Part C – Contract Regulations</b>
34 Compliance with Regulation 84 Public Contracts Regulations 2015
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## **Introduction**

These Contract Procedure Rules (the “Rules”) are part of the Council’s Constitution and must be followed whenever you are buying goods, services, or materials or for the execution of works. It also applies when you are leasing equipment, vehicles, and plant.

Project Leads are required to follow these Rules in all cases.

It is the responsibility of all Directors to ensure that their staff are adequately trained in the application of these Rules and that audit trails are in place for all procurement. Staff must complete all Mandatory Training that is provided as a condition of their employment.

The Council is obliged to make these standing orders under s.135 of the Local Government Act 1972, which must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited, but may exempt from any such provision contracts for a price below that specified in standing orders and may authorise the authority to exempt any contract from any such provision when the authority are satisfied that the exemption is justified by special circumstances. The Rules shall be reviewed at least every two years.

The Rules must be read in conjunction with other parts of the Council’s Constitution (for example, if a decision about a contract is also a “key decision,” then the requirements set out in the Constitution in relation to Rules and to key decisions will also have to be met).

Any dispute regarding the interpretation of these Rules shall be referred to the Strategic Procurement Lead/Head of Contracts and the Director - Law & Governance.

Anyone making procurement decisions should be familiar with these Rules and engage with your Service Area Procurement Leads to obtain complete guidance. Project Leads must ensure that any persons and or organisations acting on behalf of the Council fully comply with these Rules.

The Contract Procedure Rules apply to all procurement activities, including expenditure of external funding, such as grant allocation, received by the Council from external sources.

If the rules are not followed and/or there is a failure to enter into a contract on behalf of the Council in accordance with the Rules it will be a breach of the MKCC Code of Conduct, and this could be a disciplinary offence. Failure to comply with these Rules could also result in legal proceedings against the Council. All Project Leads are responsible for reporting any suspected breach of these rules to the Strategic Procurement Lead/Head of Contracts, the Head of Internal Audit, or the Director- Law & Governance.



## **1. Procurement Thresholds**

- 1.1. The Council must undertake all of its procurement activity in line with the Public Contract Regulations (PCR) 2015 as amended.
- 1.2. The current Find a Tender Service (FTS) thresholds can be found by clicking on the link below:  
<https://www.gov.uk/government/publications/procurement-policy-note-0921-thresholds-and-inclusion-of-vat>
- 1.3. The Council's internal procurement thresholds can be found in the table below and show the rules that must be followed when undertaking any procurement activity.
- 1.4. If the preferred supplier Quotation/Tender obtained exceeds the threshold applicable to the procurement route selected, the Project Lead must consult with the Corporate Procurement /Commissioning team for approval to proceed or restart the procurement.

## **2. Procurement and Grant Awards**

- 2.1. A grant is a financial gift or financial contribution which can be given to an organisation or an individual. It is not intended to be paid back except where the recipient doesn't use it for the given purposes or within the given time in which case claw-back can apply. From a procurement perspective, other than the requirement for the recipient to use the grant for the given purpose and similar provisions such as use by date grants should not usually be accompanied by requirements as would be contained in a contract specification as this would constitute a contract for services and would require an appropriate procurement exercise to be conducted.
- 2.2. Where a Project Lead is considering making a grant payment to another organisation, then advice must be sought from Legal Services and Corporate Procurement or Commissioning, to confirm that the proposed transaction does not constitute a service that should be subject to procurement. If in the opinion of Legal Services, the proposed grant constitutes a service contract then these Rules must be followed. Where legal advice is that the proposed arrangement constitutes a grant, then the procedures and approvals relating to grants as set out in the Council's Financial Regulations must be followed.

### 3. Procurement Threshold Requirements

Total Contract Value	Requirement
Less than £5,000	<p>One written quotation is sufficient, with a written record kept for 24 months. Where a series of purchases are undertaken with the same supplier and service then the aggregate value of these should be used when applying this limit.</p> <p>The Governance approval to procure is via officer scheme of delegation and recorded on the Council's financial system.</p>
More than £5,000 but does not exceed £25k	<p>Three written quotations to be obtained and records retained for 6 years after the end of the contract period. The Council's terms and conditions must be used.</p> <p>Where 3 written quotations cannot be obtained Corporate Procurement /Commissioning will determine if appropriate to proceed.</p> <p>Where frameworks are being utilised, the rules of the framework will be followed in regard to competition and the use of frameworks own e-tendering portal will only be allowed following approval by Corporate Procurement/Commissioning. The Corporate Procurement Team/Commissioning Team must be notified of all contracts awarded over £5,000 to ensure that they are published on the Council's Contract Register and Contracts Finder. You should do this by sending a signed Report of Officers decision to <a href="mailto:corporateprocurement@milton-keynes.gov.uk">corporateprocurement@milton-keynes.gov.uk</a> for all Corporate Procurement or <a href="mailto:NSContracts@milton-keynes.gov.uk">NSContracts@milton-keynes.gov.uk</a> for all Commissioning projects.</p> <p>The Governance approval to procure is via relevant officer decision report and recorded on the Council's financial system.</p>
More than £25k and up to £100k	<p>Tenders must be obtained via the e-tendering portal. The opportunity will be made available to all suppliers registered on the E-Tendering portal and all measures will be carried out such as market engagement to encourage competition. The Council's terms and conditions must be used.</p> <p>Where frameworks are being utilised, the rules of the framework will be followed in regard to competition and the use of frameworks own e-tendering portal will only be allowed following approval by Corporate Procurement/Commissioning</p> <p>The Governance approval to procure is via relevant officer decision report and recorded on the Council's financial system.</p> <p>Records must be retained for 6 years after the end of the contract period.</p>
Over £100k up to £500k	<p>Tender returns to be obtained via the e-tendering portal unless calling off from a framework where the rules of the framework will be adhered to.</p> <p>Where frameworks are being utilised, the rules of the framework will be followed in regard to competition and the use of frameworks own e-tendering portal will only be allowed following approval by Corporate Procurement/Commissioning.</p> <p>The Governance approval to procure is via the Procurement Approach set out in these Contract Procedure Rules.</p> <p>Records must be retained for 6 years after the end of the contract period.</p>

Over £500k	<p>Tender returns to be obtained via the e-tendering portal unless calling off from a framework where the rules of the framework will be adhered to.</p> <p>Where frameworks are being utilised, the rules of the framework will be followed in regard to competition and the use of frameworks own e-tendering portal will only be allowed following approval by Corporate Procurement/Commissioning</p> <p>The Governance approval to procure is via Delegated Decision or Cabinet.</p> <p>Records must be retained for 6 years after the end of the contract period.</p>
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NB: Contract value is the actual or estimated annual sum (excluding VAT) multiplied by the number of years that the contract is to be awarded for including any extension options. For example, if you propose to let a contract for 3 years with an option to extend for 2 years, for procurement purposes, the contract value will be the estimated or actual value over 5 years excluding VAT.

For only determining if a project is above the Find a Tender Service (FTS) threshold the calculation of the estimated contract value must be inclusive of VAT.

#### 4. All Contracts

4.1. All contracts (both procurement and disposals) must:

- Apply the principle of the requirement to aim to achieve Best Value for public money spent.
- be consistent with the highest standards of integrity.
- ensure fairness and transparency in allocating public contracts.
- comply with all legal requirements.
- allow sufficient time for suppliers to prepare detailed and quality tenders and for any clarification to be managed effectively.
- publish and apply objective evaluation criteria.
- support the Council's corporate and departmental aims and policies.
- have an appropriate level of contract monitoring to ensure that the works, goods, and services are being delivered as specified within the tendered price.

##### **Defining the need (Is a procurement required?)**

4.2. The options for the delivery of the required supplies, services or works must be considered. The options include but are not limited to:

- not buying the supplies or services or having the works done at all.
- provision of the supplies, services or works internally by the Council.
- providing the supplies, or services in partnership with an existing partner / contractor where that contract permits.
- by commissioning jointly with another public contracting authority, where this aligns with our corporate objectives and provides Best Value.

- shared service delivery with another public contracting Authority, where this aligns with our corporate objectives and provides Best Value.
- procuring a third-party service provider to provide the ongoing supplies, services or works.
- consider whether appropriate and affordable Social Value considerations can be built into the specification.
- consider whether the requirements can be broken down to allow competition from smaller suppliers, whilst remaining compliant with the relevant Public Contract Regulations.
- consider the overall shape and size of the requirement in relation to the market available to deliver in order to determine the best sized contract to tender. Consideration should be supported by evidence on the regional supply chain and best practise.

## 5. Tender Process

- 5.1. Where the Estimated Total Cost is less than £5,000, a single written quotation is sufficient, with details kept locally for a 24-month period.
- 5.2. Where the Estimated Total Cost is more than £5,000 but does not exceed £25,000, at least three (3) written quotations shall be sought and the details kept for 6 years following the end of the contract.
- 5.3. The Corporate Procurement Team must be notified of all contracts awarded over £5,000 to ensure that they are published on the Council's Contract Register and Contracts Finder.

You should do this by sending a signed Report of Officers decision to:

[CorporateProcurement@milton-keynes.gov.uk](mailto:CorporateProcurement@milton-keynes.gov.uk) or [NSContracts@milton-keynes.gov.uk](mailto:NSContracts@milton-keynes.gov.uk).

- 5.4. Where the Estimated Total Cost is above £25,000, you must seek advice from the Corporate Procurement / Commissioning Team before you commence any procurement activity to confirm the approach to be adopted. Where possible at least three (3) written tenders must be obtained via the E-tendering system and retained with all other financial documentation.
- 5.5. Where the Estimated Total Cost exceeds £100,000 the Project Leads must:
  - liaise with the Corporate Procurement/Commissioning team(s) and complete a tender request form with all required information, including budget figures and validation from finance colleagues.
  - consult Legal Services and Finance in advance, as to the level of their involvement needed.
  - for all tenders and contracts over £100,000 up to £500,000 a procurement approach report must be completed.
  - For all tenders and contracts with a value above £500,000, notify Democratic Services and place entry on the Forward Plan for Cabinet decision or Delegated Decision to tender and a separate line for award, this includes extensions or variations to contract.
  - manage the procurement process consistent with the MK Approach of project management.
  - Undertake a procurement where competition can be run via the Council e-tendering portal.
  - tender in a form consistent with these Rules.

- seek the approval to tender and award from the relevant Director for all tenders up to a value of £500,000.
- seek the approval to tender and award from Delegated Decision or Cabinet for all tenders above £500,000 in value.
- facilitate the execution of the contract based on the Council's standard terms and conditions for supply or services, supplies or works or such other form as provided by Legal Services, where such contract has been awarded by Cabinet or other such nominated Committee or Officers in accordance with the scheme of delegation.

## **6. Roles and Responsibilities**

### **Directors**

- 6.1. Directors are responsible for all contracts tendered and let under their control. They should ensure sufficient oversight and governance is in place to satisfy themselves of compliance with these rules. To assist with this the Corporate Procurement Team will make available a Dashboard of all current contracts held. Directors must ensure that this is reviewed on at least a quarterly basis, the information held is correct and complete.

### **Officers**

- 6.2. Any Officer (Project Lead) undertaking these duties must:
- Proactively plan procurements for which they are responsible and to ensure that they seek at the outset the appropriate legal, finance and procurement advice to comply with these rules.
  - under proper authority granted under the Leader's Scheme of Delegation or Cabinet resolution
  - comply with the processes set out in the Constitution.
  - have adequate budgetary provision and authority.
  - apply the MK Approach (the Council's project management standard) to each revenue procurement in excess of £100,000 pa and £10,000 for capital.
  - have regard to the guidance available from Corporate Procurement & Commissioning and ensure Value for Money.
  - Ensure that appropriate consideration of subsidy control is given. Advice should be sought at the earliest opportunity and followed in timely fashion.
  - check whether a suitable corporate contract or other such externally let contract or framework agreement exists before seeking to let another contract.
  - keep the records of all quotation and tender documentation and contracts, including those documents relating to unsuccessful bids and quotes, for a period of 6 years from the expiry or termination of a contract.
  - Ensure that internal accounting procedures are followed in the Council's financial system as set out in Financial Regulations.
  - Ensure that performance indicators and contract monitoring arrangements are built into every contract awarded.

- Ensure that they obtain advice from HR and Legal Services where the tender is expected to result in a TUPE transfer either of Council employees or of a service provider to the Council.
- 6.2. Project Leads must follow all necessary Legal, Financial, Procurement, HR, and any technical advice. Where a director, or a Project Lead does not follow the advice given, then this must be raised with the Director of Law and Governance and /or Director of Finance and Resources.

**Strategic Procurement Lead (Corporate Procurement Team)/Head of Contracts (Commissioning Team)**

- 6.3. The Strategic Procurement Lead/Head of Contracts shall:
- Hold acceptance letters entered into by the Council that were let using the Council's E-tendering system.
  - Ensure that regular training is offered in relation to procurement processes.
  - Ensure that the E-tendering system provides an effective public register of current contracts and upcoming opportunities; and
  - Ensure that appropriate support is given to Project Leads undertaking activity under these rules, including instruction on the correct procurement process, market engagement, use of Frameworks, Tender Requirements, Scoring Evaluation and Contract Award.

**Legal Services Contracts, Procurement and Governance Team**

- 6.4. The Legal Services Contracts, Procurement and Governance Team shall:
- Provide specific advice to Project Leads on areas of procurement law, contracts law as well as governance advice, subsidy control requirements, contract extensions and variations, pensions and admission agreements, TUPE undertakings, performance bonds, parent company guarantees.
  - Provide advice to Project Leads when dealing with unusual issues encountered during a procurement such as late tender submissions, complex clarification issues during tender evaluation and challenges to contract award decisions.
  - Provide advice on appropriate form of contract to be used.
  - Ensure that appropriate legal support is given to Project Leads undertaking activity under these rules including attendance and advising at project boards as appropriate.
  - Determine whether any external legal support is appropriate for a project and if required, commission and instruct such external legal advisers with appropriate oversight and engagement.
  - On instructions from relevant Project Leads, prepare and issue contracts for execution by the successful contractor and the Council following tender completion, governance approval and expiry of standstill where applicable.
  - Record qualifying subsidies that are granted by the Council on the National Database.

**6.3. Senior Finance Managers**

The Senior Finance Manager(s) shall:

- Ensure that an appropriate level of financial assessment is carried out to confirm the strength of the organisations and their ability to fulfil the contract prior to award contract.
- Ensure that appropriate finance support is given to Project Leads undertaking activity under these rules including attendance and advising at project boards as appropriate.
- Determine whether any external financial support is appropriate for a project and if required, commission and advise on such external finance advisors with appropriate oversight and engagement.
- Advise on the suitability or financial tender evaluation criteria.
- Assist with the financial evaluation of tenders.
- Advise on the commercial justification and approach to managing potential contract variations and budgetary implications.
- Determine what, if any, level of performance bond, security is required for larger or high-risk contracts based on the Directors risk assessment.
- Support officers with complex procurement issues relating to Pensions, Insurance etc.

## **7. Legal Advice**

- 7.1. Where legal advice is referred to in these Rules, it will be for legal services to determine the level and type of legal engagement that is proportionate to the matter, including costs, length of seeking external legal advice. No external legal advice can be commissioned except via legal services.
- 7.2. Legal advice is required for any change to the Council's standard Terms and Conditions. The Council's standard terms and conditions for supplies, services, ICT, and consultancies as applicable or other form of contract as advised by Legal Services are to be utilised for all procurement activity.
- 7.3. Framework terms and conditions are to be used where the award of contract is made using a framework and any amendments to such terms or additional terms and conditions may only be made or used to the extent permitted by the terms of such framework as approved by legal. This is in order to remain compliant with procurement law.
- 7.4. Project Leads shall obtain legal advice for all contracts (regardless of value) if it involves all or any of the following:
  - significant change(s) to a previous service, or provision of a new service for the Council.
  - the potential transfer of Council employees to a contractor.
  - the use or development of Council land or premises.
  - variation to contract including contract extension which are not provided for under the contract.
  - early termination to contract.
- 7.5. Project Leads shall obtain legal advice, for termination of contracts or expiry of contracts which could potentially trigger a potential transfer of a third-party employee or asset.

7.6. If any Project Lead is asked to issue a certificate under the Local Authorities (Contracts) Regulations 1997 they must immediately report the situation to the Director-Law & Governance. Any such certificate must be approved by the Director - Law & Governance and also signed by the S151 Officer.

7.7. The Project Lead must obtain the advice of Legal Services:

- where the estimated total cost of the contract equals or exceeds £100,000.
- for all leasing arrangements.
- where the Project Lead is proposing to use the contractor's own terms and conditions.
- for the purchase of application software of an aggregate value of £25,000 or more.

## **8. Financial Advice**

8.1. For all contracts with an estimated value equal to or exceeding £100,000, Project Leads must obtain advice from the appropriate Senior Finance Manager at the earliest stage of the procurement process.

8.2. Where financial advice is referred to in these Rules, it will be for Finance to determine the level and type of finance engagement that is proportionate to the matter and the seeking of external financial advice. No external financial advice can be commissioned except via Finance.

8.3. Project Leads shall obtain finance advice for all contracts (regardless of value) if it involves all or any of the following:

- significant change(s) to a previous service, or provision of a new service for the Council.
- the potential transfer of Council employees to a contractor.
- the use or development of Council land or premises.
- There is a need to confirm the financial strength of the successful contractor due to the level of risk in the event of contractor failure, e.g., service disruption, financial loss, reputational damage etc.
- All contract variations which have a financial or material impact on the existing contract.
- All contract extensions which if exercised, would increase the cost to the Authority or impact the level of risk.
- Where a contract may require a performance bonds, parent company guarantee or specialist insurance.
- Where the contract involves some form of asset leasing

8.4. Project Leads shall obtain advice from finance, for early termination of contracts or expiry of contracts which could potentially trigger a potential transfer of a third-party employee or asset.

## **9. Prevention of Corruption**

9.1. All Officers must comply with the Council's Code of Conduct for Employees and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is also a criminal offence which may lead to prosecution.



- 9.2. An Officer or Councillor must disclose any offer made by an existing or bidding supplier to their Director.
- 9.3. Directors shall maintain a record of such offers, inform the Director - Law & Governance and Audit & Risk Management and agree such action as appropriate.

## **10. Disclosures of interest**

- 10.1. Officers must give immediate written notice to their director or to the Chief Executive Officer (as appropriate) where it comes to their knowledge that they have a potential conflict of interest with any MKCC quote/tender or contract.
- 10.2. Officers are reminded at every appraisal to record such interests but must highlight potential conflicts of interest immediately they become aware of them. Failure to do so may result in disciplinary proceedings and/or criminal prosecution.
- 10.3. Councillors must declare any Disclosable Pecuniary Interest or other personal interest in any letting or management of contracts and must act accordingly as defined or required by the Council's Members' Code of Conduct. Failure to do so may result in a finding of a breach of the Code or a criminal offence.
- 10.4. Persons working on behalf of the Council or invited representatives of bodies other than the Council (including community representatives) who fulfil a role that may give them influence over any aspect of the Council's procurement process or access to associated commercially sensitive information must disclose in writing to the relevant Director or the Chief Executive Officer any direct or indirect interests that may conflict in any way with the interests of the Council or the nature of the role or work to which they have been appointed by the Council. Failure to do so may result in a termination of the relevant agreement or appropriate action against the individual concerned. This disclosure must be noted in any report before a committee of the Council.
- 10.5. All parties, internal or external third parties, engaged with a procurement project will be issued with the Council's paper on conflict of interest to ensure full understanding of the requirement to notify potential conflicts and the steps needed to rectify this.
- 10.6. Relevant Directors will ensure that a Register of Interests record is maintained for all Officers (including consultants) involved in the letting and management of contracts.
- 10.7. Directors will keep completed staff disclosures in accordance with the Council's Code of Conduct for Employees. The Project Lead shall keep any contracted staff, consultants,' or other bodies' representatives' declarations on the contract file.
- 10.8. Where potential conflict of interest is identified, the relevant Director shall liaise with the Director - Law & Governance to agree and formally record the action to be taken.
- 10.9. No gifts or hospitality should be accepted by Officers from any bidders to any contract being let by the Council. Acceptance of gifts or hospitality may be a disciplinary offence. Every Officer (whether of the Council or Procurement Services or Property Services) managing a procurement, letting a contract, or managing a contract for the Council must inform the Head of Strategic Procurement of any offers of gifts or hospitality. Reference should be made to the Council's policy on Gifts and Hospitality in place at such time.

## **11. Tendering Procedure**

11.1. Tenders over £25,000 shall be administered by the Corporate Procurement/ Commissioning Team using the E-tendering system.

11.2. All Invitations to tender shall include the following:

- An invitation to tender including all relevant information.
- A specification including all relevant supporting documentation that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
- A pricing schedule for completion.
- A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- A full breakdown of the Most Advantageous Tender (MAT) criteria and any sub criteria to be applied to all tenders including the evaluation methodology.
- A description of the award procedure including the definition of the award criteria covering quality and price.
- A requirement for tenderers to fully complete and sign all Tender documents including a form of tender and certificates relating to canvassing/lobbying and non-collusion.
- Save for commercially confidential information, all suppliers invited to tender must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis. Tenderers should be notified at the outset of how any commercially confidential information will be dealt with and the rules of transparency, fairness and equal treatment of bidders must be adhered to when dealing with information which is considered to be commercially confidential.

## **12. Late Tender /Submission**

12.1. No tender received after the latest time specified for receipt shall be accepted unless it can be demonstrated that the late submission was caused by a fault in the Council's E-tendering system.

## **13. Selection of Tendering Procedure**

13.1. Subject to the provisions of Part II of the Local Government Act 1988, as well as of the Public Contracts Regulations 2015, the most appropriate procurement procedure should be selected to deliver best value and the objectives of the requirement.

13.2. Where procurement is particularly complex, the Project Lead must work with Corporate Procurement/Commissioning Team(s) and Legal to understand and agree upon the Procurement procedure to utilise.

13.3. For services falling under the Light Touch Regime (LTR) the appropriate procedure may be used with modification as required or other procedures may be used subject to compliance with the Public Contracts Regulations 2015.

- 13.4. Project Leads shall work with Finance, Corporate Procurement/Commissioning and Legal Services to ensure that the relevant and sufficient Supplier Selection Questionnaire (SSQ)/PAS91 template is adapted for use on all FTS procurements and that the thresholds set within are proportionate to the requirement.
- 13.5. All goods, services and works with a procurement Total Value in excess of the Public Contract Regulation 2015 threshold are regulated by Public Contracts Regulations 2015, (PCR) which lay down strict processes for advertising, timetabling and supplier selection. The latest thresholds and regulations can be found at the following site: <https://www.ojec.com/Thresholds.aspx>. These regulations take precedence over these Rules or any other Council rules and carry potentially heavy penalties for non-compliance. Project Leads must comply with the detail and principles of the Regulations at all times.

#### **14. Advertising Requirements**

- 14.1. All contract opportunities above £25,000 in value must be advertised and run via the Council's E-tendering system. If using a framework, and if suitable to do so, the framework E-tendering portal may be used to run the competition. Any use of a framework E-tendering portal must comply with the Council approach to E-tendering and the PCR's.
- 14.2. Where the estimated total cost exceeds the FTS Threshold then the contract shall be advertised in accordance with the Public Contracts Regulations 2015.
- 14.3. All contracts above £100,000 should wherever practicable allow for a meet-the-buyer day or other wide market engagement sessions to warm the market and seek feedback on our proposals before the formal commencement of the tender process.

#### **15. Selection Criteria, Publication and Award of Contracts**

- 15.1. Approval shall be sought from the relevant Officer, Cabinet or Cabinet Member or any other relevant body or identified process, in compliance with the Leader's Financial Scheme of Delegation before:
- issuing an invitation to quote/tender; and
  - awarding a contract
- 15.2. For all tenders and contracts above £100,000 to £500,000, approval will be by the relevant Officer, in accordance with the Leader's Scheme of Delegation, and for all tenders and contracts above £500,000 approval will be by Delegated Decision, Cabinet Decision, Service Director or Cabinet Member as appropriate.
- 15.3. All procurement must consider the use of the most advantageous tender (MAT) shall be selected. Guidance on the MAT criteria will be provided by Corporate Procurement/Commissioning team dependant on the requirement.
- 15.4. Corporate Procurement/Commissioning will work with the Project Lead to determine the appropriate award criteria in advance of the publication of any opportunity. Appropriate details of the award criteria are to be provided within the procurement documentation.
- 15.5. The Project Lead, with advice from Corporate Procurement/Commissioning, shall ensure that the evaluation criteria (MAT) considers the inclusion of Social Value (More for MK).
- 15.6. The Corporate Procurement/Commissioning Team must be informed of all contract awards for inclusion on the contract register.

## **16. Notification of Tender Outcome**

- 16.1. All awards over the threshold value of £25,000 must be made in writing via the E-Tendering portal. The Corporate Procurement/Commissioning team are responsible for providing guidance and advice on the award procedure(s) with regards to feedback.
- 16.2. Feedback to unsuccessful bidders for contracts up to the relevant FTS threshold will be provided upon request.
- 16.3. For contracts about the relevant FTS threshold written feedback is mandatory for all unsuccessful bidders
- 16.4. All projects that are run within the FTS thresholds will follow the requirements of the Public Contract Regulations with respect to feedback and debriefs.
- 16.5. Corporate Procurement/Commissioning will notify the Project Lead and Legal Services if during any contract award a legal challenge is received from an unsuccessful bidder. Project Leads must otherwise notify their director and engage with Legal Services if there is a likelihood of a formal legal challenge to the award of contract. This should be before a legal challenge is issued to the Council.
- 16.6. If there is a formal legal challenge to the award of contract, then this must be managed by the relevant Director in conjunction with Legal Services and the Strategic Procurement Lead/Head of Contracts.

## **Part B – Advice on Specific Contract Procurement Matters**

### **17. Execution**

- 17.1. The law prescribes formalities for a body corporate such as the Council and companies to validly execute a document as a deed. This can be by a corporate seal of the company or by prescribed signatures.
- 17.2. Where a contract is validly executed as a deed, the Council can enforce any rights and obligations that arose under the contract for up to 12 years even where the contract may have expired much earlier. This is different to a contract which is signed under hand (not as a deed) in which such rights and obligations can only be enforced for up to 6 years.
- 17.3. Every Council contract with a value of £100,000 and above shall be executed and delivered as a deed under the seals of the parties. If the contractor is unable to execute a contract under seal, it may execute by the signatures of two directors or the signature of 1 director and that of its company secretary (if it has one). The contractor may also execute by the signature of one director in the presence of a witness. Legal advice should be sought as appropriate.
- 17.4. Construction contracts with a value below £100,000 may be executed as a deed where the nature of the works is such that it would be prudent to have a longer liability period exceeding six years.
- 17.5. Any other contract shall be required to be executed and delivered as a deed by the parties at the discretion of the Director -Law & Governance.
- 17.6. Electronic execution by Contractors is permissible provided that the execution is validly done and witnessed (where witnessing is a requirement). This does not preclude the use of wet ink signatures where it is the agreed form of execution or where it is a requirement of any public registry such as land registry.
- 17.7. For all relevant contracts with a value in excess £25,000 Project Leads shall use the standard contract terms and conditions issued by Legal Service unless such variation is agreed by the Director -Law & Governance.

### **18. Contracts Register**

- 18.1. All contracts awarded between the value of £5,000 and £25,000 must be reported to the Corporate Procurement/Commissioning team (dependant on the nature of the goods/services/works) via providing a completed and signed by relevant authority Report of Officer's decision to enable the contract to be added to the contract register and contracts finder. It is the responsibility of Corporate Procurement and the Commissioning Team to add the information to the contract register.
- 18.2. The Strategic Procurement Lead and Head of Contracts must maintain a register of all approved and current contracts and framework agreements for their respective areas where the estimated total value is £25,000 or over. The register is published on the Council website and is a live representation of all contracts that the Council has.

### **19. Report of Non-Compliance**

- 19.1. In exceptional circumstances it may not be possible to comply with the Public Contract Regulations, or these Rules or it may be discovered that the Council has failed to adhere to these Rules.

- 19.2. Directors can within their level of delegation, determine that part or parts of these Rules cannot be complied with, where they have completed a full risk assessment and consider that complying with these Rules is not possible for the exceptional emergency circumstances as set out in Paragraph 20, or other any other non-compliance.
- 19.3. For the avoidance of any doubt the failure to properly plan timescales to comply with these Rules and / or Procurement Regulations does not lead to exceptional circumstances.
- 19.4. A written Officer Report must be prepared by the relevant Project Lead on behalf of their Director and submitted to the Strategic Procurement Lead/Head of Contracts, Legal Services, and relevant Head of Finance to consider.
- 19.5. The written report will detail the specific provisions within these Rules, which will not be complied with, reasons for taking this course of action, alternative options considered and how relevant risks arising from those variations will be mitigated and managed.
- 19.6. The decision rests with the relevant Director, who must in all circumstances consult with the relevant Cabinet Member(s), Director of Law and Governance and Director of Finance and Resources before proceeding with the decision.
- 19.7. Where the Director of Law and Governance or Director of Finance and Resources is not satisfied that sufficient alternatives have been considered or the assessment does not demonstrate that a clear and material impact on the Council would arise if the Rules were followed, then this will be recorded in the Officer Decision Report. In these instances, the Officer's Report will be automatically referred to the Audit Committee by the Chief Internal Auditor every 6 months.

## **20. Emergency Procurement Authorisation**

- 20.1. An Officer may procure goods, works or services procured in a genuine Emergency (e.g., natural disasters such as flooding or fires, immediate changes to legislation) because of a need to respond to events that were beyond the genuine control of the Council. Any Emergency procurement must be reported to the Corporate Procurement/ Commissioning Team as soon as practical. The Director must record the action taken through an Officers Decision Report. Any such contract entered into by the Council must not be for a term of more than six months, except for spot contracts.
- 20.2. Spot contracts must be approved by the relevant Director before they are awarded and this approval recorded by the Director in a quarterly Officers Decision report.
- 20.3. As a general rule, authorisation to set aside these procurement Rules should never be sought retrospectively but exceptions to this principle will be allowed where It has been necessary to act urgently because:
  - of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
  - real risk of significant harm to individuals which was not foreseeable.
  - the occurrence of or potential occurrence of excessive and significant damage to the Council's services, finances or reputation which was not foreseeable, acting diligently.
- 20.4. Copies of all emergency procurement authorisations exceptions and supporting information will be retained by the relevant Director and the Corporate Procurement/Commissioning team for a period of 6 years following the end of the contract. These will be shared with the Internal Audit Service who will report all such instances on a six-monthly basis to Audit Committee.

## **21. External Framework Agreements**

- 21.1. Public Sector and Local Authority accessible framework agreements are permissible as a means of procuring goods, works or services. Prior advice from the Corporate Procurement/Commissioning team must be sought, and suitable due diligence will be undertaken by Corporate Procurement/Commissioning team as to the proposed use of any framework.
- 21.2. The proposed use of any framework agreement as a means of awarding a contract must be approved according to the anticipated award value in line with the below:
- Below £25k Via budget holder (up to £10k) or Head of Service approval
  - £25k-£100k Via Head of Service (up to £50k) or Director approval
  - £100k-£500k Via a completed procurement approach document and published on Councillor News
  - £500k Via the relevant cabinet member through delegated decision or Cabinet
- 21.3. The governance approval must be in accordance with the Leader's scheme of delegation.
- 21.4. Where approval is granted to use a framework, the rules of any such framework must be followed including the use of direct award or mini competition as a means of award, the length of the contract to be awarded and any amendments or additional terms that can be incorporated into the call off contract. Failure to comply with the terms of a given framework would cause the Council to be non-compliant with procurement rules.
- 21.5. The framework agreement and the call off terms and conditions will need to be reviewed and finalised by Legal Services with input from Officers as necessary prior to entering into the call off contract.

## **22. Creation of an Internal Framework Agreement or Dynamic Purchasing System (DPS)**

- 22.1. Internal Frameworks and DPS are a method of contracting with multiple suppliers, where other procurement methods may not be appropriate.
- 22.2. Should it be considered that the creation of an internal framework agreement or DPS is going to be of benefit to the Council then they will be created in line with their associated rules under the Public Contract Regulations 2015.
- 22.3. The term of a Framework Agreement must not exceed four years save where permitted by the law. A Framework Agreement may be entered into with one provider or multiple providers.
- 22.4. For Dynamic Purchasing System, no maximum term is prescribed but the term must be clear in the approval documents as well as the tender documents.
- 22.5. A DPS shall be operated as a completely electronic process and shall remain open throughout its term to any economic operators that satisfy the selection criteria. All the candidates that satisfy the selection criteria must be admitted to the system, and the number of candidates to be admitted to the system shall not be limited.
- 22.6. It is the responsibility of the Project Lead to carry out due diligence on DPS providers, to ensure that any applications to join the DPS are evaluated in the prescribed timescales, and to conduct mini competitions within the DPS (as per the DPS agreement terms).

22.7. Corporate Procurement/Commissioning, Legal Services and Finance must be involved with the process and will advise if this is an appropriate procurement method.

### **23. Contracts Reserved for Mutuals**

23.1. For some administrative services in relation to education, healthcare and housing, health and social work services, library and other cultural services, Project Leads may be able to limit competition to mutual organisations. The maximum duration for such contracts is three years.

23.2. A mutual organisation must meet all of the following requirements:

- The organisation's objective must be the pursuit of a public service mission linked to the services set out in the Public Contracts Regulations 2015
- The profits of the organisation must be re-invested to achieve the mission.
- The organisation must be employee owned or require active employee organisation.
- The organisation must not have been awarded a contract under this process within the last three years.

23.3. Project Leads must contact the Corporate Procurement Team/Commissioning and seek legal advice where they wish to award a contract under this section.

### **24. Concession Contracts**

24.1. Concession contracts are governed by the Concession Contract Regulations 2016 (which mirror the Public Contracts Regulations 2015 but are applicable only to concession contracts).

24.2. A concession contract grants a right to a contractor/concessionaire to exploit the market and payment to the concessionaire or contractor is usually made by income received from third parties or partly by third party income and partly by the Council. For example, where the Council enters into a contract with a party granting that party the right to run a café on the Council's land or to sell ice-cream in a van within the Council's property.

24.3. When estimating the financial value of a concession contract, the calculation must include any payments anticipated to be made by the Council to the concessionaire, and any income anticipated from the market/third parties and VAT.

24.4. To award a concession contract, Officers must ensure that they comply with the Concession Contracts Regulations 2016 including the conduct of an appropriate procurement process where required by these regulations. Award of Concession Contracts must also comply with all applicable provisions of these Rules including governance approvals. Officers should seek advice from corporate procurement or commissioning as appropriate and Legal Services.

### **25. Contract Management**

25.1. The responsibility for the management of a supplier, once awarded a contract, lies with the service area (Project Lead). Project Leads must ensure that the supplier meets the requirement(s) set out in the tender and are responsible for delivering contract management reviews as appropriate throughout the duration of the contract to determine effective performance in terms of quality and cost.



- 25.2. The contract performance reporting should be held locally and provided as part of the e-tendering portal contract management suite that allows reporting of contract performance. The Contract Manager must ensure that there are appropriate KPI's and an appropriate level and frequency of review meetings during the life of the contract.
- 25.3. Should it be determined that a supplier is failing to meet the contract terms and conditions then Legal Services, Corporate Procurement/Commissioning should be contacted for advice.
- 25.4. The Corporate Procurement Team will provide Directors and Contract Managers, with a quarterly dashboard. This will be reviewed to ensure that all contract information held is up to date, complete and a record of contract management activities.

## **26. Contract Variation**

- 26.1. Subject to any statutory restrictions and compliance with these Rules, Directors may, with the approval of Legal Services, the Strategic Procurement Lead/Head of Contracts authorise any other variation to an existing contract, and if relevant a consequent change in price, determined in accordance with the contract terms where the Estimated Total Cost of the variation is not more than £500,000. Any variations which have the effect of increasing the contract price by more than £500,000, in line with the Officer Scheme of Delegation, must be approved by the relevant Cabinet Member through delegated decision or by Cabinet. Legal advice must always be sought to ensure compliance with the Public Contracts Regulations 2015. Where a proposed variation has the effect of increasing the contract price, advice must also be obtained from financial services.
- 26.2. Directors may only authorise variations to contract where the proposed variation is permitted in accordance with Regulation 72 of the Public Contracts Regulations 2015 and legal advice has been obtained to this effect. This would include any proposed extension to the contract which was not included as part of the original procurement and also any proposed transfer of contract by novation or similar mechanism.
- 26.3. Legal advice must be obtained for all proposed contract variations to ensure variations remain compliant with procurement law. Where a request is received from a contractor to assign or novate a contract, or where a Project Lead intends to novate or assign a contract, advice must be sought from legal and financial services to ensure the proposed assignment or novation is compliant with the requirements of the Public Contracts Regulations 2015 and meets the financial requirements. This includes instances where the proposal to novate or assign is as a result of an event of change of control, insolvency, bankruptcy, receivership or liquidation.

## **27. Contract Extension**

- 27.1. A contract may be extended on the basis that it has an extension provision written within the terms and conditions and/or the procurement was conducted which included the options to extend. Contract extensions where permitted must be affected before the expiry of the relevant contract and in accordance with any relevant formalities required by the contract.
- 27.2. Where a contract or its procurement does not include an extension option, any extension to such contract can only be made where legal advice has been obtained which demonstrates that the extension would be compliant with Regulation 72 of the Public Contracts Regulations 2015 and financial advice must also be obtained with regard to budgetary implications of such extension.

- 27.3. The financial value of the extension will determine the governance authorisation process to enact said extension. Where the value of the extension is £500k and below, approval to extend may be granted by the relevant Service Director following Regulation 72 compliance advice by legal services and financial advice on budgetary impact. Where the proposed extension exceeds £500k or the changes to the contract will impact service delivery this should be taken as a key decision and approval of the Cabinet Member or Cabinet will be required.
- 27.4. An extension should only be utilised where the supplier is delivering satisfactory performance and where there is a genuine desire to continue the service rather than undertake a new procurement.
- 27.5. All extensions must be documented and signed by an authorised signatory on behalf of the Council and counter-signed by the supplier. No extension should be agreed without the express approval of Legal Services, who will also advise on the form the variation should take.

## **28. Social Value (More for MK)**

- 28.1. The Public Services (Social Value) Act 2012 Act of Parliament requires public authorities to have regard to economic, social, and environmental well - being in connection with public service contracts, and for connected purposes.
- 28.2. Project Leads must consider the following as part of the procurement process with guidance and advice from Corporate Procurement/Commissioning and legal advice as appropriate:
- How what is proposed to be procured might improve the economic, social, and environmental well-being of the Council and how the procurement might be structured to deliver that improvement.
  - When considering this potential improvement, Project Leads must only take into account what is relevant to that procurement and whether or not it is proportionate to do something.
  - Project Leads must consider whether to do any consultation as part of its thinking about whether improvements could be made.
- 28.3. Corporate Procurement/Commissioning will provide support on the development of Social Value within the tender process. It is the responsibility of the Contract Manager to monitor and report to Corporate Procurement/Commissioning the delivery of Social Value through a contract.

## **29. Insurance**

- 29.1. The following standard insurance levels are to be utilised on each contract unless expressly advised otherwise by the Council's insurance advisers.
- Public Liability Insurance £5m
  - Employers Liability £5m
  - Professional Indemnity £1m
- 29.2. For larger, more complex contracts or where due to the nature of the contract other heads of insurance may be appropriate, higher levels of cover and further types of insurance may be required and advice must be obtained from the Council's insurance advisors. Advice must be sought prior to commencing the formal procurement process from the Council's insurance advisors.

29.3. Any clarification or request for amendment to the required insurances during a quote/tender process must be shared with the Council's insurance advisors for advice.

### **30. Performance Bonds, Pension Bonds and Parent Company Guarantee**

30.1. The Project Lead is required to liaise with Finance, Legal and Procurement to determine the circumstances under which a contractor shall be required to furnish a performance bond, parent guarantee or other appropriate risk management approach.

#### **Performance Bond**

30.2. Depending on the nature and type of contract being procured, it may be necessary to ask Bidders to include in their tender submission provision for a performance bond. A performance bond is a financial guarantee that the terms of the contract will be honoured. If the contractor cannot complete their obligations, the bond can be claimed by the Council to compensate for costs incurred. A performance bond will be considered where:

- the estimated total cost exceeds £1,000,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and/or there is concern about the stability of the contractor or supplier.
- For any works, construction or building contract £500,000 and above.

30.3. In all cases the Project Lead must provide an appropriate risk assessment to support the decision-making process. The Director of Finance and Resources (or Deputy s151) will determine whether a Bond is required and if so to what financial level, based on the risk assessment.

#### **Pension Bonds**

30.4. Where pension bonds may be required, the Project Lead must consult with Financial Regulations paragraph 30.

#### **Parent Company Guarantee**

30.5 Project Lead must obtain a parent company guarantee when the successful bidder is a subsidiary of a parent company and any of the following circumstances apply:

- the Estimated Total Cost exceeds £500,000, or
- award is based on evaluation of the parent company, or
- there is some concern about the stability of the bidder.

3.06 The requirements for this must be included in the Invitation to Tender (ITT) to ensure that all bidders are aware of this requirement before any tenders are submitted. The parent company guaranteeing the contract will be subject to such tests and validation as required for the value of the contract as decided by Finance.

## **31. Leasing**

31.1. The Council through its procurement activity will often be involved either directly or indirectly in leasing plant, equipment, or vehicles. Where a proposed procurement involves this, you must consult with Finance before you commence the procurement. Finance will need to consider a number of potential implications that arise through direct and indirect leasing arrangements including:

- Accounting implications for the authority and how costs may need to be treated and funded.
- Value for money – alternative options including direct purchase of assets by the authority.
- Risk transfer – how the proposed leasing arrangement may impact the authority both financially in the future and service continuity implications through any proposed structure.

## **32. Land transactions**

32.1. Generally, land transactions are not caught by procurement law, whether this involves disposal or acquisition by way of freehold transfer, or leases or rights over land. For example, where the Council disposes a freehold or leasehold to a developer without any additional conditions attached to it, the disposal will not be caught by procurement law. Usually, planning conditions that may be imposed on the developer when it obtains planning permission should not suffice to bring such transaction within procurement as these would be imposed separately by the Council as a planning authority.

32.2. However, it is possible for a land transaction to be caught by procurement law where the Council imposes conditions or certain conditions exist. If the transaction involves a works contract or even a service contract, where certain conditions exist or, are imposed by the Council for the disposal or transaction this may apply. For example, where the purchaser of a lease is required to develop the land in accordance with a specification or a scheme approved by the Council; or where the Council is controlling the development; or where the Council is retaining or receiving an economic benefit resulting from the development (there are a number of other such factors). Such transactions would not be pure land transactions that are exempt and are likely to be caught by procurement law. In developing transactions, Project Leads should consider these principles and seek advice from Legal Services, Corporate Procurement and Finance at the earliest opportunity in order to ensure that transactions remain compliant with the Public Contracts Regulations 2015 as well as Subsidy Control legislation. Where procurement law is applicable to a proposed transaction, Project Leads must conduct a compliant procurement exercise in order to enter into and complete the relevant transactions. Non-compliance would lead to a breach of the Public Contracts Regulations 2015.

## **33. Subsidy Control**

33.1. Subsidy Control is governed by the Subsidy Control Act 2022 which replaces the former state aid regime.

33.2. When the Council awards public funds it may be granting a subsidy.

Some examples of what may fall within the definition of a subsidy include direct financial assistance such as cash transfer under grant agreements or a loan or it may be indirect such as foregoing revenue or income that is due to the Council or providing a guarantee in favour of an organisation.

Other examples are the sale or disposal of a Council asset, including land, at a price less than the market value or for deferred payments. Others are, funding for mixed use city centre development, a grant to address viability gaps in a regeneration development, a subsidy to support the immediate and long-term viability of a Community Interest Company which manages several community services and hubs and funding to deliver electric buses and associated infrastructure.

33.3. In order to award public funds that are subsidy control compliant there is a four step legal test:

1. Does it fall within the legal definition of a subsidy which is 'financial assistance that:

- (a) is given directly or indirectly from public resources by a public authority,
- (b) confers an economic advantage on one or more enterprises
- (c) is specific, that is, is such that it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services, and
- (d) has, or is capable of having, an effect on-
  - (i) competition or investment within the United Kingdom
  - (ii) trade between the United Kingdom and a country or territory outside the United Kingdom, or
  - (iii) investment as between the United Kingdom and a country or territory outside the United Kingdom

Where, for example, the Council is assisting a non- economic activity such as a charitable purpose, it is very likely it will not fall within the definition of an enterprise and therefore not be a subsidy.

2. If it is a subsidy, is it automatically unlawful for example if it is an unlimited guarantee, it cannot be granted.

3. Do any exemptions apply or is the subsidy awarded under a scheme or streamlined route?

The most relevant exemption is likely to be where the subsidy represents minimal financial assistance (below £315,000 over any three-year period from April 1 2021. If this is the case, Directors may approve the award of a subsidy after taking legal advice.

4. Does the subsidy comply with subsidy control principles?

To determine this, Project Leads must complete a subsidy control assessment matrix which can be obtained from Legal Services and requires completion by the service and review by legal services and finance.

33.4. The subsidy control legal regime is new, and Project Leads must undertake the four part test and then seek legal advice where they propose to give financial assistance to an organisation. Legal services will also advise on the procedural requirements. Time should be built in for the procedural requirements for any decision that may involve the grant of a subsidy. The Project Lead will also be responsible for ensuring that where the value of the subsidy is £100,000 or more, they provide information to legal services for inclusion in the national data base within 1 month from the date of the decision.

## **Part C – Contract Regulations**

### **34. Compliance with Regulation 84 Public Contracts Regulations 2015**

34.1. Under Regulation 84 Public Contracts Regulations 2015 any public contracts and framework agreements that are above a monetary threshold must form part of a report which may be requested by the Cabinet office. Project Leads should seek advice from the Corporate Procurement Team to determine whether this is the case for their procurement.

### **35. Light Touch Regime (Public Contracts Regulations 2015, Regulations 74-76)**

35.1. The Public Contract Regulations 2015 lists a number of services that are subject to a Light Touch Regime (LTR). These include categories of Health, social and related services, services to the community and benefit services. In these cases, there is no requirement to follow the standard procurement routes set out in the Public Contracts Regulations 2015 and the tender procedure described in Paragraph 11 of these Rules.

35.2. LTR contracts must, however, follow Regulations 74 to 76 Public Contract Regulations 2015, which require that the procurement procedure used in in compliance with the principles of transparency and equal treatment of economic operators regardless of the value of the contract.

35.3. Any Project Lead looking to procure a contract which falls under the LTR and where the FTS threshold is met shall ensure that as a minimum, the mandatory requirements as below are followed:

- A contract notice or prior information notice must be published in FTS for the purpose of making known the intention to award a contract under the LTR. The notice must contain information on the conditions for participation; time limits for contacting the Council and the award procedure to be applied.
- Any procurement procedure conducted must conform with the information provided in the contract notice or prior information notice published in the FTS.
- Time limits imposed on suppliers for responding to adverts and tenders must be reasonable and proportionate.
- A contract award notice must be published in FTS, following each individual procurement, or published as a group, within 30 days of the end of each quarter.

35.4. All relevant rules contained within these Rules including as to governance approvals and emergency procurement authorisation apply to LTR contracts.

35.5. Directors shall provide monthly reports to the relevant Cabinet Member and a quarterly report to the Cabinet detailing the nature, extent and value of any spot contracts entered into in the previous quarter.

# Officer Employment Procedure Rules



<b>Officer Employment Procedure Rules</b>	
1.	General
2.	Definitions
3.	Recruitment and Appointment
4.	Recruitment of Head of Paid Service and Chief Officers
5.	Appointment of Head of Paid Service
6.	Appointment of Chief Officers and Directors
7.	Other Appointments
8.	Disciplinary Action
9.	Dismissal of Chief Officers and Deputy Chief Officers
10.	Dismissal of the Head of Paid Service, Chief Finance Officers or Monitoring Officer



## **Officer Employment Procedure Rules**

### **1. General**

Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.

The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.

Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.

The Council will provide the necessary resources to support the appointed officer structure. Officers may be employees and other persons engaged on temporary contracts, consultancy arrangements or other appropriate terms.

Generally (except for certain senior staff appointments) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the Council by the Head of the Paid Service or by an officer nominated by him/her.

### **2. Definitions**

In this section – Statutory Chief Officers are; the Director of Children's Services, the Director of Adult Social Services, the Director of Public Health, the S151 Officer, the Monitoring Officer and the Head of Paid Service.

Non statutory Chief Officers are persons required to report directly or directly accountable to the Chief Executive Officer

Deputy Chief Officer means a person who is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers – Directors/Heads of Service (where applicable).

### **3. Recruitment and Appointment**

#### **(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, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such a person.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

- (b) Seeking Support for Appointment
  - (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - (ii) No councillor will seek to actively influence the appointment of any person with the Council.
  - (iii) The appointment of political assistants is exempt from this section

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

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

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

#### **5. Appointment of Head of Paid Service**

This process is subject to Part II of the Local Authorities (Standing Orders) (England) Regulations 2001.

- (a) The full Council will approve the offer of an appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

#### **6. Appointment of Chief Officers and Directors**

This process is subject to Part II of the Local Authorities (Standing Orders) (England) Regulations 2001

- (a) A Committee or Sub-Committee of the Council will appoint Directors. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) The Committee or Sub-Committee of the Council will be responsible for the appointment of Directors, except those officers designated as follows:
  - (i) Head of Paid Service (Chief Executive Officer)
  - (ii) Monitoring Officer
  - (iii) Chief Finance Officer (Section 151 Officer)

In the case of these appointments designated above, the Committee or Sub-Committee will recommend to full Council accordingly.

An offer of appointment as a Director shall only be made where:

- (a) the appointing body has notified the proper officer of the name of the person to whom it wishes to make the offer and any other particulars which the it considers are relevant to the appointment;
- (b) the proper officer has notified every member of the Executive (Cabinet) of the Council of:
  - the name of the person to whom the appointing body wishes to make the offer;
  - any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
  - the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the proper officer; and
- (c) either:
  - the Executive Leader has, within the period specified notified the appointor that neither he /she nor any other member of the Executive has any objection to the making of the offer;
  - the proper officer has notified the appointor that no objection was received by him within that period from the Executive Leader; or
  - the appointing body is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

## **7. Other Appointments**

### **(a) Officers below Directors/Heads of Service**

Appointment of officers below Director (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee only.

### **(b) Assistants to Political Groups**

Appointments of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **8. Disciplinary Action - Suspension**

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

Non statutory Chief Officers and Directors may be suspended whilst an investigation takes place into alleged misconduct. This will be undertaken in line with the Council's Disciplinary, Capability and Related Procedures, as adopted from time to time.

Councillors will not be involved in the disciplinary action against any officer below Director level, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's Disciplinary, Capability and Related Procedures, as adopted from time to time, may allow a right of appeal to councillors in respect of disciplinary action.

## **9. Dismissal of Chief Officers and Deputy Chief Officers**

This procedure has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

In this procedure, "dismissor" means, in relation to the dismissal of a relevant officer, full Council, the committee, sub-committee or officer discharging the function of dismissal.

Notice of the dismissal of a relevant officer 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 Executive 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 by the on behalf of the executive to the proper officer; and
- (c) Either:
  - (i) the Executive Leader has, within the period specified in the notice notified the dismissor that neither s/he nor any other member of the executive has any objection to the dismissal;
  - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the Executive Leader; or
  - (iii) the dismissor is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

**10. Dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer**

“Independent person” means a person appointed under section 28(7) of the 2011 Act;

“Local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

“The Panel” means a committee appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the Council;

“Relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another council or councils as the Council considers appropriate.

The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

The authority must appoint to the Panel such relevant independent persons who have accepted an invitation in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;

- (c) a relevant independent person who has been appointed by another council or councils.

The Council is not required to appoint more than two relevant independent persons but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

The full Council will approve the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer following the recommendation of such a dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet and two independent persons.

Councillors will not be involved in the dismissal of any officer below Director/Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's Disciplinary, Capability and Related Procedures, as adopted from time to time, may allow a right of appeal to councillors in respect of dismissals.

**Chapter 4**  
**CODES AND PROTOCOLS**

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**Milton Keynes City Council**

**The Code of Conduct for Councillors and Co-Opted  
Councillors**

## **The Code of Conduct for Councillors and Co-Opted Councillors**

### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

### **Introduction**

All councils are required to have a local Councillor Code of Conduct.

This Code of Conduct shall be reviewed by the Standards Committee on an annual basis and/or, in response to any review undertaken by the Local Government Association.

### **Definitions**

For the purposes of this Code of Conduct, a "councillor" means a member of Milton Keynes Council or a co-opted member of a committee or sub committee.

A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint subcommittee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

## **Purpose of the Code of Conduct**

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

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

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

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

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor; or
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and inform the local authority and the relevant social media provider and / or, if appropriate, make a report to the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

#### **As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

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

#### **4. Confidentiality and access to information**

**As a councillor:**

##### **4.1 I do not disclose information:**

- a) given to me in confidence by anyone**
- b) acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i) I have received the consent of a person authorised to give it;**
  - ii) I am required by law to do so;**
  - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv) the disclosure is:**
    - reasonable and in the public interest; and**
    - made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - I have consulted the Monitoring Officer prior to its release.**

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

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

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

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

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

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

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

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

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a) act in accordance with the local authority's requirements; and**
- b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

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



Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

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

## **8. Complying with the Code of Conduct**

**As a councillor:**

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

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

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

**As a councillor:**

- 9.1 I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest.

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

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

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

## **10. Gifts and hospitality**

**As a councillor:**

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

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

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

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

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner.

Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering interests

Within 28 days of becoming a councillor or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it].

## Disclosure of Other Registerable Interests (Personal Interests)

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which ***affects*** –
  - a) your own financial interest or well-being;
  - b) a financial interest or well-being of a relative or close associate; or
  - c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
  - a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it].

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Category	Explanation
1. Employment, office, trade, profession or vocation.	Any employment, office, trade, profession or vocation carried on for profit or gain.
2. Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
3. Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
4. Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
5. Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

6. Corporate tenancies	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and  (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
7. Securities	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and  (b) either—  (i) ) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



**Table 2: Other Registrable Interests (Personal Interests)**

You must register as an Other Registrable Interest :

- a) any unpaid directorships
  - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
  - c) any body
    - (i) exercising functions of a public nature
    - (ii) directed to charitable purposes or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management.

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## **Milton Keynes City Council**

### **The Code of Conduct for Officers**

## **Code of Conduct for Officers**

### **1.0 Introduction**

The Code of Conduct defines the standards of behaviour we expect of all our employees. If you do not understand it or how to comply with it, you must ask your line manager to explain it to you.

The intention of the Code of Conduct is to helpfully set out the broad principles of how we should do things – it is not an exhaustive list of what you can and cannot do. (The Code of Conduct is enforced through our disciplinary procedure).

### **2.0 Behave professionally**

We expect all staff to interact and work with the public and colleagues in an appropriate and professional way at all times.

We expect you to engender public trust and confidence in the Council and not to bring the organisation into disrepute. This includes action outside of work that is relevant to your job role or that may undermine public confidence in you to carry out your role. You must not knowingly publish or post anything, including on social media, which could damage the reputation of the Council.

We expect you to co-operate with your manager and comply with all lawful management instructions.

You are expected to work in a professional manner with all Councillors regardless of their political affiliation. If you have or enter into a close personal relationship with a Councillor (sometimes referred to as an Elected Member) you need to disclose this (see Section 12).

### **3.0 Act with honesty and integrity**

We expect you to communicate openly and honestly with your line manager about your work.

We expect you to submit accurate claims for expenses and allowances – claiming only for payments which you are entitled to receive. If you receive any payment in error, for example an overpayment of salary or expenses, you must notify your manager as soon as possible.

You must keep accurate records of your working time where this is required.

You must not order goods for your own personal use through a Council account. You are not permitted to use your position to obtain a discount for goods or services unless this is part of our recognised employee discount scheme.

#### **4.0 Act lawfully**

You must comply with the law in all aspects of your work.

You are required to immediately notify your manager in writing if you are arrested, cautioned, charged or convicted of any crime at any point during your employment. Your manager will assess whether this information has any impact on your job role.

If you suspect that someone is breaking the law you must report this - speak to your line manager in the first instance. Alternatively you should contact Internal Audit or raise your concerns using the Whistleblowing Policy.

If your role involves working in/managing children or adult services you must inform your manager immediately if you are barred for any reason.

#### **5.0 Respect equality and diversity**

Respecting the equality and diversity of the public that we serve and your colleagues is very important. We expect you to promote our commitment to equality and diversity at all times.

You must not discriminate against any individual on the basis of their protected characteristic(s) (i.e. because of their age, disability, race, religion or belief, gender, sexual orientation, gender reassignment, pregnancy or maternity leave or because of a person's marital or civil partnership status).

You should appropriately challenge any discriminatory behaviour that you witness – and seek support from your line manager in the first instance.

#### **6.0 Contact with the media**

You must not make statements to the media on behalf of the Council unless it is your job to do so. All media enquiries should be referred to our Communications Team.

#### **7.0 Fulfil your safeguarding responsibilities**

We are committed to safeguarding children and vulnerable adults and it is essential that you fully comply with our safeguarding policies and procedures. This includes adhering to specific local rules and procedures that apply in your area of work. If you have any concerns about any aspects of safeguarding you must raise these with your line manager in the first instance. Alternatively, you should raise any safeguarding concerns using the Whistleblowing Procedure.

## **8.0 Handle information securely**

We have specific rules on data security, outlined on the Information Management - Staff Intranet, which you need to read and familiarise yourself with. You are required to comply with these rules when handling information. You must not access or use any information obtained in the course of your employment for personal gain.

In particular, Employees who have access to an IT system which holds information on service users, must only access cases which have been assigned to them. Inappropriate access to information for personal use will be subject to disciplinary action

## **9.0 Data Protection**

Any data collected and processed as part of employing and managing employee's is held securely. It is accessed by, and disclosed to, individuals only for the purposes of completing that specific procedure; process or activity. Records are retained and destroyed in accordance with the organisations Retention Schedule.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Data Protection Policy immediately. It may also constitute a disciplinary offence, which may be dealt with under the Disciplinary Procedure.

## **10.0 Comply with all policies, rules and procedures**

You are required to act in accordance with all of our policies and procedures and comply with local rules that are in place in your area of work.

- MKCC Financial Regulations
- Contract Procurement Rules
- IT Policies – i.e. computer misuse policy, internet policy, email policy, mobile device policy
- Health and safety policy and procedures – include the Drug Alcohol and Substance Misuse policy
- Anti-Money Laundering and Anti-Fraud Policy
- Social Networking Policy
- All employment policies

## 11.0 Fulfil your management responsibilities

If you have line management responsibility you must make sure your employees are aware of the Code of Conduct and address any breaches as soon as these occur.

We expect you to proactively manage any employment issues that arise in your team in accordance with our employment policies.

You are responsible for proactively managing your team's performance and promptly addressing any performance issues that arise.

You must not be involved in making significant decisions that involve a relative, partner or friend. You are not permitted to line manage a partner or family member.

## 12.0 Declare relevant interests

You are required to declare any private interests that you have and any work that you undertake elsewhere. The table below provides examples, if you have any doubts please contact your manager

Situation	Action required
Undertaking private work (paid or unpaid) or secondary employment.	<p>Employees on Grade H and above (or equivalent) cannot undertake other jobs without the Council's written permission. They must also discuss with their Director the potential impact of additional work on their role with us and agree how any potential negative impact will be avoided.</p> <p>Where this does not apply, employees must ensure that any additional work does NOT:</p> <ul style="list-style-type: none"><li>• Conflict with the interest of the Council</li><li>• Weaken public confidence in the Council, or</li><li>• Impact on their duties and effectiveness.</li></ul> <p>All employees - complete the Private Interests Form before doing any private work.</p>

Situation	Action required
Undertaking consultancy work for another organisation	Obtain permission from your Head of Service prior to undertaking consultancy work.
<p>Potential conflicts of interest. Examples include:</p> <ul style="list-style-type: none"> <li>• Involvement with clubs and societies that we work with or fund</li> <li>• Involvement with organisations that provide similar services to the Council,</li> <li>• Directorships including with companies that are involved with or funded by the Council.</li> <li>• Relationships with elected members.</li> </ul>	<p>Declare any interests that you have outside of work and discuss with your line manager and agree how any conflicts can be avoided. You must also declare if your partner or a close relative has a potential conflict of interests (e.g. if your partner is involved with an organisation that is tendering for work with the Council).</p> <p>Mutual respect between employees and Councillors is essential. Close personal familiarity, however, can damage the relationship. It can also prove embarrassing to other employees. Such familiarity should therefore be avoided.</p>

### 13.0 Declare gifts and hospitality

You must declare any gifts and hospitality that you are offered as detailed below. If you have any doubts about whether you should accept a gift or offer of hospitality you should speak to your line manager. There may be specific local rules that apply in your team e.g. to protect vulnerable service users who may feel obliged to give a gift.

Situation	Action required
Offered a token gift (value of £25 or lower)	<p>Check with your manager if this can be accepted</p> <p>Complete a declaration form</p> <p>In general, gifts such as wine or spirits which are given to <u>individuals</u> should not be accepted</p>



Situation	Action required
Offered a gift that is more than a token gift (value of £25 or above)	Do not accept Return gifts that have already been received Make a declaration
Offers of hospitality	You may attend a function in an official capacity for example a conference related to your job role. Decline any invitations that are primarily or only for social purposes (and that could be viewed as trying to influence your decision making).

#### 14.0 Further information

Employees with questions about the Code of Conduct should speak to their line manager. Managers requiring further guidance should speak to the HR Advisory Team.

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**Milton Keynes City Council**

**Councillor and Officer Charter**

**Protocol on Councillor-Officer Relations**



## COUNCILLOR AND OFFICER CHARTER

### Councillors

‘Democratically elected politicians who set the Council’s strategic direction and main decision-makers’

### Councillor’s will

Respect employed staff and recognise professional boundaries

Encourage constructive challenge from officers

Consider the advice from professional officers

Embrace innovation and celebrate success

Engage with officers in an honest and straightforward way

Recognise legal and financial constraints

### Officers

Politically neutral staff employed to manage and deliver services using their skills and professional knowledge’

### Officer’s will

Be sensitive to councillor issues, including operational and political sensitivities, and focussed on solutions

Take responsibility for their actions and outcomes

Listen to and respect Councillors’ insight

Make recommendations based on evidence

Be honest and open with Councillors

Understand the constraints that Councillors operate under

**We serve our communities, are guided by our values, take pride in the Council and respect the mutual work we do**



## **Protocol on Councillor-Officer Relations**

### **1. Introduction**

- 1.1. This Protocol is to guide Councillors and Officers of the Council in their relations with one another to ensure the smooth running of the Council.
- 1.2. This Protocol acknowledges the varied and complexity of relationships between Councillors and Officers so is neither prescriptive nor comprehensive. It offers guidance on issues that commonly arise and offers an approach to adopt on issues that are less common.
- 1.3. If the Protocol is followed, it should frame an effective working relationship between Councillors and Officers which is essential for the successful operation of the Council's business. It will ensure that Councillors are treated fairly and receive objective and impartial advice and that Officers are protected from accusations of bias. Mutual trust, respect and understanding between Councillors and Officers is crucial.
- 1.4. The Protocol reflects the principles underlying the respective Codes of Conduct<sup>1</sup> which apply to Councillors and Officers. The shared object of these Codes and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5. The Protocol is a local extension of the Councillors' and Officers Codes of Conduct.

### **2. The Relationship: General Points**

- 2.1. Both Councillors and Officers serve the public and they are indispensable to one another however their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to advise all Councillors and the Council and to carry out the Council's work under the direction and control of the Council, the Cabinet, their committees and sub committees.
- 2.2. Mutual respect is at the heart of the Codes and this Protocol on Councillor/Officer relationships should be conducted in a positive and constructive way. It is therefore important that dealings between Councillors and Officers should be courteous and neither party should seek to take unfair advantage of their position or exert undue influence on the other.
- 2.3. Inappropriate relationships can be inferred from language/style therefore Councillors and Officers should always seek to address each other with courtesy. To protect both Councillors and Officers, Officers should address Councillors as 'Councillor XX/Mr. or Madame Mayor' save where circumstances clearly indicate that a level of informality is appropriate for example one to ones between a Director and their respective Cabinet Councillor/Committee Chair.

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<sup>1</sup> hyperlink to the codes

- 2.4. A Councillor should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a longstanding tradition in public service. An Officer has no way of responding to such criticisms in public. If a Councillor feels she/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, they should raise it with the Officer in a courteous and respectful manner. If they fail to resolve it through direct discussion with the Officer, then she/he should raise the matter with the respective Head of Service or relevant Director who will look into the matter and report back to the Councillor. If the Councillor remains concerned, then she/he should raise it with the relevant Director or Chief Executive/Deputy Chief Executive who will look at the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the Council's Disciplinary and Capability Procedures.
- 2.5. An Officer should not raise or discuss with any Councillor, matters relating to the conduct or capability of another Officer or the internal management of the Council or any directorate. Such concerns should be raised through appropriate Officer reporting lines.
- 2.6. Where an Officer feels that she/he has not been properly treated with respect and courtesy by a Councillor, she/he should raise the matter with his/her Director, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Director will take appropriate action either by approaching the individual Councillor and/or group leader or referring the matter to the Monitoring Officer.

### **3. The Relationship: Officer Support to Councillors**

- 3.1. Officers are responsible for day-to-day managerial and operational decisions within the Council and provide services to both the Cabinet and all Councillors in their service areas.
- 3.2. Certain statutory Officers – the Chief Executive, the Monitoring Officer, Statutory Scrutiny Officer and the Chief Financial Officer (Section 151 Officer) – have specific roles and these are set out in the Constitution. These roles need to be understood and respected by all Councillors and Officers.<sup>2</sup>
- 3.3. The following key principles reflect the way in which Officers generally relate to Councillors:
  - 3.3.1. Officers are employed by, and are responsible to, the Council as a whole;

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<sup>2</sup> link to relevant protocols e.g. mon Officer protocol



- 3.3.2. support from Officers is needed for all of the Council's functions including Full Council, Overview and Scrutiny, the Cabinet and individual Councillors representing their communities;
  - 3.3.3. day to day managerial and operational decisions should remain the responsibility of the Chief Executive and other Officers; and
  - 3.3.4. the authority will seek to avoid potential conflicts of interest for Officers arising from the separation of the Cabinet and the Overview and Scrutiny role.
- 3.4. On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Councillor or Councillors. It must be recognised that it is the Officer, rather than the Councillor or Councillors, who takes the action and is accountable for it.
  - 3.5. It is important that all Councillors in exercising their function as a Councillor take appropriate legal, financial and professional Officer Advice, particularly about contractual matters. In order to ensure that the highest standards of conduct are maintained at all times in relation to this important area of the Council's functions, additional guidance on Best Practice for Councillor conduct during a procurement is laid out in Appendix D.
  - 3.6. Generally, all Councillors – whether Cabinet members or otherwise – should consider submitting a request, when invited to / attending a meeting, whether or not minutes should be taken and/or an Officer should be present. Such a request is to be considered by the appropriate Director. It is a matter for Councillors' judgement whether this is necessary / appropriate, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Councillors are generally recommended to have an Officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
  - 3.7. Finally, it must be remembered that Officers within a Directorate are accountable to their Director and that whilst Officers should always seek to assist a Councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

#### **4. The Relationship: Officer Support: Councillors and Party Groups**

- 4.1. It must be recognised by all Officers and Councillors that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Councillor. The role of political assistants is covered under specific legislation.
- 4.2. There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Councillors, treat them in a fair and even-handed manner.
- 4.3. Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:
  - 4.3.1 That Officers do not engage in political discussion when attending party group meetings, limiting their activities to providing information on the specified business and answering appropriate questions. Officers should only attend these meetings for the length of time necessary to provide briefings and answer questions before withdrawing to allow political discussion to take place.
  - 4.3.2 Party group meetings, whilst they form part of the early stages of Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not form part of the Council's formal decision-making process and it is essential that they are not interpreted or acted upon as such; and
  - 4.3.3 similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 4.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors of the Council or Officers of the Council. Due regard should be paid to the fact that such persons are not bound by Codes of Conduct for Councillors (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers must be cautious about attending and/or giving advice to such meetings.

- 4.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group save where the content being relayed is general information that the other groups or other Officers would be expected to receive.
- 4.6 Whilst any Councillor may ask a Head of Service, Director or the Chief Executive/Deputy Chief Executive for written factual information about a directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a confidential nature. Requests will be met subject to any overriding legal considerations (which will be determined by the Director - Law and Governance, or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Councillor requesting such information is dissatisfied by such a response, she/he should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader.
- 4.7 Requests for information about generic group employee matters such as divisional structures, the overall cost of service provision for a group of employees etc. should be considered in the normal way as set out above. Directors, the Chief Executive/Deputy Chief Executive should ensure that any information supplied does not contain any personal information (within the meaning of the General Data Protection Regulations (EU) 2016/679 (GDPR)) relating to individual employees such as salary, grade, Trade Union affiliation etc.
- 4.8 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Councillor has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be accompanied by the Councillor's reasons for requiring the information and must be forwarded to the Head of Human Resources for determination (following consultation with the Council's Information Governance Officer and/or Monitoring Officer as appropriate). In such circumstances, the Councillor receiving such information must comply with the requirements of GDPR with regard to protecting the personal data.
- 4.9 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the GDPR and the Data Protection Act 2018. Officers and elected Councillors are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the data protection laws and as such should familiarise themselves with their obligations under the law accordingly. Officers or Councillors who

require advice or assistance in relation to their duties under the data protection laws should take advice from the Director - Law and Governance or the Legal Team as appropriate.

#### 4.10 In relation to budget proposals:

- 4.10.1 The Administration shall be entitled to confidential information/discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier.
- 4.10.2 The opposition groups shall also be entitled to confidential information/discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.
- 4.10.3 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any Councillor has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Councillors. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Councillors that this is so. It would, however, be for the Officer to decide how and when to do so, subject to the general rules outlined in paragraph 4.8 above. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the S151 Officer and Monitoring Officer.
- 4.10.4 In view of the need to ensure that the professional integrity of Officers is not impugned, deliberately or inadvertently, the following principles will be applied (although they may be departed from by the Chief Executive, Monitoring Officer or S151 Officer as and when appropriate given their specific statutory duties):
  - 4.10.4.1 any advice or information provided to any Councillor(s) in writing will be marked 'strictly confidential', signed and dated by the responsible Officer and shall follow the guidelines set out in Appendix B;
  - 4.10.4.2 generally, such advice / information will be provided to the Group Leaders, unless there are over-riding considerations associated with the statutory responsibilities of the Chief Executive Officer, Financial Officer (S151 Officer)/Monitoring Officer which would warrant the advice being shared with all Councillors;

- 4.10.4.3 Group Leaders and Councillors who received such advice will treat such advice as strictly confidential to the Council and will ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances;
- 4.10.4.4 Officers will also provide, as appropriate, briefings for either Group Leaders and/or all Councillors as requested by the Group Leaders and/or determined by the Chief Executive, Chief Financial Officer (S151 Officer) and/or Monitoring Officer prior to the Budget on any particular issues or matters which those Officers, as a matter of professional judgement, consider should properly be drawn to Councillors' attention.
- 4.11 The over-riding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Councillors before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.
- 4.12 It must not be assumed by any party group or Councillor that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy. As per the Code of Conduct Officers should not be put under undue pressure to recommend a particular policy or strategy. If Officers perceive they are being put in such a position they should contact their direct line manager and the Monitoring Officer who will make an assessment and agree an appropriate course of action.
- 4.13 Any particular cases of difficulty or uncertainty in this area of Officer Advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## **5. The Relationship: Officer Support: The Cabinet**

- 5.1. It is clearly important that there should be a close working relationship between Cabinet Councillors and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Councillors and other party groups.
- 5.2. Whilst Councillors who form the Cabinet will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Director or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Cabinet

member and an Officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 5.3. The Cabinet has wide ranging leadership roles. It will:
  - 5.3.1. lead the community planning process and the search for Best Value, with input and advice from Overview and Scrutiny Committees, area committees and any other persons as appropriate;
  - 5.3.2. lead the preparation of the local authority's policies and budget;
  - 5.3.3. take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 5.4. Where functions which are the responsibility of the Cabinet are delegated to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 5.5. Under Cabinet Arrangements, individual Councillors who make up the Cabinet are allowed to formally take decisions. The Cabinet and Cabinet Councillors must satisfy themselves that they are clear about what exactly they can and cannot do.
- 5.6. The Council has put in place mechanisms / protocols which ensure that (as with the Council, its Committees and Sub-Committees, and the Cabinet and its Committees) an individual Cabinet member seeks advice from relevant Officers before taking a decision within her or his delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about the legality of any decisions.
- 5.7. As a result of the particular issues arising during contractual discussions, particular guidance has been provided for all Councillors at Appendix D to this Officer / Councillor Protocol. This guidance is not exclusively aimed at Cabinet members – it is specifically aimed at all Councillors, and for that reason, all Councillors should be aware that their conduct during a procurement exercise should follow the guidance in Appendix D.

- 5.8. Decisions taking by individual Cabinet members give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, individual Cabinet members should always be aware of legal and financial liabilities (consulting the Monitoring Officer and S151 Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the community and the communities it serves, there are arrangements to ensure co-ordination of and sharing responsibility for Cabinet decisions including those made by individuals.
- 5.9. Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Cabinet, it is likely that in practice many Officers will be working with the Cabinet for most of their time. The Cabinet must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Cabinet, that their political neutrality is not compromised.
- 5.10. In organising support for the Cabinet, there is a potential for tension between Chief Officers and Cabinet members. All Councillors and Officers need to be constantly aware of the possibility of such tensions arising and they need to work together to avoid such tensions and conflicts existing or being perceived and to resolve the same where they exist.

## **6. The Relationship: Officer Support: Overview and Scrutiny**

- 6.1. Overview and Scrutiny is an important constituent part of effective democracy and the Council's constitutional arrangements. Officers have a significant role in making it effective. However, it is not Overview and Scrutiny's role to act as a disciplinary tribunal in relation to the actions of Councillors or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigations on a committee's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Standards Committee as regards the conduct of Councillors. This means:
- 6.1.1. Overview and Scrutiny's questioning should not be directed to the conduct of individuals with a view to allocating criticism or blame but should be directed, with a sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies; and
- 6.1.2. in these circumstances, it is for the Chief Executive to institute a formal enquiry, and Overview and Scrutiny may ask (but not require) him/her to do so.

- 6.2. Overview and Scrutiny should not act as a “court of appeal” against decisions or to pursue complaints by individuals (Councillors, Officers or Councillors of the public) as other procedures exist for this. These are internal, e.g. the Corporate Complaints Procedure, and external/statutory, e.g. Local Government Ombudsman or appeal to the Courts. That said,
  - 6.2.1. Overview and Scrutiny may investigate the manner in which decisions are made but should not pass judgements on the merits of a decision in individual cases;
  - 6.2.2. they can comment, however, on the merits of a particular policy affecting individuals.
- 6.3 It is recommended that Overview and Scrutiny Committees advise Officers of indicative topics about which they will be asked by a Committee, so giving them adequate time to prepare. Where possible Overview and Scrutiny Committees should provide written questions beforehand, so that the answers can form the basis of the questioning and discussion. Questioning should not stray outside the subject area that the Committee has previously indicated.
- 6.4 Consideration should be given to any Overview and Scrutiny Guidelines or guidance for Councillors and Officers when an Overview and Scrutiny Committee is taking evidence’ including:
  - 6.4.1 the level and extent of questioning, and the depth to which Overview and Scrutiny Committees may probe Officers is dependent upon the seniority of the Officers present – accordingly when calling Officers to give evidence, Committees may wish to consider the level and nature of the Officer it wishes to have before them in the light of the line of questioning it wishes to follow;
  - 6.4.2 Officers may be asked to give a professional opinion, and Officers may be asked to give alternative options. Officers may not confine themselves solely to justifying either the position of or the advice that they gave to the Cabinet, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Cabinet reflects, in their professional opinion, the best option, to justify that;
  - 6.4.3 it is appropriate for Overview and Scrutiny Councillors to ask Officers to explain and justify advice given to Councillors, whether on the Cabinet or otherwise, prior to decisions being taken, and to justify decisions Officers have taken under delegated powers.
- 6.5 Officers are expected:
  - 6.5.1 to maintain political impartiality at all times when commenting on the Cabinet’s / Council’s policies and actions;



- 6.5.2 to be prepared to explain and justify advice given to Councillors, including the Cabinet and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation;
- 6.5.3 to ensure that an Officer of sufficient seniority appears before the relevant meeting in the light of the indicative topics supplied by Overview and Scrutiny in advance;
- 6.5.4 where requested to provide information to Scrutiny, e.g. on alternative options, to provide that information in as a comprehensive and timely fashion as if the request had come from the Cabinet.
- 6.5.5 to respond to questions from Councillors in an open, constructive and helpful manner;
- 6.5.6 not to mislead or be economical with the truth.

## **7. Support Services to Councillors and Party Groups**

- 7.1. The only basis on which the Council can lawfully provide support services (e.g., stationery, typing, printing, photo-copying, transport etc.) to Councillors is to assist them in discharging their role as Councillors of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

## **8. Councillors' Access to Information and to Council Documents**

- 8.1. Councillors have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Councillor of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Director or another senior Officer of the Directorate concerned. Requests for employee related information (whether a group of employees or individual employees) must be treated in accordance with paragraphs 4.8 – 4.10 above. In cases of doubt, Councillors should seek assistance from the Director - Law and Governance.
- 8.2. As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law.
- 8.3. Councillors will find set out in Appendix C guidance on their rights to obtain information. The law in this area is complex, legislation including the Access to Information provisions of the Local Government Act 1972; the GDPR and Data Protection Act 2018 as well as the Local Government Act 2000 have all had an impact. The guidance note set out in Appendix C maps the hierarchy of rights of Councillors to information, but should be read in combination with the

contents of the Constitution, most particularly the Access to Information Procedure Rules which cover the statutory obligations of the Council in terms of information and its relationship with the decision-making process.

- 8.4. Finally, any Council information provided to a Councillor is deemed to be information provided in confidence, is subject to the protections afforded by the GDPR and Data Protection Act 2018 and must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as a Councillor of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in the Councillors' Code of Conduct.
- 8.5. Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the GDPR and Data Protection Act 2018 may result in prosecution of the Authority and / or any individual Officer or Councillor by the Information Commissioner and the imposition of significant monetary penalties.

## **9. Correspondence and Advice**

- 9.1. Councillors seeking advice from Officers shall be entitled to assume that such advice is given under "Chatham House rules" i.e. not for further disclosure in terms of disclosure to other Councillors, unless otherwise agreed with the Officer(s) concerned.
- 9.2. Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor. In other words, a system of "silent copies" should not be employed.
- 9.3. Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Cabinet member or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor, Cabinet or otherwise.
- 9.4. Correspondence received by Democratic Services from the public with a request that it is either copied to Councillors and/or forwarded to Councillors will, subject to any overriding legal considerations / excessive cost, be forwarded / copied at the discretion of the Director - Law and Governance.

9.5. Officers responding to Councillors' queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Councillors namely:

9.5.1. Councillors will receive an acknowledgement within two working days of the date of the enquiry, to include the name and contact details of the Officer dealing with the enquiry (subject to leave, etc.);

9.5.2. a response will be given as soon as possible but not later than 10 working days of the date of the enquiry. If it is not possible to give a detailed response within 15 working days, the Councillor should be informed within that period of the date by which they can expect to receive the information requested and be given a reason for the delay.

## **10. Publicity and Press Releases**

10.1. Councils are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council Tax payers. In recent years, all Councils have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, Councils see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, 'to be welcomed'.

10.2. Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. It is appended to this Officer/Councillor Protocol (Appendix A). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government.

10.3. Officers and Councillors will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Councillors should initially seek advice from the Head of Communications who will refer the matter to the Monitoring Officer, if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Director - Law and Governance as appropriate.

## **11. Involvement of Ward Councillors**

11.1. Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council

undertakes any form of consultative exercise on a local issue, the Ward Councillors should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers or other topics being discussed with a Cabinet member should be discussed with relevant Ward Councillors. Officers should seek the views of the appropriate Cabinet member(s) as to with whom and when this might be done.

## **12. Conclusion**

- 12.1. Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Councillors and Officers.
- 12.2. This version of the Protocol on Councillor-Officer Relations was approved by the Council as part of the Constitution in January 2019.
- 12.3. Copies of the Protocol will be issued to all Councillors as part of the Constitution upon election.
- 12.4. Questions of interpretation of this Protocol will be determined by the Director - Law and Governance.

**GUIDELINES FOR COUNCIL-WIDE BRIEFING NOTES**

1. This Guidance applies to briefing notes issued on a Council-wide basis associated with / during the Budget process.
2. All Officer Advice should always take account of and follow the general guidance set out in this Officer / Councillor Protocol and the Council's Constitution.
3. Specific advice is contained in this Officer / Councillor Protocol as to Council-wide briefing notes issued as part of / during the Budget process at paragraphs 5.12 and 5.13 and this should be followed.
4. The content of any briefing notes issued on a Council-wide basis associated with/during the Budget process, should follow this guidance as to its contents:
  - (a) Topic;
  - (b) Provenance - who requested the note be produced. Advice may be reactive or proactive – so it may be an Officer decision that this advice was needed to be placed before Councillors – in which case state who made that decision;
  - (c) What is the current Council policy?
  - (d) What is professional Officer Advice – including what are the ramifications of the current Council policy and any possible / proposed changes to that?
  - (e) Who is the author of the briefing note?
  - (f) The note should be dated.
5. Any such Council-wide briefing notes associated with the Budget process should, if not written by the relevant Directors, be cleared with them as well as the Chief Financial Officer.
6. Before being issued, any Council-wide briefing notes associated with the Budget process should be cleared with the Chief Executive.
7. Councillors should be left in no doubt as the provenance of any Council-wide briefing notes associated with / issued during the Budget process and should be clear what is Officer professional advice regarding the ramifications of policy options / decisions.

**BEST PRACTICE GUIDANCE ON CONDUCT FOR COUNCILLORS DURING A PROCUREMENT EXERCISE**

**A Background**

1. Under the Council's Code of Conduct for Councillors, a Councillor must not, amongst other things, in his/her official capacity or any other circumstance, conduct him or herself in a manner which could reasonably be regarded as bringing his/her office or the authority into disrepute, nor do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
2. In the context of a procurement exercise, this would include taking any action which could, in the opinion of the Monitoring Officer or Chief Financial Officer, compromise the objective handling of the tendering processes and lead to (or likely to expose the Council to) a successful legal challenge.
3. Tendering procedures are highly complex and there are risks involved in the failure to comply with the UK and European legislation. This guidance is intended to assist in raising awareness of the risks and to ensure that proper procedures are in place to minimise such risks.

**B. Legal Context**

4. When awarding contracts, the Council is subject to the requirements of administrative law, contractual law, EU requirements on non-discrimination and free movement of goods and services, general common law principles and the specific rules on public procurement discussed below.
5. There is a general statutory obligation under procurement law for contracting authorities to comply with the public procurement rules. There are also specific provisions which establish the procedures for remedy where an aggrieved contractor, supplier or service provider suffers, or is at risk of suffering, some form of loss due to non-compliance by the contracting authority with the procurement rules.
6. Enforcement of the procurement rules operate both at the EU and at the national level. The national courts or tribunals in each state are empowered to take measures to remedy any violation of the law and to compensate for loss. At the EU level, the Commission can commence proceedings against the national government concerned under the EC Treaty if any contracting authority breaches the rules. In the UK, the obligation to comply with the provisions of the Regulations in relation to contracts that fall within the ambit of those regulations is considered in law to be a 'duty' owed to providers.
7. Non-compliance with EU law is not a criminal offence, but it can give rise to a breach of statutory duty and will open the Council to a legal challenge by way of Judicial Review and/or claim for damages. If a Councillor's action(s) or

inaction(s) have caused the same, the Councillor may have acted beyond his/her powers and/or be in breach of the Code of Conduct for Councillors. In such event, the Monitoring Officer will refer the matter to the Standards Committee for determination by way of a written complaint against the relevant Councillor(s). Ultimate sanction is disqualification from office and/or civil action in damages.

8. If a corrupt practice or other criminal activity is alleged or discovered under the Prevention of Corruption Acts or Bribery Act 2010 against a Councillor or Officer, the Monitoring Officer will consider how the Police may be used to help safeguard and protect the interests of the Council.

**C. Best Practice Guidance**

9. In light of the inherent risks involved in a failure to comply with legal requirements affecting tendering procedures, Councillors / Officers should have regard to the following:

- 9.1 Communication (including any information, instruction, or response) from and to the Council and Tenderers (or potential Tenderers or potential subcontractors to Tenderers) involved in a procurement process must be clear, duly recorded, appropriate and understood by the parties;

- 9.2 Tenderers / sub-contractors are always advised not to arrange or participate in any meeting(s) or other form of communication with any Councillor(s) or Officer(s) of the City Council that has not been arranged under and in accordance with any specific guidance/protocol issued in relation to the procurement process in question. As a general rule, where no such specific guidance/protocol has been issued, such meetings or other form of communication should not take place without the written consent of the Monitoring Officer and the Chief Financial Officer;

- 9.3 Where an existing supplier / sub-contractor to the Council seeks a meeting or other form of communication with a Councillor - ostensibly about matters related only to the existing supply - and that existing supplier / subcontractor may potentially be or is, at that time, also a Tenderer / subcontractor in relation to either a planned / foreseen procurement process or an ongoing procurement process of which the Councillor ought reasonably to be aware of, the Councillor should decline to meet or otherwise ensure that a sufficiently senior Officer is present at such meeting to safeguard the probity and propriety of the Council's actions or inactions;

- 9.4 Any meeting between any Tenderer / sub-contractors and a Councillor or Officer of the Council, should be kept to an absolute minimum, as the risk of allegation(s) of fraud and/or corrupt practices is a high possibility and one to be avoided. Any meetings that do take place with Tenderers / subcontractors must be contemporaneously minuted / noted and, in the exceptional event that a one-to-one meeting does take place, the contemporaneous minutes / notes of

the meeting must be provided to the Monitoring Officer within three days of the meeting, for the file, so as to protect and safeguard the relevant Councillor / Officer from any unwarranted accusations; and

- 9.5 Confidential information relating to any Tenderer / sub-contractor (or prospective Tenderer or sub-contractor) must remain confidential, unless the Courts or the law orders otherwise. Where any Councillor or Officer is in any doubt about whether a meeting or other form of communication with a Tenderer / sub-contractor is appropriate or permitted, s/he should seek guidance from the Monitoring Officer.



## **GUIDANCE ON THE PROVISION OF WARD / BOROUGH WIDE INFORMATION TO COUNCILLORS**

This guidance identifies when officer colleagues should inform / consult councillors on issues in their ward or across the borough.

Officer colleagues should be aware that councillors:

- (a) are elected to represent the community in their wards; and
- (b) are expected by the community, parish and town councils to be aware of Council decisions and issues affecting the ward.

### **The Golden Rules:**

#### **1. No Surprises**

Ward councillors should be the first in their ward to hear about proposed decisions and operational issues that affect their ward. Ward councillors should not learn about any matter from the parish / town council, constituents or the media.

Officer colleagues, when responding to requests from ward councillors' constituents; or a parish / town council, should always consider copying the ward councillor(s) into any response, or alerting them to the issue if it is not of a confidential nature.

Report authors must inform councillors of any impact the recommendations in the report would have on the councillors' ward by no later than when the report is published. Officer colleagues should never rely on the councillors picking up the issue from the agenda papers.

#### **2. Engage Constructively**

Officer colleagues should engage constructively with ward councillors to seek their views and shape decisions that affect their ward. Ward councillors can provide helpful guidance and help identify key contacts.

#### **3. Keep Informed of Progress**

Officer colleagues should regularly update ward councillors on issues as they develop. This includes when officers are dealing with casework raised by a ward councillor, but this information should only be shared with other ward councillors if requested by the ward councillor who originated the case work.

When the issue is of borough-wide significance the Golden Rules should be applied to all councillors.

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## **Councillors' Planning Code of Good Practice**



## **Introduction**

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to manage the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

## 1. Relationship to the Members' Code of Conduct

- 1.1 Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 1.2 Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development management. If you do not abide by this Members' Planning Code, you may put:
- a) the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - b) yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- 1.3 Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.

## 2. Development Proposals and Interests under the Members' Code

- 2.1 Do** disclose the existence and nature of your interest as required by your members Code of Conduct.
- 2.2 Do** take into account when approaching a decision that the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that *'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships'*. It is therefore advisable that you:
- a) **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

- b) **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on you in representing that proposal.
- c) **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest, other or non-registerable interest and note that:
  - you should send the notification no later than submission of that application where you can;
  - an application submitted by, or on behalf of a councillor cannot be dealt with by officers under delegated powers and will be determined by committee;
  - you must not get involved in the processing of the application; and
  - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

### **3. Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

**3.1 Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

**3.2 Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.

**3.3 Do** keep at the front of your mind that, when you come to make the decision, you:

- a) must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
- b) are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
- c) are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
- d) are to come to a decision after giving what you feel is the right weight to those material considerations.

**3.4 Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

**3.5 Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example), provided:

- a) the proposal does not substantially effect the well being or financial standing of the consultee body;
- b) you make it clear to the consultee body that:
  - your views are expressed on the limited information before you only;
  - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
  - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

**3.6 Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

**3.7 Do** take the opportunity to exercise your separate speaking rights as a Ward / Local Member (where you have registered to do so in accordance the authority's standing orders) where you have represented your views or those of local electors and fettered your discretion.

**3.8 Don't** exercise separate speaking rights as a Ward / Local Member where you have an other, or non-registerable interest **unless you have:**

- a) advised the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
- b) left the room after having done so; and
- c) ensured that your actions are recorded in accordance with the Authority's committee procedures.

**3.9 Don't** remain in the room, or exercise separate speaking rights whilst a matter in which you have a disclosable pecuniary interest is being decided.

#### **4. Contact with Applicants, Developers and Objectors**

**4.1 Do** refer those who approach you for planning, procedural or technical advice to officers.

**4.2 Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Development Management Manager or Head of Planning to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

**4.3 Do** otherwise:

- a) follow the rules on lobbying;
- b) consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- c) report to the Development Management Manager or Head of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**4.4** In respect of presentations by applicants/developers:

- a) **Don't** attend a planning presentation without requesting an officer to be present.
- b) **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- c) **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- d) **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.



**4.5 Do be aware that Pre-application discussions** between a potential applicant and the Council can benefit both parties and are encouraged, but that it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant. Therefore:

- a) **Do** feel able to participate in pre-application discussions, **when invited to do so by officers** and share local knowledge, expertise, and community views.
- b) **Do** identify issues early in the process to try and avoid issues coming to light for the first time at Committee.
- c) **Don't** give the impression to anyone that a particular course of action will result in a specific outcome for an application.
- d) **Do** be aware and make clear that any advice given does not bind the Council to make a particular discussion.

## **5. Lobbying of Councillors**

**5.1 Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

**5.2 Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

**5.3 Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.

**5.4 Do** copy or pass on any lobbying correspondence you receive to the Development Management Manager or Head of Planning at the earliest opportunity.

**5.5 Do** promptly refer to the Development Management Manager or Head of Planning any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

**5.6 Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

**5.7 Do** note that, unless you have a disclosable pecuniary interest, other or non-registerable interest you will not have fettered your discretion or breached this Planning Code through:

- a) listening or receiving viewpoints from residents or other interested parties;
- b) making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
- c) seeking information through appropriate channels; or
- d) being a vehicle for the expression of opinion of others in your role as a Ward Member.

## **6. Lobbying by Councillors**

**6.1 Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.

**6.2 Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

**6.3 Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

**6.4 Do** be aware of the power of social media posts or re-posting and be careful not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.

**6.5 Don't** decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **7. Site Visits / Inspections**

**7.1 Do** try to attend site visits organised by the Council where possible.

**7.2 Don't** request a site visit unless you feel it is strictly necessary because:

- a) particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- b) there are significant policy or precedent implications and specific site factors need to be carefully addressed.

**7.3 Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee.

**7.4 Do** ensure that you treat the site visit **only** as an opportunity to seek information and to observe the site.

**7.5 Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

**7.6 Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on-site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

**7.7 Don't** express opinions or views.

**7.8 Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:

- a) you feel it is essential for you to visit the site other than through attending the official site visit;
- b) you have first spoken to the Development Management Manager or Head of Planning about your intention to do so and why (which will be recorded on the file); and
- c) you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- 8.1 Don't** allow members of the public, or other ward councillors present who are not committee members, to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- 8.2 Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- 8.3 Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- 9.1 Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Management Manager, which may be incorporated into any committee report).
- 9.2 Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- 9.3 Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- 10.1 Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, **this request must be submitted within the specified consultation period** and that your planning reasons will be recorded and repeated in the report to the Committee.
- 10.2 Do** raise any issues you consider need further clarification with Officers before the Committee meeting.
- 10.3 Do** come to meetings with an open mind and demonstrate that you are open-minded.
- 10.4 Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

**10.5 Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.

**10.6 Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).

**10.7 Do** have recorded the reasons for Committee's decision to defer any proposal.

**10.8 Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded (it will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge or appeal.

**10.9 Do** remember that failure to comply with this Code could lead to a decision being quashed at judicial review.

## **11. Training**

**11.1 Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council within the last **24 months**.

**11.2 Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

**11.3 Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

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## **Milton Keynes City Council**

# **Social Media Guidance for Councillors of Milton Keynes**

## **Social Media Guidance for Councillors of Milton Keynes**

### **What is the purpose of this Guidance and who does it apply to?**

Milton Keynes City Council has always been committed to innovation and creativity in the digital revolution which has taken place over recent years. We actively encourage the use of social media, which has become an integral part of everyday life for many of us as it is a useful way to communicate and connect with people from all over the world.

In respect of Councillors, social media has many benefits including raising a Councillor's profile, helping to deliver information to constituents in a fast and effective manner and for improving reputation. However, there are also many ways in which Councillors may use social media inappropriately, and this can have long lasting consequences for Councillors, and the Council's reputation.

The Social Media Guidance for Councillors ('the Guidance') is intended to assist Councillors of Milton Keynes City Council when using social media, in a personal or professional capacity, to avoid potential breaches of their Code of Conduct. Whilst Standards matters are and dealt with on a case by case basis, this Guidance is designed to assist Councillors on what is and isn't appropriate behaviour when using social media.

**Importantly, this Guidance should be read in conjunction with the Council's Code of Conduct for Councillors.**

### **Who is this Guidance for?**

The Guidance applies to all Councillors and co-opted Councillors of Milton Keynes City Council.

A co-opted member is defined in section 27(4) of the Localism Act 2011 as "*a person who is not a member of the authority but who*

- (a) is a member of any committee or sub-committee of the authority, or;*
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;*

*and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".*



## Pros and Cons of Social Media



## The Code of Conduct

Councillors are personally responsible for their conduct online should always be mindful of the Code of Conduct and the Nolan Principles.

### 'Acting in Capacity' as a Councillor

This is a subjective test. However, there are actions which increase the likelihood of a Councillor being found as 'acting in their capacity as a Councillor'. For example, by identifying that they are a Councillor on their profile page, by using social media to campaign or to share Council news/developments with the public.

A Councillor may wish to consider the following when using social media:

- Keep separate accounts for professional and private matters
  - By having one account which incorporates both a Councillor's professional and personal life, Councillors are increasing the risk of being found as acting in their capacity if a complaint is made.
- If a Councillor wishes to keep just one account, be clear on what the account is used for. For example, if the account is personal, keep it private and refrain from using Council or Councillor terminology or referring to your role as a Councillor.

### General Responsibilities When Using Social Media

In addition to the Model Code of Conduct, Councillors should be mindful of the following responsibilities:

- Councillors should take particular care to ensure that, in any comment or post they create, they do not imply that they are speaking on behalf of the Council as a whole.
- Once a post is made on social media, it is there for the world to see, even if it is deleted this does not mean that someone has not already saved a copy of it. Councillors should never post anything on social media that they would not be prepared to discuss in public meetings, with their constituents and with their friends and family. Councillors should think carefully before engaging in activity on social media.
- Councillors should be honest about who they are on social media and not impersonate anybody if it could lead to bringing the Council into disrepute.
- Councillors should be mindful of the safety of themselves, their families and others.
- Councillors should only share accurate information from reliable sources and should be mindful of 'fake news' stories and outlets.
- Councillors should be trustworthy and not use social media to divulge any confidential or exempt information which has been shared with them.
- Councillors should keep their social media accounts secure and protected by passwords. They should not allow anybody else access to any of their social media platforms.
- Councillors should remain professional and polite when conversing with members of the public. This includes the use of private messaging, commenting on posts or replying.
- The way we interact with people in person is not just limited to the things we say. Body language, expression, tone of voice and who we are speaking to are all contributing factors to interaction. Considering this, Councillors should always consider how any comment/post they make on social media could be construed.
- Councillors should be mindful of the public perception of using social media during Council meetings and consider whether it is appropriate.

### **Potential Legal Issues**

Councillors should be mindful that, in addition to a potential breach of the Code, misuse of social media may give rise to other consequences. The following issues, which may lead to criminal or civil legal proceedings, may also arise:

- Data Protection
- Publication of Obscene Material
- Incitement

- Copyright
- Harassment
- Discrimination
- Bias
- Defamation
- Judicial Review

### **Training**

Training on the use social media will be made available to Councillors.

The Local Government Association has also published a Checklist for Councillors. This can be found as an Appendix to this Guidance.

If you are unsure, or have any questions about your social media use, contact the Monitoring Officer.

### **Review**

This guidance will be reviewed on an annual basis by the Standards Committee.

## Local Government Association - Checklist for Councillors

<https://www.local.gov.uk/our-support/guidance-and-resources/comms-hub-communications-support/digital-communications/social-1>

### Be a person

In the words of Digital Specialist [Euan Semple](#), "Organisations don't tweet, people do". You are likely to be more effective if your social media profile is you (with a picture of you) rather than an organisation with a logo.

### Don't worry about reaching everyone in your ward

Social media will be more effective in some wards than others. University towns, urban areas with good broadband and mobile connections, and a working age population tend to work best. Wards with an older population and poor internet connectivity tend not to be so effective at reaching your ward. However don't let this stop you as connections are getting continuously improving as we move towards a higher level of [digital inclusion](#).

### Don't let it replace your traditional work

To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. The traditional work of a councillor still has to be done. You will know your residents best—consider which channel works best for them to connect with you, online and offline.

### Think about the platform you'll use

If people in your ward are keen Facebook users, then think seriously about Facebook. Twitter is popular among politicians because it's easy to use and connects people really well. Whichever one you choose, learn one at a time before even thinking of trying something else. You will know your residents better than anyone else so ask them which channel works best for them.

### See how other councillors use it

Watch and learn from other councillors who are using social media. Have a chat to them. You'll very often find they will be happy to talk. Even to those from different parties.

### Don't be a slogan machine

There is a really important decision to be taken over how political to be. You may have been elected on a party political ticket. But you are also a rounded human being. Social media is a chance for you to show your human side. Just posting party political content is likely to switch many people off and you may be talking only to the party faithful.

### **Have a conversation**

Social media works best as a two-way conversation connecting people and sharing information. Good councillors do this everyday face-to-face with residents - social media should be no different to this.

### **Don't wait for people to come to you**

You've got your Facebook profile or your Twitter profile. People won't just come flocking to you. Run a search on your chosen profile for the name of your ward or an issue. Make a connection. Join a Facebook group set-up by residents. Comment on a blog, a website or a video clip.

### **Think about times when you won't post**

From experience, many elected members say that Friday and Saturday nights are not always the best time to post overtly political messages. You won't always get the most rounded debates. Many councillors post sparingly on religious holidays.

### **To post in meetings or not?**

Some authorities frown on posting from social media in meetings. Check the situation where you are. Residents, residents' groups, journalists and bloggers are being encouraged to use social media from meetings. So, adding your voice to the conversation may be a good thing as part of democracy. If you can post an update from a meeting and it doesn't hamper your role in that meeting, then it's something to think about.

### **Don't have a row**

Robust debate is fine from time-to-time and its part of the cut and thrust of local politics. Most people can accept that. But remember how this debate is playing out to passers-by who are not interested in the detail of the issue. They are likely to be switched off. Take the row offline with a phone call or an email.

### **Don't be abusive**

An absolute 'no no' is abusing people online. It doesn't work. It will make you look awful and is a sure-fire way to land you in trouble with your electorate, the party and the council. Be professional. Don't say anything you wouldn't be happy saying in a public meeting with the Press there.

### **Don't discuss case work detail**

Case work can be reported to you on social media. Everything from uncollected rubbish and a cracked paving slab to concerns about child protection. As a good rule of thumb, ask residents to tell you the detail of an issue offline. Social media platforms usually have an easy-to-use way to talk one-to-one. Email and telephone can come into play too.

### **Pictures work**

People respond really well to pictures. They don't have to be print quality. They don't have to be posed. If you are on a ward walk post some pictures. Include the people you are with if they are happy with that. Post pictures that show your human side too. That sunrise you just noticed. Your dog. Things that make you human.

### **Enjoy it**

It's not meant to be scary. It's not meant to be hard work. Relax. Be yourself. Be a responsible elected member. Enjoy it.

**Chapter 5**  
**SCHEME OF COUNCILLORS' ALLOWANCES**

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## **Milton Keynes City Council**

## **Scheme of Councilors' Allowances 2024/25**

**SCHEME OF COUNCILLORS'  
ALLOWANCES  
2024-2025**

**1. General**

- 1.1 This Scheme is made under the terms of the Local Authorities (Members' Allowances) (England) Regulations 2003.
- 1.2 At the meeting of the Council on 24 January 2024 it was agreed that the Council would adopt this Scheme after taking into account the recommendations made by the Independent Remuneration Panel in 2021/22.
- 1.3 Milton Keynes City Council currently has 57 councillors, who serve a 4 year term of office and all of whom are entitled to receive the allowances under this scheme.

**2. Basic Allowance**

- 2.1 All councillors to receive a Basic Allowance of £12,213 per annum. This is paid in 12 equal, monthly instalments.
- 2.2 If a councillor ceases to be a councillor before the end of his or her term of office, payment of the allowance ceases and a pro rata calculation is made to ensure that the councillor receives the right amount of allowance. If necessary, an adjustment for under or overpayment may have to be made to ensure that the correct final payment is made, and the Council reserves the right to recover any overpayments of Basic Allowance.
- 2.3 The Basic Allowance is intended to recognise the time commitment of all councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs, such as the use of their homes for council business, telephone rental and broadband charges.

### 3. Special Responsibility Allowance

3.1 The Council also pays Special Responsibility Allowances to those councillors it considers to have significant, additional responsibilities over and above the generally accepted duties of a councillor. These special responsibilities are related to the discharge of the Council's functions.

3.2 Milton Keynes City Council currently pays Special Responsibility Allowances for the following roles at the rates stated:

Leader of the Council	£36,637
Deputy Leader of the Council	£18,318
Main Opposition Group Leader	£16,487
Cabinet Member* <sup>1</sup>	£12,823
Smaller Opposition Group Leader(s)	£9,160
Chair of Corporate Oversight & Scrutiny Management Committee	£9,160
Chair of Scrutiny Committee* <sup>2</sup>	£5,496
Chairs of Task and Finish Groups* <sup>3</sup>	£5,496
Chair of Planning Committee	£9,160
Chair of Licensing & Regulatory Committees (1 person)	£9,160
Chair of Audit Committee	£5,496
Chair of Corporate Parenting Panel	£5,496
Chair of Standards Committee	£3,654

#### Notes:

\*<sup>1</sup> A maximum of 8 Cabinet members may be appointed in addition to the Leader and Deputy Leader

\*<sup>2</sup> Budget and Resources Scrutiny Committee, Children and Young People Scrutiny Committee, Health and Adult Social Care Scrutiny Committee, Housing Planning and Placemaking Scrutiny Committee, and Public Realm and Environment Scrutiny Committee.

\*<sup>3</sup> Payable pro rata depending on the length of time the Group is in place.

3.3 Special Responsibility Allowances are paid in 12 equal, monthly instalments.

3.4 In the event of a councillor ceasing to hold an office which entitled him or her to receive a Special Responsibility Allowance before the term of office is completed, payment of the Allowance ceases, and a calculation based on the number of days in the Council year concerned will be made to determine the entitlement. If necessary, an adjustment for under or overpayment may have to be made to ensure that the correct final payment is made, and the Council reserves the right to recover any overpayments of Special Responsibility Allowance.

- 3.5 Notwithstanding, any agreed Parental Leave Policy for Councillors, in the case of a councillor who is in receipt of a Special Responsibility Allowance being unable to carry out the duty for which the Allowance is payable for a period of three months or more, requiring the duty to be carried out by a specific councillor as deputy, the Council will consider the circumstances, with the option of ceasing the Special Responsibility Allowance payment to the councillor concerned, and making a retrospective payment to the deputising councillor for the whole of the three month period, and continuing until the original councillor is able to resume the duty concerned.
- 3.7 Under the terms of Milton Keynes City Council's Scheme of Allowances no councillor is allowed to receive more than one Special Responsibility Allowance, even if they fulfil more than one role.
- 3.8 In the event of a councillor already in receipt of a Special Responsibility Allowance being appointed to an office with a different level of Special Responsibility Allowance, a calculation based on the number of days in the Council year concerned will be made to determine the entitlement. If necessary, an adjustment for under or overpayment may have to be made to ensure that the correct final payment is made, and the Council reserves the right to recover any overpayments of the Special Responsibility Allowance.

#### **4. Co-opted Members of Committees**

- 4.1 Persons co-opted to serve on Committees, Sub-Committees or Panels, and who have voting rights, shall receive an allowance of £700 calculated pro-rata to the term of co-option. This is to be paid in 12 equal, monthly instalments and will be liable for tax and National Insurance.
- 4.2 All co-optees are eligible for travel and subsistence allowances at the Councillors' rate when carrying out the duties for which they are co-opted.
- 4.3 If the co-opted person ceases to serve as a co-opted member before the end of his or her term of co-option, payment of the Allowance ceases, and a calculation based on the number of days in the Council year concerned will be made to determine the entitlement. If necessary, an adjustment for under or overpayment may have to be made to ensure that the correct final payment is made, and the Council reserves the right to recover any overpayments of this allowance.

#### **5. Civic Allowances**

- 5.1 The Mayor of Milton Keynes receives a civic allowance of £12,823 per annum, paid in 12 equal, monthly instalments.
- 5.2 The Deputy Mayor of Milton Keynes receives a civic allowance of 50% of the Mayor's allowance, i.e. £6,412 per annum, paid in 12 equal, monthly instalments.
- 5.3 Civic Allowances are liable for tax and National Insurance.

5.4 In the event of a Mayor or Deputy Mayor ceasing to hold office before the term of office is completed, payment of the Allowance ceases, and a calculation based on the number of days in the Council year concerned will be made to determine the entitlement. If necessary, an adjustment for under or overpayment may have to be made to ensure that the correct final payment is made, and the Council reserves the right to recover any overpayments of the Civic Allowance.

## **6. Child Care and Dependent Carers' Allowance**

6.1 All councillors and co-opted members of Council committees can claim, on production of appropriate receipts, the Child Care and Dependent Carers' Allowance.

6.2 Child Care:

The current Real Living Wage (as set by the Living Wage Foundation) of £12 per hour applies and will be up rated each November in line with the Living Wage Foundation's annual review.

6.3 Specialist Care:

Specialist care is reimbursed based on the actual costs incurred, subject to the production of receipts and medical evidence that this type of care is required. The allowance has no daily or monthly maximum claim when undertaking Approved Councillor Duties.

6.4 Claims for Child Care and Dependent Carers Allowance are inclusive of travel time associated with the Approved Duties.

6.5 Full details of the Dependent Carers' Allowance Scheme are listed in the Appendix of this Scheme.

## **7. Travel and Subsistence**

7.1 Re-imbusement to councillors for travel and subsistence will be paid at the current rates agreed by the National Joint Council (NJC) for the reimbursement of Council officers, which are as HMRC (per mile) rates:

- Cars and vans                    45p
- Motorcycles                    24p
- Bicycles                        20p
- Electric vehicles                45p

7.2 From 1 April, 2016 mileage claims are no longer liable for tax and National Insurance contributions.

7.3 Councillors will be reimbursed the full cost of travelling by the most appropriate means of transport at standard class rates whilst carrying out Approved Duties, provided a valid receipt (bus ticket etc), is produced to substantiate the claim.

7.4 All reasonable claims for subsistence expenses whilst carrying out Approved Duties will be paid provided they are supported by valid receipts. As there is no profit element in the payment of subsistence claims, this allowance is not subject to tax or National Insurance contributions.

## **8. Claimable Allowances**

8.1 There is a 3 month time limit for submitting claims for the claimable allowances above i.e. Child Care and Dependent Carers' Allowance and Travel and Subsistence Allowances. Any claims made outside of this time limit will only be paid in exceptional circumstances with the approval of the Director Law and Governance and the Chief Internal Auditor.

## **9. Advance payment of expenses**

9.1 Where a Councillor would be financially disadvantaged and / or unable to undertake approved duties because of the initial cost outlay and associated delay in receipt of expense payments, consideration may be given to travel and subsistence expenses being borne directly by the Council as opposed to the Councillor bearing the expense and then submitting a claim for reimbursement.

9.2 The Director of Law and Governance will be required to authorise any advance payment of expenses.

9.3 Where the cost of travel and subsistence expenses is borne directly by the Council in the above circumstances these will be reconciled to a Councillor's expense account and published each year in accordance with legislative requirements.

## **10. Pensions**

10.1 Councillors are no longer eligible to join the Local Government Pension Scheme.

## **11. Dual Authority Roles**

11.1 Councillors cannot receive an allowance from more than one authority (e.g. Fire Authority) for the same duties.

## **12. Forgoing Allowances**

12.1 A councillor may forgo all or part of any allowances to which he or she is entitled, provided he or she has given notice in writing to the Director Law and Governance.

## **13. Approved Duties**

13.1 The list of "Approved Duties" under the regulations for which the Travel and Subsistence Allowance is payable is as follows:

- a) a meeting of the Council;
- b) a meeting of the Cabinet;
- c) a meeting of a committee of the Cabinet;

- d) a meeting of a committee or sub-committee of a committee of the Council where that councillor is a member of that committee, is substituting for a member of that committee or otherwise receives a specific invitation from the chair of that committee;
- e) a meeting of Cabinet members with the Corporate Leadership Team;
- f) a meeting with officer colleagues in relation to portfolio / corporate issues (to include Group Leaders, Cabinet members, Chairs, Vice-Chairs and opposition spokespersons) and Ward issues;
- g) a meeting of some other body to which the Council makes appointments or nominations (i.e. Outside Bodies);
- h) a meeting of a committee or sub-committee of a body to which the Council makes appointments or nominations;
- i) a meeting of a local authority association of which the Council is a member (e.g. Local Government Association);
- j) a meeting in the Councillor's Ward called by a Council Officer or Parish Council;
- k) duties undertaken on behalf of the Council in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- l) duties undertaken on behalf of the Council in pursuance of any Procedure Rule requiring a councillor or councillors to be present while tender documents are opened;
- m) duties undertaken on behalf of the Council in connection with arrangements made by the Council for the attendance of pupils at a school approved for the purposes of Section 342 of the Education Act 1996;
- n) a meeting which has been:
  - i) both authorised by the Council, a committee, or a sub-committee of the Council and one or more other authorities, or a sub-committee of a joint committee, and
  - ii) to which representatives of more than one political group have been invited or to which two or more Councillors have been invited;
- o) a meeting of the Cabinet, committee of the Cabinet, committee of the Council, or sub-committee, at which a councillor, who is not appointed to that body:
  - i) attends to present an item which he/she has requested be included on the Agenda in his/her name;
  - ii) is required to attend to answer questions/give evidence; or
  - iii) attends to present a report on behalf of another body of the Council;

- p) attendance at conferences, seminars and other Councillor Development and training events as approved by the Council or the Service Director (Legal and Democratic Services);
- q) attendance at casework surgeries organised at advertised times and venues within the Councillor's own ward; and
- r) any other duty approved by the Council in connection with discharging the duties of the authority or its committees or sub-committees.

#### **14. Indexing**

14.1 The Basic Allowance, Special Responsibility Allowances, Civic Allowances and Co-Optees Allowances are subject to indexation commensurate with the percentage increase in staff salaries from the previous financial year, from April 2022 for a period of up to four years.

#### **15. Duration**

15.1 The above Scheme of Allowances is operative from 1 April 2024 until 31 March 2025 or such other time as agreed by the Council.



## Dependant Carer Allowance Scheme

1. The Scheme is open to all elected councillors of Milton Keynes City Council and co-opted members of Council committees.
2. The Scheme covers the care of dependants whether children, elderly people or people with disabilities for whom those listed in 1 above have responsibility.
3. The rate payable is as follows with no maximum time cap:
  - a) Childcare – Real Living Wage of £12 per hour
  - b) Specialist Care – actual costs subject to medical evidence supporting the requirement for specialist care
4. The Scheme covers care provided for a councillor's/co-opted member's dependant(s) whilst they are carrying out any 'approved duties', including travel time, as set out in Section 13 of the Scheme of Councillors' Allowances.
5. Carers must be over the age of 16 and not be a member of the claimant's own household.
6. Where the provision is for childcare, it is recommended that a registered child-minder / nursery or an approved child carer is used. However, it is ultimately the parents' responsibility to make adequate provision for their childcare needs.
7. Claims should be made on the Councillor's Business Expense claim forms, supported by valid receipts. Co-opted members of committees should submit their receipts with a covering letter to the Head of Democratic Services, Milton Keynes City Council, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.
8. Receipts should contain the date the care was provided, length of time the care was provided, the 'approved duty' covered, the cost per hour and should be countersigned by both the carer and claimant. Claimants may wish to use the attached sample receipt as a standard format.
9. In accordance with paragraph 8 of the Council's Scheme of Councillors' Allowances claims for Dependent Carer Allowance payments should be submitted within 3 months of the event.

## Dependant Carers' Allowance

Date care provided	
Duty covered	
Time from	
Time to	
Total hours	
Cost per hour (£)	
Total (£)	
Name of Carer	
Signature of Carer	
Name of Claimant	
Signature of Claimant	

# Milton Keynes City Council

## Parental Leave Policy for Councillors

### Contents

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## **1 Introduction**

- 1.1 There is no statutory right to such leave for those in elected public office. This policy therefore sets out the entitlement to maternity, or adoption leave (together 'Qualifying Parental Leave'), paternity leave ('Paternity Leave') and relevant allowances, for elected members ('Councillors') of Milton Keynes City Council ('the Council').
- 1.2 In particular this policy seeks to ensure that Councillors are able to take appropriate leave at the time of birth or adoption.
- 1.3 In addition, this policy seeks to improve provision for new parents, thereby increasing the likelihood that there will be greater diversity of experience, age and background of Councillors. This policy may also assist with retaining Councillors and making public office more accessible to individuals who might otherwise feel excluded from it.
- 1.4 The Council is responsible for approving this policy and reviewing it from time to time, and the Council's Monitoring Officer is responsible for applying it.

## **2 Applicability**

- 2.1 This policy applies to Milton Keynes City Council Councillors only - employees are covered by a number of policies.
- 2.2 It is the responsibility of each Councillor to familiarise themselves with and adhere to this policy.

## **3 Legislative Framework**

- 3.1 S.85 (1), Local Government Act 1972 sets out that:  
*"if a member of a Local Authority fails, throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Authority they will, unless the failure was due to some good reason approved by the Authority before the expiry of that period, cease to be a member of the Authority"*.
- 3.2 Therefore, a Councillor not attending a meeting of the Council within the meaning of the Section (a 'Qualifying Meeting') for six consecutive months due to maternity, etc, would (unless the Council specially voted to approve the particular absence in accordance with the Section) cease to be a Councillor.
- 3.3 The Council has therefore resolved that (CL111), where a Councillor takes Qualifying Parental Leave in accordance with this policy, such will be taken as a good reason for absence within the meaning of the Section and the six-month period relating to that Councillor ('the Period') will be extended by **up to** an additional six months to a **maximum** of twelve months ('the Extended Period').
- 3.4 There is no obligation on Councillors to take Qualifying Parental Leave and whether they do so or not they remain entitled to attend Council meetings in accordance with the Council's constitution.

## **4 Roles and Responsibilities**

- 4.1 The Monitoring Officer is responsible for providing advice to Councillors on this policy and has been delegated with authority to approve a Councillor's absence in compliance with this policy.

- 4.2 A Councillor intending to take Qualifying Parental Leave will be responsible for ensuring that they comply with this policy, provide appropriate information / evidence and respond to reasonable requests for information as promptly as possible, so that they keep officers and colleagues informed and updated in relation to their intended date of return ('Return Date').
- 4.3 If a Councillor decides not to return (ie not to attend a Qualifying Meeting) by the end of the Extended Period, thus occasioning a by-election, they should notify their political group leader and the Monitoring Officer at the earliest opportunity.

## **5 Notification**

- 5.1 Requests to take Qualifying Parental Leave must be made in writing to the Monitoring Officer and should be made at least 28 days before the date the Qualifying Parental Leave is due to start (the due birth date or expected date of placement as the case may be).
- 5.2 The request should include the due date for the birth or expected placement date, the date the Councillor wishes leave to commence, the length of leave requested, and the intended Return Date.
- 5.3 Councillors can change their mind about when to start or end their Qualifying Parental Leave, but in the absence of exceptional circumstances, they must give at least 28 days' notice of the change of commencement and 4 weeks' notice of a change of date of their return.

## **6 Allowances**

- 6.1 A Councillor taking Qualifying Parental Leave, or Paternity Leave shall continue to receive their Basic Allowance.
- 6.2 Councillors entitled to a Special Responsibility Allowance (SRA) in accordance with the Scheme of Allowances shall continue to receive their allowance for no longer than a period of 6 months after the commencement of Qualifying Parental Leave or until the sooner of:
- (a) there is a change to the Group that controls the Council;
  - (b) the date of the next Annual Meeting of the Council; or
  - (c) the date when the Councillor taking leave is up for election.

At such a point, the position will be reviewed, and depending on the circumstances may be subject to a possible extension for the remainder of the six-month period.

- 6.3 Councillors shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began, unless:
- (a) they are removed from this post at Annual Meeting of the Council, or
  - (b) there is a change to the Group that controls the Council.
- 6.4 Councillors can opt out of receiving an SRA during their parental leave if they so wish. If they wish to express this right, they must make this clear within the necessary notification to the Monitoring Officer.
- 6.5 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.



- 9.3 In the event that an election of Council is called prior to the Return Date and the Councillor decides not to stand for re-election, or stands but is not re-elected, the Qualifying Parental Leave (and the Councillor's entitlement to allowances) will cease from the Monday after the election date.
- 9.4 In the event that an election of Council is called prior to the Return Date and the Councillor stands and is re-elected, a fresh Period will commence in accordance with the Section from the date of election for all Councillors. In these circumstances the date by which the Councillor has to attend a Qualifying Meeting so as to comply with the Section will be the later of:
- (a) the end of the Extended Period, or
  - (b) six months from the date of the election.
- 9.5 In the event that a Councillor attends a Qualifying Meeting during the Extended Period the date by which the Councillor has to attend a further Qualifying Meeting so as to comply with the Section will either be the end of the Extended Period, or six months from the date of the Qualifying Meeting, whichever is later.
- 9.6 Councillors are entitled to a maximum of two weeks Paternity Leave and thus up to an Extended Paternity Period of a maximum of six months and two weeks.

## **10 Pregnancy Related Sickness and Baby Loss**

- 10.1 Any absence from Council meetings due to pregnancy related sickness will be recorded as 'Approved Leave' rather than being attributed to general absence.
- 10.2 If a Councillor loses their baby or the baby is born prematurely, for example, they suffer a miscarriage or an ectopic pregnancy within the first 24 weeks of their pregnancy and they are off sick as a result of this, then any absence from Council meetings would be recorded as being 'Approved Leave' rather than being attributed to general absence.
- 10.3 If a Councillor's baby is stillborn after 24 weeks of pregnancy, or, if a Councillor's baby is born alive at any stage in the pregnancy but subsequently dies, they will be entitled to Qualifying Parental leave, inclusive of the rights and benefits as outlined in this policy.
- 10.4 Special and exceptional arrangements may be made in cases of prematurity and will be agreed by the Monitoring Officer on a case-by-case basis.

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**Chapter 6**  
**GLOSSARY OF TERMS**

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# **Milton Keynes City Council**

## **Glossary of Terms**

## **GLOSSARY OF TERMS**

<b>Budget</b>	The includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of the capital expenditure and the setting of virement limits.
<b>Budget and Policy Framework</b>	The plans and strategies, which have to be adopted by the Council and within which the Cabinet have to operate.
<b>Cabinet</b>	The councillors who together with the Leader form the Cabinet, each usually having a specific responsibility for a number of services provided by the Council.
<b>Call-in</b>	The process by which the Scrutiny Committee consider whether a decision is properly taken or is the right decision.
<b>Capital Expenditure</b>	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
<b>Second or Casting Vote</b>	A vote made by the Mayor, or Chair of a committee to decide a matter when there is a tied vote.
<b>Chair/Vice Chair</b>	The person (man or woman) who chairs a body of the Council, e.g. committee etc./the deputy to the Chair.
<b>Chief Executive</b>	The most senior officer, with overall responsibility for the management and operation of the Council.
<b>Chief Finance Officer</b>	The officer responsible for the administration of the financial affairs of the Council. Also known as the Section 151 Officer.
<b>Chief Officers</b>	Currently refer to the Council's Chief Executive, Deputy Chief Executive and Service Directors.
<b>Code of Practice</b>	A set of rules, usually of expected behaviour.
<b>Committee</b>	A formal body consisting of elected councillors, first constituted under the Local Government Act 1972.
<b>Constitution</b>	A document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.

<b>Co-opted Member</b>	A non-voting, non-councillor appointed to serve on a committee in an advisory capacity.
<b>Director</b>	A Senior Officer.
<b>Council</b>	This can be used either:  As the term used for the organisation; or In respect of the meeting of all of the councillors.
<b>Councillor</b>	An elected member of the Council and representative of the local community.
<b>Code of Conduct for Councillors</b>	Agreed Code of Conduct governing how councillors must conduct themselves whilst carrying out Council business or acting as a representative of the Authority.
<b>Councillors' Allowance Scheme</b>	The scheme of payments made to councillors.
<b>Council Tax</b>	The money raised by the Council from residents of Milton Keynes
<b>Deputy Chief Executive</b>	This is not a statutory position. The Deputy Chief Executive performs such functions as are delegated to him / her by the Chief Executive or the Council.
<b>Director</b>	The Chief Officer responsible for a relevant service area.
<b>Disclosable Pecuniary Interest (DPI)</b>	A category of interest established under the Localism Act 2011 and subsequent regulations. It is a criminal offence for a Councillor to fail to register a DPI or to take part in decision making on matters affected by a Councillor's DPIs.
<b>Exempt Information</b>	Information falling into one of 7 categories set out in the Local Authorities (Executive Arrangements) (Access to Information) (Amendment) (England) Regulations 2006 and the Local Government (Access to Information) (Variation) Order 2006 which usually cannot be publicly disclosed – see the Access to Information Procedure Rules in Part 4 of the Constitution.
<b>Group Leader</b>	In respect of any political group means the person whom the group has identified as its leader by notice in writing to the Chief Executive.
<b>Human Rights Act 1998</b>	The Act which puts European Human Rights into UK law. The Council by law considers the impact of its action on the rights of individuals.

<b>Key Decision</b>	A decision which is likely either to incur significant expenditure/make significant savings (over £500,000) or to have a significant impact on those living or working in 2 or more Wards.
<b>Laws</b>	Acts of Parliament or Regulations.
<b>Leader of the Council</b>	The Leader shall be a councillor elected to that office by a simple majority of the Council.
<b>Local Government Ombudsman</b>	Appointed nationally to look into complaints by the public about the way they have been treated by or the service they have received from councils.
<b>Mayor</b>	The civic head of the Council, who chairs the meeting of the Council. The Chairman is not responsible for the running of the Council.
<b>Member of the Public</b>	Anyone who is not a part of the Council.
<b>Minutes</b>	The formal record of the proceedings of a meeting.
<b>Monitoring Officer</b>	The officer appointed under the Local Government and Housing Act 1989 to oversee the legality of the Council's actions and the ethical behaviour of councillors and employees. This is a statutory proper officer role.
<b>Officer</b>	A paid employee of the Council.
<b>Overview and Scrutiny</b>	Committees of the Council with responsibility for scrutinising decisions made in the name of the Council, making reports and recommendations on policy and the discharge of functions and considering matters which affect the well-being of the residents.
<b>Parish Meeting</b>	A meeting at which every local government elector has a vote. Every parish must have a Parish Meeting which must meet at least annually. Parish Meetings discuss local affairs and have power to exercise certain limited functions. They are not Parish Councils.
<b>Petitions</b>	A formal written request, signed by more than one person, appealing to the Council in respect of a particular cause or question.
<b>Policy</b>	A plan of action or approach to an issue.
<b>Policy Framework</b>	The policy framework means the key policies and strategies which must be decided and followed by the Council.

<b>Policy Review</b>	An examination of Policy in relation to a Council function. To establish whether a policy reflects the Council's current obligations, both in law and in relation to the decision-making process. Where no policy exists a review may examine all aspects and formulate a policy for the future decision-making processes.
<b>Proper Officer</b>	A senior officer of the Council who is given a set of responsibilities by statute.
<b>Protocols</b>	Codes of Practice which set out how, for example, various elements of the Council are expected to interact with each other.
<b>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Regulatory</b>	The functions of the Council which "regulate" e.g. licensing, planning etc.
<b>Responsibility for Functions</b>	This document (in Chapter Two of the Constitution) sets out which committee, councillor or officer is responsible for particular functions of the Council.
<b>Summons</b>	The term used to inform date, time and place of a meeting and specify business to be transacted.
<b>Statutory</b>	The process of interpreting and applying legislation.
<b>Terms of Reference</b>	A written definition setting out the responsibilities and boundaries of a particular committee.
<b>Town Council / Parish Council / Parish Meeting</b>	A corporate body (in the same way in which the Unitary Council is a corporate body) having precepting powers in its area, and empowerment by statute to undertake certain functions.
<b>Unitary Council</b>	Councils that are responsible for the provision of all the local government services within a district.
<b>Virements</b>	Moving funds from one area of expenditure to another within a financial year.
<b>Ward</b>	An area of Milton Keynes for which elections are conducted. Each ward elects three Councillors on a three-year rolling basis

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**Chapter 7**  
**ASSOCIATED DOCUMENTS**

## **Contents**

1. Senior Management Structure
2. Officer Scheme of Delegations
3. Officer Scheme of Delegation for Development Management Matters
4. Planning Committee: Procedure for the Determination of Planning Applications – Public Participation
5. Licensing Committee: Procedure for the Determination of Licensing Applications
6. Whistleblowing Policy
7. Councillor Retirement Dates
8. Leader’s Scheme of Delegation
9. Statutory Officers and Proper Officer Functions
10. Procedure for the Nomination of Deputy Mayor Procedure

## **Milton Keynes Council**

### **Senior Management Structure**

## Michael Bracey - Chief Executive

## Tracey Aldworth - Deputy Chief Executive

Also Managing Director of Milton Keynes Development Partnership (MKDP)

Adult Services	Public Health	Children's Services	Customer and Community Services	Finance and Resources	Law and Governance	Environment and Property	Planning and Place-Making
<b>Victoria Collins</b>	<b>Vicky Head</b>	<b>Mac Heath</b>	<b>Sarah Gonsalves</b>	<b>Steve Richardson</b>	<b>Sharon Bridglalsingh</b>	<b>Stuart Proffitt</b>	<b>Paul Thomas</b>
Adults, children's and crisis accommodation commissioning <b>Mick Hancock</b>	MK-wide health protection and improvement <b>Marimba Carr</b>	Children's social care and safeguarding <b>Sophie Marshall</b>	Customer services and data <b>Lisa Beckett</b>	Housing benefit, council tax and business rates, income and debt <b>Robin Bates</b>	Elections and democratic services <b>Pete Brown</b>	Repairing and maintaining homes & MKCC-wide health and safety <b>Alison Cook</b>	Planning, enforcement, urban design and historic environment <b>Jon Palmer</b>
Social care and crisis accommodation contracts and quality <b>Dina Adib</b>	Public health programme management <b>Debra Richardson</b>	Education, Learning and Inclusion, SEND <b>Marie Denny</b>	Communications <b>Kellie Evans</b>	Social care, schools and housing finance <b>Natasha Hutchin</b>	Legal <b>Catherine Stephens</b>	Waste, environment, water and landscaping <b>Nick Hannon</b>	Economic development and infrastructure delivery <b>Sophie Lloyd</b>
Housing solutions, neighbourhoods and housing allocations <b>Amanda Griffiths</b>		Family support and children in need services <b>Candice Boatwain</b>	Partnerships, leisure and emergency planning <b>Mel Marshman</b>	IT and Print <b>Hazel Lewis</b>		MKCC property management and facilities <b>Bee Lewis</b>	Smart city and transport innovation <b>Brian Matthews</b>
MKCC operated home care services, reablement support and sheltered housing <b>Linda Ellen</b>		Looked after children and care leavers <b>Sharon Godfrey</b>	Commercial regulation, licensing and sustainability <b>Neil Allen</b>	Corporate and capital finance, environment and property finance <b>Anna Rulton</b>		Highways, bridges, traffic management and parking <b>Graham Cox</b>	
Older people's and hospital assessment, safeguarding, social work <b>Phil Jones</b>		Children's Performance and Quality Assurance <b>Martin Clement</b>		Audit, fraud and risk <b>Jacinta Fru</b>		Building new MKCC homes and estate renewal <b>Will Rysdale</b>	
MKCC operated day services and overnight short stay schemes <b>Andrea Natale</b>		Principal Education Outcomes <b>Alison Talbot</b>		HR, employee learning and development <b>Julie Clark</b>			
Learning disability, autism and mental health social work <b>Michelle Smith</b>		Early years and school planning, admissions and attendance <b>Simon Sims</b>					
Mental health, rough sleeping and supported accommodation <b>Sarah Nickson</b>							
Adult and Children's Services development and commissioning <b>Hannah Soetendal</b>							

Corporate Leader

Service Leader

Manages others on chart

## Senior Management Chart

Director and Head of Service

Simplified areas of responsibility, not always job titles

*Italics denote interim appointment*

April 2023

## **Milton Keynes City Council**

## **Officer Scheme of Delegation**

# Officer Scheme of Delegation

## KEY

Chief Executive	-	CE
• Director of Public Health*	-	DoPH
• Director Adult Services	-	DAS
• Director Children’s Services	-	DCS
• Director Policy, Insight and Communications	-	DPIC
• Director Finance and Resources	-	DFR
Deputy Chief Executive	-	ACE
• Director Environment and Property	-	DEP
• Director Planning	-	DP
• Director Law and Governance	-	DLG

*\* Shared with Bedford and Central Bedfordshire Councils*

## 1. **General**

- 1.1. This Scheme of Delegations is an associated document to the Council's Constitution and sets out the powers/functions delegated to specific officers. It shows the ways in which the officers of the Council can make decisions and which decisions they have the power to make.
- 1.2. "Officers" is the term used to refer to the people employed, retained or appointed by the Council to advise and support councillors and implement their decisions. The term "officers" in this Constitution includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers.
- 1.3. In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council and the Cabinet have delegated to officers all of the powers that they need to perform their roles.
- 1.4. Certain named officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as "Statutory" or "Proper" Officers and some have specific legal titles in addition to their job titles. There is a Proper Officer Register which sets out these details
- 1.5. The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. Currently these arrangements include a Chief Executive (most senior officer of the Council) supported by ten other senior roles which are set out below and which together are referred to as the "Chief Officers":
  - Deputy Chief Executive
  - Director Adult Services
  - Director Children's Services
  - Director Environment and Property
  - Director Finance and Resources
  - Director Planning
  - Director Law and Governance
  - Director for Policy, Insight and Communications
  - Director of Public Health
- 1.6. See the current organisational structure of the Council, showing more detail about the roles and responsibilities of the Directors and the officers supporting them to deliver all the Council's services.

- 1.7. All Local Schemes of Delegation (and any changes to them) must be notified to the Monitoring Officer. Where a function has been delegated to an officer, the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation
- 1.8. The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. The delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council’s management arrangements, irrespective of a change in the title/name of the officer post.
- 1.9. Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Director is introduced, that officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.

## **2. General Delegations to all Directors**

- 2.1. This Scheme gives the power for the Directors to take decisions in relation to all the functions in their areas of responsibility except where:
  - (a) a matter is prohibited by law from being delegated to an officer, and
  - (b) a matter has been specifically excluded from delegation by this scheme or delegation is otherwise limited, by a decision of the Council, the Cabinet/Executive, including the Leader’s Scheme of Delegation, a Committee or Sub-Committee or by any other provisions contained in the Constitution.
- 2.2. This Scheme of Delegation is by exception, so all powers are vested in the Director with the management responsibility for the functions who may delegate further, in writing (and in line with any relevant scheme of training and qualification).
- 2.3. Any power delegated under this Scheme can be exercised by the relevant Director and in all cases by the Chief Executive personally.
- 2.4. Directors may appoint another officer as their deputy and such deputy shall have all the powers of a Director as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Director



under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Director) or without time limitation. All such delegations should be notified to the Monitoring Officer. The appointment of a deputy shall not prevent the exercise by the Director of any delegation set out in this Constitution.

2.5. If there is any dispute or lack of clarity as to which Director has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

2.6. The following delegations shall apply to all Directors (and to any appointed deputies):

**Urgent Action**

2.7. To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which his/her Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council or a specific committee. This delegation is subject to the conditions that any urgent action:

- (a) shall be reported to the Cabinet, the appropriate Cabinet member or the appropriate committee; and
- (b) shall take account of the advice of the Monitoring Officer and the Section 151 Officer

2.8. Shall be reported to and where practicable exercised in consultation with the appropriate Cabinet member or the Chair of the appropriate committee. .

**Implementation of decisions**

2.9. To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet and Council.

**General operational**

2.10. To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

### **Consultation**

- 2.11. To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 2.12. To respond to Government consultations and consultations from other bodies, in consultation with the relevant Cabinet Portfolio Holder(s) or committee Chair.
- 2.13. To undertake all steps required to complete Government statistical returns.

### **Finance**

- 2.14. To manage the finance of their directorates to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 2.15. To enter into contracts and incur expenditure in accordance with the relevant Constitutional rules such as Financial Regulations, Contract Procedure Rules and the Leader's Financial Scheme of Delegation.
- 2.16. To determine the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant equipment or machinery subject to any statutory limitations and requirements.

### **Staffing**

- 2.17. To deal with the full range of employment and staff management issues, below Director level including, but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Staff Employment Procedure Rules.
- 2.18. To implement any necessary changes to staffing structures, except where clauses (a) to (d) apply, subject to prior consultation with all appropriate parties affected by the decision, including any Trades Union:
  - (a) involves the loss of one or more posts not currently vacant
  - (b) involves re-grading of posts or the grading of new posts
  - (c) involves changes to existing National or Local Agreements and policies
  - (d) cannot be achieved within the delegated powers in respect of budgets.
- 2.19. To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other council.

### **Land and Assets**

- 2.20. To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- 2.21. To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.
- 2.22. To make application for planning permission and any other necessary applications for other consents required for the development of land.

### **Legal Authorisation and Enforcement**

- 2.23. To authorise officers possessing such qualifications as may be required by law and where Directors are satisfied that appropriate training has been undertaken, to:
  - (a) take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised officer of the Council (howsoever described);
  - (b) issue certificates of authority or certify copies of documents;
  - (c) enforce the requirements of legislation; and
  - (d) instruct the Monitoring Officer to consider whether or not legal proceedings to enforce the requirements of legislation are appropriate
- 2.24. With the approval of the Director of Law and Governance or his/her deputy, to:
  - (a) authorise the issue and service of requisitions for information, any notice, order or direction; and
  - (b) approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation).
  - (c) authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Council ([see Annex](#)).
- 2.25. To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.

### **Safeguarding Children and Vulnerable Adults**

- 2.26. To ensure that arrangements are in place to discharge the responsibilities of the Council with their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

## ANNEX

### Director Law and Governance (Monitoring Officer)

	<u>Legal Proceedings</u>	<b>DLG</b>
1.	Constitution (Para 15.3) Local Government Act 1972, S.222	For the promotion or protection of the interests of the inhabitants of the borough: (a) to prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, to institute them in the Council's name; and (b) to, on behalf of the local authority, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body.
2.	Legal Proceedings – County Court, High Court and any other Tribunal	To institute and carry on, or defend, civil proceedings in the County Court or High Court or any other Tribunal (including proceedings for an Injunction) on behalf of and in the name of the Council and to take such enforcement action in the Court proceedings as may be considered appropriate.
3.	Legal Proceedings – Parking Offences Section 112 of the Road Traffic Regulation Act 1984, Section 35(4) of the Road Traffic Regulation Act 1984 Section 112(4) of the Road Traffic Regulation Act 1984	(i) To require information from any person as to the identity and address of the driver of the vehicle who is alleged to have committed an offence under Section 35(4) of the Road Traffic Regulation Act 1984, (Failure to comply with or contravention of Off-Street Parking Places Order); and (ii) To institute legal proceedings against any person who fails to give information requested under paragraph (i) above.

## **Officer Scheme of Delegation for Development Management Matters**

### **PART A**

#### **The Scope of Delegated Authority**

The Delegated Officers are authorised to determine the following matters subject to the limitations of Part B below:-

#### **1. Planning Applications and Related Matters**

- (a) All planning applications.
- (b) All applications for Advertisement consent, Listed Building consent, Relevant Demolition consent, Hazardous Substance consent, and Tree Preservation Order consent.
- (c) All notifications in respect of planning related matters including, Prior Approval notifications, telecoms notifications, agricultural notifications, Trees in Conservation Area notifications and notifications of intention to demolish buildings.

#### **2. Consultations**

- (a) Observations on applications submitted to other local planning authorities for their determination.
- (b) Observations on Crown development and development proposed by other outside bodies referred to this Council as consultee authority.
- (c) Observations on development and ancillary works proposed by statutory undertakers, telecommunications code system operators and other organisations having permitted development rights under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or replacement legislation.

#### **3. Procedural Matters**

- (a) Finalising the conditions and reasons for refusal, which appear on decision notices.
- (b) The preparation of legal agreements, in consultation with the Director of Law and Governance, including those within the terms of any relevant Planning Committee or Planning Panel resolution.
- (c) Agreeing to accept or not accept minor amendments to planning permission, or repeat applications.
- (d) Determining the need for information required to make a decision on an application including the need for, and scoping of, an Environmental Assessment.
- (e) Deciding the charge to be made for the provision of information where the normal scale of charges is inappropriate (e.g. information requiring research and/or to be used for commercial purposes).
- (f) Deciding the Council's preferred method for dealing with appeals (written representations, informal hearing or public inquiry) and their Conduct.
- (g) Compliance with the departure procedures contained Directions issued by the Secretary of State.
- (h) Determining the need for and making Tree Preservation Orders and confirming such Orders where there are no objections and determining the need for and issuing building preservation notices where urgently required.

- (i) Determining whether planning permission, Listed Building consent, Advertisement consent, Tree Preservation Order consent and Hazardous Substances consent is required.
- (j) Authorising officers to enter land and make applications to the magistrates court for a warrant authorising entry where applicable in relation to any matter set out in this Part A.

#### **4. Enforcement and Matters of Lawfulness**

- (a) Determining applications for certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development and, where appropriate, in consultation with Director Law and Governance.
- (b) Determining the need for and service of Planning Contravention Notices.
- (c) Determining the need for and service of Breach of Condition Notices.
- (d) Determining the need for and enforcement of control as to advertisements, the service of discontinuance notices and the removal or obliteration of unlawful placards or posters.
- (e) Determining the need for and service of Enforcement Notices and Listed Building Enforcement Notices.
- (f) Determining the need for and service of Stop Notices, Temporary Stop Notices and injunctions, if urgently required, and subject to the agreement of the Head of Legal Services and, in the case of Stop Notices, the Chair of Planning Committee.
- (g) In consultation with the Director Law and Governance to undertake prosecutions where applicable in relation to any matter set out in this Part A.
- (h) Issuing notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 330 of the Town and Country Planning Act 1990 (as amended), and issuing notices in respect of derelict land under Section 215 of the Town and Country Planning Act 1990.
- (i) Determining the need for and taking direct action under Section 178 of the Town and Country Planning Act 1990 (as amended).
- (j) Determining the need for and carrying out urgent works and repairs under Section 54 of the Planning (Listed Buildings and Conservations Area) Act 1990.
- (k) Determining the need to and withdrawing any notice issued under sub- paragraphs (4)(b) to (h) above.

#### **5. Rights of Way.**

The determination of all non-executive decisions and carrying out of all functions relating to public paths and rights of way, including those specified in Schedule 1 of the Local Authorities (functions and responsibilities) (England) Regulations 2000. Functions be delegated to the appropriate Director unless required to be determined by Committee in compliance with relevant legislation.

## **PART B**

### **Limitation on Delegated Authority**

1. The scheme of delegation relating to planning applications and related matters shall be limited solely to the items set out in Part A.
2. No delegated decision shall be made where the development in the opinion of the Delegated Officer, is likely to be of a controversial nature, taking into account such factors as the scale and nature of the proposed development, the history and sensitivity of the site and the likely level of public interest.
3. No delegated decision shall be made which in the opinion of the Delegated Officer is materially in conflict with any of the Council's approved planning policies.
4. No delegated decision on an application shall be made until the Specified Consultation Period has expired.
5. No delegated decision on a planning application shall be made if a written request or e-mail to the Delegated Officer or Case Officer is received within the Specified Consultation Period, giving notice of a representation from;
  - (a) A Ward Councillor in respect of an application within their Ward.
  - (b) A Ward Councillor where an application in an adjacent Ward will have an impact on their Ward.
  - (c) Any Ward Councillor, where with the prior agreement of the Chair, it can be demonstrated that the environmental planning effect on the Borough of Milton Keynes is significant.
  - (d) The Clerk or Secretary of a Parish or Town Council in respect of an application within their Parish.
  - (e) The Clerk or Secretary of a Town or Parish Council where an application in an adjacent Parish will have an impact on their Parish.
  - (f) In the case of a Minor or Other application, or a Tree Preservation Order consent, 5 or more members of the public from different households.
  - (g) In the case of a Major application 20 or more members of the public from different households.

In all cases a representation must form a material planning consideration.

An explicit request must be made in writing that the application be referred to the Planning Committee (Committee) or Planning Panel (Panel) for determination and such a request must form a material planning consideration.

Where a request to refer an application to Committee or Panel has been received from a Parish or Town Council, an undertaking to attend the meeting to address the Committee or Panel must be given.

Failure to attend a Committee or Panel, following an undertaking to so do, on two occasions within a 6 month Period will result in:

- (a) the Parish or Town Council being barred from requesting an application be referred to Committee or Panel for a 3 month period from the date of the second incidence; and

- (b) any applications within that parish being determined in accordance with the Officer recommendation under delegated powers. This would also be for a concurrent 3 month period and would only take effect in cases where no other parties have lodged representations and requested the case be heard before a Panel or Committee as at paragraph 5 of Part A.
6. A party having requested that an application be referred to Committee or Panel on a representation based on the principles above, may withdraw the request for a referral to Committee or Panel as long as notice of the withdrawal is received by the Delegated Officer or Case Officer prior to the publication of the agenda for the relevant meeting.
- In such cases, if no further representations triggering a referral to Committee or Panel exist, the application will be determined by Officer delegation in accordance with the Officer recommendation.
7. Planning applications submitted by or on behalf of the following shall be excluded from the delegation scheme and shall be determined by the Committee/Panel:
- Elected Councillors of the Council
  - Any employee of the Council (unless it is submitted on behalf of the Council)
  - Close family members (parents, children, siblings and partners) of any of the above



## **PART C**

### **Definitions**

'Case Officer' means the Planning Officer who has been allocated an application and will prepare a report and recommendation on whether the proposal should be approved/refused.

'Conduct' (in respect of appeals) includes, but is not limited to, the agreeing of statements of common ground, preparing and responding to applications for an award of costs, and, where circumstances indicate a need to concede a reason for refusal or a reason for serving an enforcement notice, agreeing that concession (in consultation with the Chair of the Committee or Panel where relating to a decision made by that Committee or Panel).

'Delegated Officer' means the Director of Planning and Placemaking and Head of Planning along with any officer who has been granted delegated authority by the Director or Head of Planning to carry out actions on his/her behalf pursuant to the scheme of delegation.

'Major' means an application type meets or exceeds the thresholds for "major development" as set out in the Procedure Order (or any statutory instrument which amends or revokes and replaces that Order).

'Minor' means an application type which does not exceed the thresholds for "major development" as set out in the Procedure Order (or any statutory instrument which amends or revokes and replaces that Order).

'Other' means an application for a change of use, householder development, advertisement consent, listed building consent or relevant demolition consent.

'Procedure Order' means the Town and Country Planning (Development Management Procedure) (England) Order 2015 (or any statutory instrument which amends or revokes and replaces that Order).

'Repeat application' means an application where the provisions under sections 70A, 70B and 70 C of the Town and Country Planning Act 1990 (as amended) or sections 81A and 81B of the Planning (Listed Buildings and Conservation Areas) Act apply.

'Specified Consultation Period' means any period required by legislation or as set out in the Council's Statement of Community Involvement), whichever is the greater, as set out in a written notification to that person(s).

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## **Milton Keynes City Council**

# **Procedure for Public Participation at Planning Committee Meetings**

## **PROCEDURE FOR PUBLIC PARTICIPATION AT PLANNING COMMITTEE MEETINGS**

### **1. Introduction**

- 1.1 This procedure applies to the Planning Committee and the Planning Panel in relation to public speaking rights when determining planning applications and any other business dealt with at either of these meetings.

### **2. Members of the Public**

- 2.1 Members of the public may request the right to speak at any meeting of the Planning Committee or the Planning Panel to object to a planning application. The number of public speakers (excluding Parish and Town Councils) will be limited to three per application (not including any right of reply). A single objector will be allowed to speak for a maximum of three minutes. Where there is more than one request to speak from persons representing a single group or organisation, they will be limited to a total of three minutes to summarise the group or organisation's objection, but more than one representative may speak on behalf of the group or organisation within the allocated three minutes. Points to note:

- (i) Both the number of speakers and the time limit may be extended at the Chair's discretion.
- (ii) Speaking places will be allocated on a first come first served basis following internet publication of the agenda.
- (iii) Any request to speak must be submitted in accordance with paragraph (6) of this guidance.

- 2.2 If an application is deferred, any speaker heard by the Planning Committee when the application was first received will be permitted to speak again when the application is reconsidered subject to the speaker submitting a further request to speak in accordance with paragraphs (1) and (9) of this guidance.

### **3. Ward Councillors**

- 3.1 Ward Councillors will be granted a speaking slot of up to three minutes on any application within the Borough. A Ward Councillor may speak in objection, support or in a neutral capacity to any application and any request to speak must be submitted in accordance with paragraph (6) of this guidance.

### **4. Town and Parish Councils**

- 4.1 A representative of a Town or Parish Council, nominated by either the Chair or the Clerk of the Town or Parish Council, will be allowed to speak at a meeting of the Planning Committee, or Panel, for a maximum of three minutes on any application for a development within that Parish or where in the view of the Chair, the development would significantly impact the Parish. Any representation will be in addition to the limit on the number of public speakers.

4.2 A Town or Parish Council may speak either in objection or support of an application, however, the request to speak must be submitted in accordance with paragraph (6) of this guidance, and will only be accepted from the Clerk or in the case of a Parish meeting, the Parish Secretary.

## **5. Applicants**

5.1 Applicants will be entitled to speak in favour of a planning application where the planning officer has recommended that the application be refused and there have been no requests from members of the public to speak in objection. The Applicant will be given three minutes in total to speak in support of their application and may invite others to speak on their behalf within the allocated time.

5.2 Any Applicants, or their agents, will be informed when a request to speak in objection has been received and will be invited to exercise a right of reply either in writing or orally at the meeting. Any right of reply will not exceed the cumulative time given to objectors to the specific planning application. Applicants, or their agents, may invite supporters to speak within their allocated time.

## **6. Requests to Speak**

6.1 Any request to speak (other than exercising the right to reply) must be received by Democratic Services (to the contact officer named on the agenda or to [planning-speaking-requests@milton-keynes.gov.uk](mailto:planning-speaking-requests@milton-keynes.gov.uk)) by noon, **two clear working days** before the meeting.

## **7. Questions from Objectors**

7.1 Objectors registered to speak may submit questions of clarification to officers **no later than twenty four hours before the start time of the meeting** in order that officers can prepare a response for the meeting.

## **8. Agenda Order**

8.1 The Committee shall follow the Agenda and receive all representations / responses to questions as the applications are considered. However, depending on the volume of representations, the Chair shall have the discretion to re-arrange the Agenda as considered appropriate.

## **9. Questions from Members of the Planning Committee / Panel**

9.1 Members of the Planning Committee and the Planning Panel may, with the consent of the Chair of the meeting, ask Officers questions of clarity in respect of the application being determined. Points to note:

- (i) any questions will be asked during the course of the Member debate of the application;
- (ii) if an Officer is unable to provide the clarity required, then a Member may, with the consent of the Chair, seek clarification from the Applicant; and

- (iii) a councillor's 3 minutes for debate (in accordance with Rule 13.4) will be stopped whilst any questions of clarity are asked of the Officer (or Applicant) and responses provided.

## **10. Remote Participation and Inability to Attend**

- 10.1 Anyone who has registered to speak in accordance with paragraph (6) of this guidance will be entitled to do so remotely (usually via Microsoft Teams), but does so at their own risk.
- 10.2 Consideration of a planning application will not usually be deferred because of technical issues which prevent Planning Committee / Panel members being able to see or hear the person addressing the Planning Committee / Panel.
- 10.3 Anyone who has registered to speak in accordance with paragraph (6) of this guidance, but is unable to attend (either in person or online), will at the discretion of the Chair be entitled to have their speech read out by the clerk, provided a copy of their representation / speech is submitted to the clerk in advance of the meeting.

## **11. Content of Speeches and Accompanying Material**

- 11.1 Whilst the content of speeches is a matter for those addressing the Planning Committee / Panel, they should be aware that:
  - (i) members of the Planning Committee / Panel will only be able to consider points raised which are material planning considerations; and
  - (ii) statements that are defamatory, abusive, or discriminatory will be considered an interruption to proceedings and will be subject to the provisions of Council Procedure Rule 20 (Disturbance by Public).
- 11.2 No visual aids (i.e. photographs or videos), or handouts intended for circulation to Members of the Planning Committee / Panel, will be permitted when exercising a right to speak at a meeting. Anyone may submit late written representations to the Planning Committee / Panel, by the deadline given on the agenda, however, these representations will not be circulated verbatim, rather addressed in any update paper and published on the Council's public access system for the application in question.
- 11.3 In the interest of probity and transparency, material should not be circulated to Members of the Planning Committee / Panel, by the applicant, objectors, or other interested parties, in advance of a meeting.

## **Milton Keynes City Council**

# **Procedure for the Determination of Licensing Applications by the Licensing Committee**





## **PROCEDURE FOR THE DETERMINATION OF LICENSING APPLICATIONS BY THE LICENSING COMMITTEE**

- (a) Application for, or a review of, permissions under the Licensing Act 2003 will be considered by a Sub-Committee of the main Licensing Committee consisting of three Councillors.
- (b) All Sub-Committees will be conducted in accordance with the Council procedure rules, the requirements in the Licensing Act 2003 and any subordinate legislation or policy made under that Act. Any contradiction between the Council procedure rules and legislation, the legislation takes precedent.
- (c) A Sub-Committee will only be convened if the Council receives relevant representations against the grant of a permission, as applied for, or a request for a review of a current license has been received.
- (d) Licensing Officers, Applicants and their witnesses may speak at hearings of the Licensing Sub-Committee when it considers licensing applications or reviews.
- (e) Authorised Persons, Responsible Authorities or other persons under the legislation (including members of the public may only speak at the hearing if they have submitted a relevant representation or are representing someone who has. Representations or additional information needs to have been submitted within the time limits set by legislation. Representations must be made to the Council's licensing department.
- (f) Any party may ask a representative to speak on their behalf. If a party intends to ask a representative to speak on their behalf, they waive the right to address the sub-committee directly unless given permission by the Chair or responding to direct questions.
- (g) If a party intends to appoint a representative to speak on their behalf they must notify the Council's democratic services department not less than 24 hours before the hearing of the name of their representative.
- (h) No elected member, whether MP, local ward Councillor, town or parish Councillor may address a licensing sub-committee unless they have made a relevant representation or have agreed to speak as a representative by a party entitled to address the Sub-Committee.
- (i) A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the Chair considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
- (j) When the Licensing Sub-Committee is considering an application for a new permission the following procedure will be followed.
  - "1. At the start of the hearing the Chair will introduce the Sub-Committee Councillors and colleagues and explain their roles for the purpose of the hearing.
  - 2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:

- (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written.
  - (b) The applicant (licensee) or his/her representative can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair, by the other parties and the Sub-Committee.
  - (c) The other parties will present their case, but only where representations are unresolved. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to those persons, through and with the consent of the Chair, by the other parties and the Sub-Committee.
  - (d) The Licensing Officer(s) will be invited to sum up their case.
  - (e) The other parties will be invited to sum up their case.
  - (f) The applicant or his/her representative will be invited to sum up his/her case.
  - (g) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Democratic Services officer.
  - (h) Where the Sub-Committee has to make a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.
3. The Sub-Committee will be permitted to retire to deliberate in private on any matter it chooses. The Sub-Committee may seek legal advice on a point of law at any point but the substance of any advice given in private must be repeated in open session.”
- (k) When the Licensing Sub-Committee is considering an application for the review of an existing permission the following procedure will be followed.
    - “1. At the start of the hearing the Chair will introduce the Committee Members and Officers and explain their roles for the purpose of the hearing.
    - 2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:

- (a) The Licensing Officer will introduce the Review Application, but make no recommendations regarding a decision on the application to the Sub-Committee.
  - (b) The Review Applicant can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair, by the other parties and the Sub-Committee.
  - (c) The current Licence Holder will then present their case against the review application. The Licence holder is permitted to call any witnesses or present any information in support of their case.
  - (d) Parties will be invited to sum up their case in the following order:
    - (i) Summary from the Licensing Officer.
    - (ii) The review applicant.
    - (iii) Finally the Licence Holder
  - (e) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Democratic Services officer.
  - (f) Where the Sub-Committee has to make a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.
3. The Sub-Committee will be permitted to retire to deliberate in private on any matter it chooses. The Sub-Committee may seek legal advice on a point of law at any point but the substance of any advice given in private must be repeated in open session.

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# Whistleblowing Policy

November 2022

Chief Internal Auditor





**THE COUNCIL WANTS YOU TO BE CONFIDENT THAT YOUR CONCERNS WILL BE TAKEN SERIOUSLY AND THAT YOU WILL BE PROTECTED FROM VICTIMISATION OR BULLYING OF HARRASSMENT IF YOU RAISE A CONCERN**

If you have a concern about the Council's services please read this policy. You may think this policy does not apply to the concern you have – IT DOES, we can give confidential advice about ANY concern you may have regarding the Council and its services.

If you want to informally / confidentially discuss this policy or your concerns you can contact:

- Jacinta Fru (Chief Internal Auditor) on 01908 252228 or email [Jacinta.fru@milton-keynes.gov.uk](mailto:Jacinta.fru@milton-keynes.gov.uk)
- David Lamb (Principal Auditor) on 01908 257966 or email [David.lamb@milton-keynes.gov.uk](mailto:David.lamb@milton-keynes.gov.uk)
- 

Or

The Whistleblowing hotline on 01908 252668

Or

Protect on 0203 117 2520 or [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)

Protect (formerly PCAW) are an independent charity and information provided to Protect is protected under the Public Interest Disclosures Act. Their helpline is where their lawyers provide confidential advice free of charge [www.pcaw.org.uk]. <https://protect-advice.org.uk/>

You may also wish to contact your trade union for advice or support in making a whistleblowing disclosure.

**The details of such discussions will not be released to anyone else within the Council without your express consent and meetings can be held at a time and place of your choosing.**



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Cllr. Leo Montague  
Audit Committee Chair



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Michael Bracey  
Chief Executive

## 1. Introduction

- 1.1 This policy seeks to provide a process that gives anyone with a concern about the Council the confidence to bring that concern to our attention.
- 1.2 Milton Keynes City Council operates within legal requirements and regulations and expects its employees to co-operate in this by adhering to all laws, regulations, policies and procedures. Any employee becoming aware of inappropriate conduct is obliged and encouraged to report this activity. This policy also applies to contractors, consultants, partners and agency staff and other stakeholders including Councillors.
- 1.3 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. Councillors, customers and stakeholders are also in a position to identify concerns that affect Council services and need to be addressed.
- 1.4 Individuals with a concern may fear that they will be victimised or harassed if they raise the concern. In these circumstances it may feel easier to ignore the concern rather than report what may be a suspicion of malpractice.
- 1.5 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment the Council encourages employees, customers, contractors, employees of subsidiaries, stakeholders or any other person with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This process is commonly referred to as "whistle blowing".
- 1.6 It is recognised that certain cases will have to proceed on a confidential basis but in accordance with the Freedom of Information Act this policy seeks to provide a transparent method for dealing with concerns. Whistleblowers can have confidence through this policy that they have the fullest protections afforded by the Public Interest Disclosures Act.
- 1.7 Specifically, the code of practice set out in this policy makes it clear that staff and others can make reports without fear of reprisals and sets out what protections are in place under this policy. This Code is intended to encourage and enable concerns to be raised within the Council so that they can be addressed, rather than overlooking problems or raising them outside the Council.
- 1.8 All Officers, Councillors and partners have a responsibility to protect the Council's interests through the proper adherence to this policy.

## 2. Aims and Scope

- 2.1 This code of practice aims to:
- Encourage and enable any person to feel confident in raising serious concerns and to question and act upon concerns
  - Provide avenues for any person to raise concerns and receive feedback on any action taken
  - Ensure everyone making a referral receives a response to their concerns
  - Describe how to take the matter further if dissatisfied with the Council's response
  - Reassure anyone making a referral that they will be protected from reprisals or victimisation.
- 2.2 For the avoidance of doubt, if you have concerns that any person may be being mistreated / abused you can discuss your concerns in confidence with those listed on the front cover of this policy.
- 2.3 There are existing procedures in place to enable staff to lodge a grievance relating to their own employment, customers to complain about the service they receive and regarding concerns whether Councillors have breached the National Code of Conduct. This policy should not be used for such concerns; however, advice can be obtained from the contacts on the front cover of this policy if you have any doubts.
- 2.4 The Whistleblowing Policy is intended to cover concerns that fall outside the scope of the above procedures. A concern may be about:
- sexual, physical or emotional abuse of clients or other individuals
  - conduct which is an offence or a breach of law
  - disclosures related to miscarriages of justice
  - health and safety risks, including risks to the public as well as employees
  - damage to the environment
  - unauthorised use of public funds
  - action that is contrary to the Council's financial regulations or contract procedure rules
  - possible fraud, corruption or financial irregularity
  - action that is against the Council's Standing Orders and policies
  - practice that falls below established standards or practice
  - other improper or unethical conduct.
- 2.5 The concern may be something that makes a person feel uncomfortable in terms of known standards, their experience or the standards to which they believe the Council subscribes. **If in doubt, please contact either a named contact on the front cover of this policy or Protect to have a confidential discussion.**



- 2.6 For the avoidance of doubt, this policy applies to all employees, contractors, consultants, schools and agency staff and other stakeholders who are acting on behalf of, or in partnership with, the Council.
- 2.7 Any disclosure of information that, in the reasonable belief of the worker, is made in the public interest shall be deemed a qualifying disclosure.
- 2.8 This policy incorporates the provisions that are required from the Public Interest Disclosure Act 1998.

### **3. How to Raise a Concern**

- 3.1 When an individual wishes to raise a concern, he or she will need to identify the issues carefully. They must be clear about the standards against which they are judging practice. Whilst not exhaustive they should consider the following:
- Is it illegal?
  - Does it contravene professional codes of practice?
  - Is it against government guidelines?
  - Is it against the Council's guidelines?
  - Is it about one individual's behaviour or is it about general working practices?
  - Does it contradict what the employee has been taught?
  - Has the individual witnessed the incident?
  - Did anyone else witness the incident at the same time?
- 3.2 Concerns from staff should normally be raised with their immediate manager, in the first instance. Similarly, non-employees (such as agency workers or contractors) should raise a concern in the first instance with their contact within the Council, usually the person to whom they directly report.
- 3.3 In some cases, the nature or sensitivity of the concern means that this may not always be appropriate. If a person feels they cannot raise their concern with their immediate manager they are able to go directly to the Chief Internal Auditor. They may also do so if, having raised a concern with the immediate manager/contact, they feel there has not been an appropriate response.
- 3.4 Others wishing to raise a concern should consider whether to raise that concern directly with the relevant senior officer of the service involved or use the Council's existing Complaints process. Details of all such contacts can be found on the Council's website.
- 3.5 Given the possible contractual issues, Annex A of this policy gives specific guidance to contractors and partners of the Council in raising such concerns.

- 3.6 Concerns may be raised verbally or in writing. Anyone who wishes to make a written report should give the background and history of the concern (giving relevant dates if possible) and the reason why they are particularly concerned about the situation.
- 3.7 If the individual wishes, they may ask for a private meeting with the person to whom they wish to make the complaint and can be accompanied if they wish. An employee may invite their trade union or professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns they have raised.
- 3.8 When making a complaint verbally, the individual should write down any relevant information and date it. They should keep copies of all correspondence and relevant information.
- 3.9 It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.
- 3.10 The individual should ask the person to whom they are making the complaint what the next steps will be and if anything more is expected from them.
- 3.11 Although a person is not expected to prove the truth of an allegation that is made, it will be necessary to demonstrate that there are sufficient grounds for concern. It is not necessary for any person to undertake investigations into their concern prior to contacting the Council, as this may undermine any ultimate action needing to be taken.
- 3.12 Advice and guidance on how specific matters of concern may be pursued can be obtained from the Council's Internal Audit Service. Phone 01908 254230 or email [internal.audit@milton-keynes.gov.uk](mailto:internal.audit@milton-keynes.gov.uk). Alternatively staff may wish to get confidential advice from their trade union or professional association.
- 3.13 Staff may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of them who have had the same experience or concerns.
- 3.14 Where a person feels that they cannot approach anyone in the Council, they may wish to report their concerns through the external independent reporting scheme run by the independent whistleblowing charity Protect. They provide a legal advice service designated by the Bar Council and information provided to Protect is protected under the Public Interest Disclosures Act. Their helpline number is 0203 117 2520. Their email is [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk) where their lawyers provide confidential advice free of charge.

## 4. Supporting the Individual to Raise a Concern

### 4.1 Harassment or Victimisation

- 4.1.1 The Council recognises that the decision to raise a concern can be difficult, not least because of the fear of reprisals.
- 4.1.2 The Council will not tolerate harassment or victimisation and will take action to protect individuals who raise concerns. This does not mean that if the individual is already the subject of disciplinary or redundancy procedures, that those procedures will be halted as a result of raising a concern under this policy.
- 4.1.3 It is the clear instruction to those officers (through this formal policy) of the Council who liaise with whistleblowers that they shall not release information to identify a whistleblower to any person within the Council and will only release those details to a proper person outside the Council when there is a legal requirement to do so, such as a court order. The only exception to this shall be where the whistleblower themselves gives written permission to do so.
- 4.1.4 Any person applying pressure upon such officers to identify whistleblowers shall be subject to the same provisions as outlined in 4.1.6 below.
- 4.1.5 Where a whistleblower alleges they are / have been victimised / harassed as a result of raising a concern, that matter shall be reported to Chief Executive or S151 Officer. Such allegations shall be investigated by the Chief Internal Auditor or the Director – Law and Governance. Should the whistleblower feel they have been victimised or harassed by either the Chief Executive or S151 officer, the concern can be raised directly with the Chief Internal Auditor, the Director Law and Governance (Monitoring Officer) or the Chair of Audit Committee.
- 4.1.6 Where the investigations may identify (either indirectly or directly) the whistleblower, the way forward shall be agreed with the whistleblower and any resultant action confidentially reported to the Chair of the Audit Committee.
- 4.1.7 Each case will be considered on its merits. Any incident of victimisation or harassment of someone who has made a referral under this policy would normally be considered:
- A matter of Gross Misconduct if done by an employee of the Council
  - A matter for the Council to consider termination of a contract if done by or at the request of a contractor. If there are concerns that a contractor is victimising, or has victimised, a whistleblower an independent review may be requested
  - A matter that would be referred to the Standards Committee if undertaken by or at the request of a Councillor
  - A matter that could affect the service provided to a customer if done by or at the request of that customer.

## 4.2 Confidentiality

- 4.2.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person highlighting the concern if that is the wish of the individual.
- 4.2.2 Individuals are encouraged to put their name to any allegation. The Council will do its best to protect the individual's identity when they do not want their name disclosed. It must be appreciated that the investigation process may reveal the source of the information, and a statement by the individual raising the concern may be required as part of the evidence.

## 4.3 Anonymity

- 4.3.1 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:
- Seriousness of the issue
  - Credibility of the concern
  - Likelihood of being able to obtain the necessary information

## 4.4 Untrue Allegations

- 4.4.1 Any individual who makes an allegation which is not subsequently confirmed by the investigation, will have no action taken against them and will continue to have protection under this policy from victimisation or harassment.
- 4.4.2 If, however, an individual makes malicious or vexatious allegations, action may be taken against them.

## 5. How the Council will Respond

- 5.1 The action taken by the Council will depend on the nature of the concern. Where appropriate, the matters raised may:
- be investigated by management, Internal Audit, Human Resources (HR), or another appropriate person
  - be referred to the External Auditor
  - be referred to the Police
  - form the subject of an independent inquiry.
- 5.2 In order to protect individuals and the Council, an initial investigation will be carried out to decide whether a full investigation is appropriate and, if so, what form it should take. Concerns or allegations, which fall within the scope of specific procedures (for

example, child protection or discrimination issues), will normally be referred for consideration under those procedures.

- 5.3 It should be noted that some concerns may be resolved by agreed action without the need for investigation. Equally some issues may be investigated without the need for initial enquiries. If urgent action were required, this would be taken before any investigation is conducted
- 5.4 The Council will write to the person raising the concern within 7 -10 working days (i.e. initially the individual or representative with whom the report was lodged as set out in Section 3):
- acknowledging that the concern has been received
  - indicating how it proposes to deal with the matter
  - giving an indication of when a final response or update will be provided
  - telling the person whether any initial enquiries have been made
  - supplying the person with information on staff support mechanisms and
  - telling the person whether further investigations will take place and, if not, why not.
- 5.5 Every effort will be made to resolve the matters raised as soon as possible, in the interests of the Council, the person raising the concern and the person(s) being investigated.
- 5.6 The amount of contact between the officers considering the issues and the person raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information may be sought from the person raising the concern.
- 5.7 Where any meeting is arranged, staff have the right, if they so wish, to be accompanied by a trade union or professional association representative or a work colleague who is not involved in the area of work to which the concern relates.
- 5.8 The Council will take appropriate steps to minimise any difficulties, which a person may experience as a result of raising a concern and provide advice and support should they be required to give evidence, such as at a disciplinary hearing. Such support may include the ability to give evidence via video link.
- 5.9 The Council accepts that the person raising a concern needs to be assured that the matter has been properly addressed. Thus, subject to legal constraints, the person raising the concern will be kept informed as the investigation progresses unless they have requested otherwise. At the very least they should receive an update on the investigation by the date implied by the estimated response time given in section 5.4.

## 6. How the Matter can be taken Further

- 6.1 This policy is intended to provide an avenue to raise concerns within the Council. The Council hopes that those using this process will be satisfied with the way their concerns are treated and any investigations that may be carried out. However, if they are not satisfied and feel it right to take the matter outside the Council, the matter can be raised with:
- Protect on 0203 117 2520 or [whistle@protect-advice.org.uk](mailto:whistle@protect-advice.org.uk)
  - Relevant professional bodies or regulatory organisations
  - A solicitor.
- 6.2 In taking advice from sources outside the Council, a person must ensure that, so far as possible, it is raised without confidential information being divulged and would, other than in exceptional circumstances, be expected to have exhausted the internal routes available first.
- 6.3 Any individual has the right and responsibility to refer a concern to the Police if they suspect a criminal act.

## 7. Roles and Responsibilities

- 7.1 The responsibility for the operation of this policy rests with the Directors to ensure all staff are fully aware of its provisions. The Chief Internal Auditor must be advised of all referrals (but in a form which does not endanger confidentiality) so that an annual report to the Council's Audit Committee can be compiled.
- 7.2 Investigations should be undertaken by appropriate officers with expertise and will be dependent upon the issue raised. Internal Audit and HR will jointly ensure that investigations are swift and effective and undertaken by someone with relevant skills and experience. Internal Audit HR will act as the corporate services who maintain records of all referrals and subsequent investigations received by the Council.

### **Additionally:**

- 7.3 Internal Audit will lead on all financial referrals, including those where there are significant financial implications to an allegation. The Audit team will ensure that concerns raised through the informal process are logged and trends identified.
- 7.4 HR will lead on allegations regarding serious misconduct of Council employees. The HR team will advise and support employees involved in the investigation process, to ensure that such processes are fair and supportive to all those involved.
- 7.5 The Monitoring Officer will lead on allegations regarding misconduct of Councillors and any issues where there is alleged unlawfulness or criminality.

- 7.6 As the Monitoring Officer has a statutory obligation to take action to avoid the Council acting unlawfully, officers are required to inform the Monitoring Officer of any whistleblower report received.
- 7.7 Employees: In all contracts of employment there is an implied understanding of mutual trust and confidence between the employer and employee. All employees, therefore, have a responsibility to raise concerns about work and they may do so in the manner described in this policy.
- 7.8 Line managers must create an open and fair culture within their area of responsibility and ensure that staff concerns are listened to and action taken where necessary. Line managers are responsible for ensuring that there is a safe environment for staff to raise their concerns and that there is no retribution as a result of someone raising their concerns.
- 7.9 The Audit Committee is responsible for assuring the Council that the risks across the Council are being identified and managed. It is therefore responsible for ensuring that this policy is robust and for ensuring that the principles within this policy are upheld.

## **8. How the Policy Will Be Monitored**

- 8.1 The Council has a responsibility for registering the nature of all concerns raised and to record the outcome. The Council's Internal Audit Service will produce an annual report to the Audit Committee, which will identify any patterns of concern and assess the effectiveness of the policy.
- 8.2 This policy will be publicised via the Council's Website and specifically:
- 8.2.1 Every new employee will be advised to familiarise themselves with the policy when joining the Council;
  - 8.2.2 Every contract will require the contractor to communicate the policy to their staff and adopt its provisions when working for the Council;
  - 8.2.3 Every employee of a Limited Liability Partnership (LLP) owned by the council will be provided a copy of the policy when joining the LLP, together with training on the whistleblowing procedures of their organisation and the circumstances where each policy will apply;
  - 8.2.4 All newly elected members should be provided a copy of the policy.
- 8.3 A public leaflet will be produced and placed in the Council's public areas to promote the policy and invite feedback.

- 8.4 An annual survey will be undertaken by Internal Audit to gauge the awareness of the policy and individual whistleblowers will be asked more detailed questions about their perceptions of the policy in practice. Please see Annex B.

## **9. Review**

- 9.1 This procedure will be kept under review and any amendments will be subject to consultation with staff representatives. It will be reviewed by the Council's Audit Committee on an annual basis.



## **Procedures for Contractors / Partners, Including Employees of Subsidiaries**

1. As a first step contractors should normally raise concerns with their manager, who will then inform the lead Council officer who is dealing with that particular contract. If contractors do not have a client officer, they should raise their concerns direct with the lead Council officer. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if contractors believe that their client officer or lead Council officer is involved, they should approach the Monitoring Officer direct (Director Law and Governance). Otherwise, the lead Council officer receiving notification of concerns under this policy will inform the Monitoring Officer that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the lead Council officer receiving the report will also immediately notify the Chief Internal Auditor.
2. Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:
  - the background and history of the concern (giving relevant dates if possible);
  - the reason why the individual is particularly concerned about the situation.
3. It should be noted that often the earlier a concern is expressed the easier it is to take appropriate action.
4. Advice and guidance on how specific matters of concern may be pursued can be obtained internally from the Internal Audit Service. Alternatively, contractors may wish to get confidential advice from their trade union or professional association.
5. Contractors may wish to consider discussing their concerns with a colleague first and may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
6. Contractors may invite their trade union or professional association representative or work colleague to be present during any meetings or interviews in connection with the concerns they have raised.

## **Whistleblowing Surveys / Comments**

If you thought about Whistleblowing or have whistleblown the Chief Internal Auditor would welcome your feedback. Please feel free to use one of the 'surveys' below and send them to the contact details at the front of this policy:

### **General Survey**

- 1) Have you thought about using the Whistleblowing Policy in the last 12 months?
- 2) If yes, but you didn't make a referral, what prevented you?
- 3) On a scale of 1-10 (with 10 being perfect) how would you rate the policy in meeting the needs of someone who has concerns about the Council's services?
- 4) If you answered less than 10, what can we do to change so that we would score 10?

### **Specific Survey for those who have raised a concern**

- 1) On a scale of 1-10 (with 10 being perfect) how good do you feel the Council's Whistleblowing arrangements are?
- 2) If you answered less than 10, what can we do to improve so that we would have scored a 10?
- 3) Were you able to obtain sufficient advice before making your referral?
- 4) Did you use normal management structures or the corporate officers?
- 5) Were your concerns properly addressed?
- 6) Were the implications of a referral (such as confidentiality and timescales) explained to you?
- 7) Were you provided with regular feedback (if you wanted it)?
- 8) If you asked for confidentiality was that effectively provided?
- 9) Do you feel you suffered harassment, victimisation or any other negative consequence from raising your concern?

<http://staffintranet/services/audit>

**Milton Keynes City Council**

**Internal Audit**

**Civic Offices**

**1 Saxon Gate East**

**Milton Keynes**

**MK9 3EJ**

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### Councillor Retirements 2024-2027

Ward	2024	2026	2027*
Bletchley East	Ed Hume (Lab)	Mohammed Khan (Lab)	Emily Darlington (Lab)
Bletchley Park	Mo Imran (Con)	Nigel Long (Lab)	Waqas Ahmed (Lab)
Bletchley West	Adam Rolfe (Con)	Mick Legg (Lab)	Lauren Townsend (Lab)
Bradwell	Marie Bradburn (Lib Dem)	Rex Exon (Lib Dem)	Robin Bradburn (Lib Dem)
Broughton	Uroy Clarke (Lib Dem)	Sam Crooks (Lib Dem)	Kerrie Bradburn (Lib Dem)
Campbell Park & Old Woughton	Charlotte Hall (Con)	Nana Oguntola (Lib Dem)	Paul Trendall (Lib Dem)
Central Milton Keynes	Martin Petchey (Lab)	Moriah Priestley (Lab)	Darron Kendrick (Lab)
Danesborough & Walton	Vicky Hopkins (Con)	David Hopkins (Con)	Tracey Bailey (Lab)
Loughton & Shenley	Zoe Nolan (Lab)	Shanika Mahendran (Lab)	Brigid McBride (Lab)
Monkston	Vanessa McPake (Lib Dem)	Jenni Ferrans (Lib Dem)	Ben Adewale (Lib Dem)
Newport Pagnell North & Hanslope	Chris Wardle (Con)	Liam Andrews (Con)	Alison Andrew (Con)
Newport Pagnell South	Tony Oyakhire (Lib Dem)	Andy Carr (Lib Dem)	Jane Carr (Lib Dem)
Olney	Keith McLean (Con)	Peter Geary (Con)	Debbie Whitworth (Lab)
Shenley Brook End	Chris Taylor (Con)	Peter Cannon (Lib Dem)	Sophie Bell (Lib Dem)
Stantonbury	Chantelle de Villiers (Con)	Nas Khan (Lab)	Stephen Brown (Lab)
Stony Stratford	Joseph Hearnshaw (Lab)	Jennifer Wilson-Marklew (Lab)	Akash Nayee (Lab)
Tattenhoe	Manish Verma (Con)	Shazna Muzammil (Con)	James Lancaster (Lab)
Wolverton	Ansar Hussain (Lab)	Rob Middleton (Lab)	Pete Marland (Lab)
Woughton & Fishermead	Donna Fuller (Lab)	Amber McQuillan (Lab)	Sue Smith (Lab)
Group Totals	Conservative 9	Conservative 4	Conservative 1
	Labour 6	Labour 9	Labour 12
	Lib Dem 4	Lib Dem 6	Lib Dem 6

(357) \* There will be all out elections for all Council seats in 2026 following the completion of a ward boundary review by the Local Government Boundary Commission for England (LGBCE).

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## LEADER'S EXECUTIVE SCHEME OF DELEGATION

### Responsibility for Leader and Cabinet Functions

#### Remit

1. The Leader has established a Cabinet to include eight other councillors, including a Deputy Leader. The Leader has allocated a portfolio of executive and leadership responsibilities for each of these Cabinet members, whose terms of reference are described in the following pages.
2. The Leader and Cabinet are responsible for all of those functions of the Authority that are not expressly reserved to other parts of the Council under these constitutional arrangements. These are known as executive functions.
3. The Leader may discharge any of the functions that are the responsibility of the Leader and Cabinet him or herself or may arrange for the discharge of those functions by the Cabinet as a whole, by another member of the Cabinet, by a committee of the Cabinet or by an officer of the authority. These arrangements are described below.
4. More information is set out in Part 2 of the Council's Constitution

#### Limitations

5. Those functions that may not be executive functions and do not fall under the responsibility of the Leader or Cabinet, in whole or in some other specified way, are listed in Part 2 of the Council's Constitution.
6. In discharging responsibility for the executive functions of the Council, the decision maker must be aware of the limitations placed upon them. These limitations are that any decision in exercise of an executive function is to comply with:
  - (a) the Budget set by full Council;
  - (b) the Policy Framework set by full Council;
  - (c) the Authority's
    - Access to Information Procedure Rules (including key decision and call-in provisions);
    - Cabinet Procedure Rules;
    - Budget and Policy Framework;
  - (d) an expectation that the Authority's
    - Financial Regulations;
    - Contract Procedure Rules; and
    - Requirements / Procedure Rules as set out elsewhere in the Council's Constitution;will have been complied with in all but the most exceptional circumstances (and if not then explained fully in the minuted reasons for the decision); and
  - (e) any legislative requirements and all applicable rules of law.

## Arrangements for Discharge of Functions

7. The following sets out how the Leader has decided to arrange for the discharge of executive functions. The Leader may amend these arrangements but will [normally] only do so after first informing a public meeting of the Cabinet.
8. Key Decisions (defined in Part 2 of the Council's Constitution) may be taken by the Cabinet, a relevant Cabinet Committee, Cabinet Sub-Committee by the Cabinet member under whose portfolio the function falls or by the Chief Executive, Deputy Chief Executive, Director, or Head of Service under whose managerial responsibility the executive function falls.
9. Where a Cabinet Committee or a Cabinet Sub-Committee has been established, its terms and functions will be set in this Scheme of Delegation.
10. Certain procurement and financial decisions will, according to the value of the transaction concerned, be reserved to the Cabinet, Cabinet member or grade of officer as set out in the Annex to this Scheme.
11. Each Cabinet member's portfolio of responsibility is described below. That portfolio sets out the range of executive functions for which the Cabinet member may be called upon to make a key decision about or to lead the debate when related matters come before a meeting of the Cabinet.
12. Under each portfolio, certain decisions that would otherwise fall within the scope of each Cabinet member's portfolio will be reserved for consideration and decision by a meeting of the Cabinet, Cabinet Committee or Cabinet Sub-Committee.
13. Under each portfolio, certain decisions that would otherwise fall within the scope of the managerial responsibility of the Director, or Head of Service concerned may be reserved for consideration and decision by the Cabinet, a relevant Cabinet Committee, Cabinet Sub-Committee or by the Cabinet member under whose portfolio the function falls.
14. Regardless of any other delegation or rule within these arrangements, the Chief Executive / Deputy Chief Executive may take any key decision which he or she considers necessary on the grounds of urgency, efficiency, or cost.
15. All other matters that do not constitute a key decision are delegated to the Chief Executive, / Deputy Chief Executive, Director, or Head of Service under whose managerial responsibility the executive function falls.
16. Even where the Chief Executive, / Deputy Chief Executive, Director, or Head of Service hold delegated authority, they must consult the relevant Cabinet member where the circumstances are particularly sensitive or if the decision in question involves changes to policy or strategy and, following consultation, they will normally report the matter to the Cabinet where the Cabinet member indicates a preference for this.
17. The Chief Executive, / Deputy Chief Executive, Director, or Head of Service may delegate any of their responsibilities or powers in exercise of executive functions to any other officer to whom they consider it appropriate to discharge those functions.
18. There are additional executive and non-executive functions allocated to specific statutory and non-statutory officers as set out in the Constitution.



## **LEADER - COUNCILLOR PETER MARLAND**

### **Portfolio Terms of Reference**

1. Council Plan
2. Communications
3. Policy
4. External Relationships
5. Central Area Growth Board
6. Fast Growth Cities
7. Local Government Association
8. Strategic Partnerships
9. South East Midlands Local Enterprise Partnership (SEMLEP)
10. Planning Policy
11. Planning Services
12. All other executive functions not otherwise listed within Cabinet portfolio terms of reference listed below
13. Any executive functions that fall to be discharged by the Leader and Cabinet that the Leader may wish from time to time to have reserved to him or herself or to be discharged in a different manner to the general delegation arrangements described below.

### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to a portfolio's Terms of Reference.
- (iii) Such other matters as the Leader may from time to time reserve to Cabinet for decision

### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for councillor level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader may from time to time reserve to him or herself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

## **DEPUTY LEADER - COUNCILLOR ROBIN BRADBURN**

### **CABINET PORTFOLIO: ECONOMY AND CULTURE**

#### **Portfolio Terms of Reference**

1. COVID 19 Recovery
2. Economic Development
3. Business Support
4. Inward Investment
5. VCSE Sector
6. Central Milton Keynes Business Improvement District

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

## **COUNCILLOR EMILY DARLINGTON**

### **CABINET PORTFOLIO: ADULTS, HOUSING AND HEALTHY COMMUNITIES**

#### **Portfolio Terms of Reference**

1. Adult Social Care
2. Preventative Services
3. Safeguarding Adults
4. Housing Services
5. Repairs and Maintenance
6. Mental Health
7. Rough Sleeping and Homelessness
8. Regeneration and Estate Renewal

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy

## **COUNCILLOR LAUREN TOWNSEND**

### **CABINET PORTFOLIO: RESOURCES**

#### **Portfolio Terms of Reference**

1. Finance and Budget
2. Council Tax and Benefits
3. Performance
4. Capital and Infrastructure
5. Property and Facilities
6. Human Resources
7. Milton Keynes Development Partnership
8. Local Housing Company
9. I.T.

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

## **COUNCILLOR JENNY WILSON-MARKLEW**

### **CABINET PORTFOLIO: PUBLIC REALM**

#### **Portfolio Terms of Reference**

1. Waste and Recycling
2. Highways
3. Landscaping
4. Community Safety
5. Knife Crime
6. Traveller Encampments
7. Transport
8. Road Safety
9. Flooding
10. Parish Partnerships

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

## **COUNCILLOR JANE CARR**

### **CABINET PORTFOLIO: TACKLING SOCIAL INEQUALITIES**

#### **Portfolio Terms of Reference**

1. Reducing Child Poverty
2. Equalities
3. Reducing Inequalities
4. Public Health
5. Skills
6. Higher Education
7. Youth Services
8. Youth Offending
9. Criminal Justice
10. Leisure and Community Assets
11. Sport

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

## **COUNCILLOR ZOE NOLAN**

### **CABINET PORTFOLIO: CHILDREN AND FAMILIES**

#### **Portfolio Terms of Reference**

1. Safeguarding Children
2. Children's Social Care
3. Corporate Parenting
4. Fostering and Adoption
5. Schools and Partnerships
6. Children's Centres
7. Libraries

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.
- (iv) Power to close and open schools.

**COUNCILLOR SHANIKA MAHENDRAN**

**CABINET PORTFOLIO: CLIMATE, SUSTAINABILITY & INNOVATION**

**Portfolio Terms of Reference**

1. Climate Change
2. Net Zero
3. Sustainability
4. Biodiversity
5. Energy
6. Air Quality
7. Smart Cities
8. Innovation
9. Artificial Intelligence
10. Engaging Young People
11. Culture
12. Events

**Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.

**Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.



## **COUNCILLOR PAUL TRENDALL**

### **CABINET PORTFOLIO: CUSTOMER SERVICES**

#### **Portfolio Terms of Reference**

1. Licensing and Regulatory Services
2. Environmental Health
3. Bereavement Services
4. Customer Services
5. Website
6. Procurement

#### **Matters reserved within this portfolio to the Cabinet:-**

- (i) All relevant matters reserved for Cabinet level decision as detailed in Rules of Procedure.
- (ii) Policy developments of strategic significance relating to the portfolio's Terms of Reference.
- (iii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.

#### **Matters reserved within this portfolio to the Cabinet Member:-**

- (i) All relevant matters reserved for Member level decision as detailed in Rules of Procedure.
- (ii) Such other matters as the Leader directs or the Cabinet may from time to time reserve to itself for decision.
- (iii) Decisions to accept, reject, or modify expressions of interest submitted under the Council's Community Right to Challenge Policy.

### Procurement and Financial Scheme of Delegation

These delegations should be read in conjunction with Council's Contract Procedure Rules and the Council's procurement guidance as appropriate, along with the linked Financial Procedure Rule (FPR).

Note that the Chief Financial Officer may delegate authority from time to time as he / she sees fit.

	Function	FPR	Cabinet/ Cabinet member	Chief Executive	Deputy Chief Executive	Director	Head of Service	Budget Manager
1.	Virements	6	All non-technical virements	N/A	Technical virements – Chief Financial Officer	None	None	None
2.	Approval of credit notes.	11	N/A	Unlimited (Deputy Chief Executive to deputise)	Unlimited (Chief Financial Officer to deputise)	Up to £100,000	Up to £50,000	Up to £10,000
3.	Recommend write-off of debts to Chief Financial Officer	12	N/A	Unlimited	Up to £500,000	Up to £100,000	Up to £50,000	Up to £10,000
4.	Write-off authority	12	Any amount over £20,000	N/A	Any amount up to £20,000 approved by Chief Financial Officer			

	Function	FPR	Cabinet/ Cabinet member	Chief Executive	Deputy Chief Executive	Director	Head of Service	Budget Manager
5.	Write-off due to insolvency/court order	12	Any amount over £20,000 reported	N/A	All – Chief Financial Officer			
6	To agree grants and benefits to external bodies and other non-procurement commitments	16	If proposed expenditure will cause pressure in future years.	Up to £100,000	Up to £100,000	Up to £100,000	Up to £50,000	Up to £10,000
7.	Signing grant agreements for grants and benefits paid by the Council to external bodies	16	N/A	N/A	Above £20,000 Must be recorded in the grants payable register	Up to £20,000	None	None
8.	Authorisation of official orders for grants and benefits to external bodies	16	N/A	Unlimited (Deputy Chief Executive to deputise)	Up to £1m (Chief Financial Officer to deputise)	Up to £500,000	Up to £50,000	Up to £10,000
9.	Applying for new external funding (including European bids). (All are subject to Chief Financial Officer certification)	17	N/A	N/A	Unlimited	Up to £100,000	None	None

	Function	FPR	Cabinet/ Cabinet member	Chief Executive	Deputy Chief Executive	Director	Head of Service	Budget Manager
10.	Sign off of grant claims (Government Departments, EU)	17	N/A	N/A	Chief Financial Officer	N/A	N/A	N/A
11.	Assets and stocks – maintain register of assets over £10,000	18-22	N/A	N/A	<b>N/A</b>	<b>Yes</b>	Yes	N/A
12.	To agree specification, invite tenders and approve delegated authority to award contract for supplies and services	23	Over £500k	Up to £500k	Up to £500k	Up to £500k	Up to £50,000	Up to £25,000
13.	Award of contract	23	Over £500k	As above, subject to the award being made to the tenderer who has submitted the most economically advantageous bid (the highest score against the valuation criteria) and the resulting contract being within budget.				
14.	Termination of contract	23	Over £500k	Up to £500k	Up to £500k	Up to £500k	None	None
15.	Authorisation of official orders for procurement (This follows formal approval through appropriate decision making as above)	23	N/A	Unlimited (Deputy Chief Executive to deputise)	Up to £1m (Chief Financial Officer to deputise)	Up to £500,000	Up to £50,000	Up to £25,000

	<b>Function</b>	<b>FPR</b>	<b>Cabinet/ Cabinet member</b>	<b>Chief Executive</b>	<b>Deputy Chief Executive</b>	<b>Director</b>	<b>Head of Service</b>	<b>Budget Manager</b>
16.	Petty cash limit for a single item	24	N/A	Unlimited	Up to £250	Up to £100	Up to £50	Up to £25
17.	To agree any other form of financial commitment not covered above		If proposed expenditure will cause pressure of over £500k in future years.	Up to £500k	Up to £500k	Up to £500k	Up to £50,000	Up to £10,000

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## **Milton Keynes City Council**

### **Statutory Officers and Proper Officer Functions**





**MILTON KEYNES CITY COUNCIL**  
**STATUTORY OFFICERS AND PROPER OFFICER**  
**FUNCTIONS**

**1. INTRODUCTION**

- 1.1. The Local Government Act 1972 and other legislation require local authorities to make specific statutory appointments which carry specific responsibilities. Three of those posts are the “Statutory Officer” posts, namely the Head of Paid Service, Chief Financial Officer and Monitoring Officer
- 1.2. Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the “Proper Officer” to carry out particular functions under various Acts of Parliament.
- 1.3. If the office of any of the Proper Officers is vacant or the person appointed is absent or otherwise unable to act then the most senior available officer or person to the Proper Officer is authorised to act as Proper Officer.

**2. STATUTORY OFFICERS**

<b>TITLE/DESCRIPTION</b> <i>(including statutory derivation)</i>	<b>OFFICER APPOINTED</b>	<b>BC</b>
<b>Head of Paid Service</b> <i>Section 4 Local Government &amp; Housing Act 1989</i>	Chief Executive	X
<b>Monitoring Officer</b> <i>Section 5 Local Government &amp; Housing Act 1989</i>	Director Law and Governance	X
<b>Officer responsible for financial administration / Section 151 Officer</b> <i>Section 151 Local Government Act 1972</i>	Director Finance and Resources (Chief Finance Officer)	X
<b>Electoral Registration Officer and Returning Officer</b> <i>Sections 8, 28 and 35 Representation of the People Act 1983</i>	Director Law and Governance	X
<b>Chief Education Officer</b> <i>Section 532 Education Act 1996</i>	Director Children’s Services	X

<b>TITLE/DESCRIPTION</b> <i>(including statutory derivation)</i>	<b>OFFICER APPOINTED</b>	<b>BC</b>
<b>Director of Children's Services</b> <i>Section 18 Children Act 2004</i>	Director Children's Services	X
<b>Director of Adult Social Services</b> <i>Section 6 Local Authority Social Services Act 1970</i>	Director Adult Services	X
<b>Director of Public Health*</b> <i>Section 73A National Health Service Act 2006</i>	Director of Public Health	X
<b>Scrutiny Officer</b> <i>Section 9FB (Schedule 2, Part 1A) Localism Act 2011</i>	Committee Services and Scrutiny Manager	X
<b>Data Protection Officer</b> <i>Data Protection Act 2018</i> <i>Article 37-39 General Data Protection Regulation 2018</i>	Director of Policy, Insight and Communications	X
<b>Superintendent Registrar</b> <b>Registrar of Births, Deaths &amp; Still Births</b> <b>Registrar of Marriages</b> <i>Sections 5 &amp; 6 Registrations Service Act 1953</i>	Head of Regulatory Services	
<b>Animal Welfare Officer</b> <i>Section 149 Environmental Protection Act 1990</i>	Head of Regulatory Services	
<b>Registrar for Cremations</b> <i>Regulation 7 The Cremation Regulations 1930</i>	Head of Regulatory Services	

### 3. PROPER OFFICERS

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT ACT 1972</b>		
<p><b>Section 13(3)</b> In a parish not having a separate parish council the chairman of the parish meeting and the proper officer of the district council shall be a body corporate by the name of <b>“the Parish Trustees”</b> with the addition of the name of the parish.</p>	Chief Executive	X
<p><b>Section 83</b> The officer to whom a person elected to the office of councillor, Mayor or Deputy Mayor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act</p>	Chief Executive and Director Law and Governance	X
<p><b>Section 84</b> The officer to whom written notice of resignation of elected office shall be delivered</p>	Chief Executive	X
<p><b>Section 86</b> To declare any vacancy in any office under this section</p>	Chief Executive	
<p><b>Section 88(2)</b> The officer by whom a meeting of the Council for the election of the vacant office of chairperson of the Council may be convened</p>	Director Law and Governance	X
<p><b>Section 89(1)(b)</b> The officer to whom notice in writing of a casual vacancy occurring in the office of councillor may be given by two local government electors for the Borough</p>	Director Law and Governance (the Returning Officer)	X

<b>TITLE/DESCRIPTION (including statutory derivation)</b>	<b>PROPER OFFICER APPOINTED</b>	
<b>LOCAL GOVERNMENT ACT 1972</b>		
<b>Section 99 and Schedule 12</b> To give notice and send summonses in respect of any Council meeting	Director Law and Governance	X
<b>Section 100A(6)</b> To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press	Director Law and Governance	X
<b>Section 100B(2)</b> The officer to exclude from committees, sub-committees, Council or Cabinet meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Director Law and Governance	X
<b>Section 100B(7)(c)</b> The officer to supply to any newspaper copies of documents supplied to members of committees, sub-committees, Council or Cabinet meetings in connection with an item for consideration	Director Law and Governance	X
<b>Section 100C(2)</b> The officer to prepare a written summary of proceedings of committees, sub-committees, Council or the Cabinet from which the public were excluded	Director Law and Governance	X
<b>Section 100D(1)(a)</b> The officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Cabinet	Director Law and Governance	X

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT ACT 1972</b>		
<b>Section 100D(5)</b> The officer to determine which documents constitute background papers and Section 100H – ability to charge for the provision of such documents	Director Law and Governance	X
<b>Section 100A F</b> The officer responsible for providing access to meetings, documents and information on decisions being taken by Councillors.	Director Law and Governance	X
<b>Section 100G</b> To maintain a register of the names and addresses of members and membership of committees lists of delegations and a written summary of the rights to attending Council, Committee and Sub-Committee meetings and to inspect and copy documents.	Director Law and Governance	
<b>Section 115</b> The officer to whom money properly due from officers shall be paid	Director Finance and Resources (Chief Finance Officer)	X
<b>Section 137</b> Gives the proper officer power to require a voluntary organisation or similar body to supply information to them, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum	Director Finance and Resources (Chief Finance Officer)	
<b>Section 138</b> Emergency disaster powers	Chief Executive	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT ACT 1972</b>		
<b>Section 146</b> The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies	Director Finance and Resources (Chief Finance Officer)	X
<b>Section 191</b> The officer to receive notices from Ordnance Survey in relation to ascertaining or locating Local Authority boundaries.	GIS or Director of Policy, Insight and Communications	
<b>Section 210</b> The officer responsible for exercising certain functions relating to charities	Chief Executive	
<b>Section 223</b> To authorise officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984	Director Law and Governance	X
<b>Section 225</b> The officer to receive and retain statutory documents on behalf of the Authority	Director Law and Governance	X
<b>Section 229</b> The officer to certify photographic copies of documents	Director Law and Governance	X
<b>Section 233</b> The officer to receive documents required to be served on the Authority	Director Law and Governance	X
<b>Section 234(1) and (2)</b> The officer to authenticate documents on behalf of the Authority	Director Law and Governance	X

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT ACT 1972</b>		
<b>Section 236 and 238</b> The officer to send copies of Bylaws to parish councils and to certify printed copies of Bylaws	Director Law and Governance	X
<b>Section 248</b> The officer responsible for the keeping of the roll of freemen	Director Law and Governance	X
<b>Schedule 12, Paragraphs 4(2)(b) &amp; 4(3)</b> The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent	Director Law and Governance	
<b>Schedule 14, Paragraph 25(7)</b> The officer responsible for the certification of true copies of resolutions	Director Law and Governance	X
<b>Schedule 29, Paragraph 41</b> The officer responsible for the exercise of functions under Sections 9(1) & (2), 13(2)(h) and (3)(b) and 20(b) of the Registration Services Act 1953 (Proper Officer)	Head of Regulatory Services	X
<b>LOCAL GOVERNMENT ACT 1974</b>		
<b>Section 30</b> The officer responsible for giving public notice that Ombudsman reports will be made available for public inspection	Director of Policy, Insight and Communications	
<b>LAND CHARGES ACT 1975</b>		
<b>Section 3 and 19</b> The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975 and maintain a Local Land Charges Register	Director, Planning, Strategic Transport and Placemaking	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006 AND LOCAL ELECTIONS (PARISHES AND COMMUNITIES) RULES 2006</b>		
Retention and public inspection of documents after elections	Director Law and Governance	
<b>LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990</b>		
For the purposes of the composition of committees and nominations to political groups (e.g. receiving cessation and nomination notifications)	Chief Executive / Director Law and Governance	
<b>REPRESENTATION OF THE PEOPLE ACT 1983</b>		
<b>Section 10</b> All proper office functions identified in the legislation	Chief Executive	
<b>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>		
<b>Section 16</b> The officer responsible for serving notices requiring details of interest in land	Director Law and Governance	
<b>Section 41</b> The officer to certify copies of any resolution, order, report or minutes of proceedings of the authority as evidence in any legal proceedings	Director Law and Governance	
<b>BUILDING ACT 1984</b>		
<b>Section 78</b> The officer responsible for giving notice and taking action in relation to dangerous buildings and structures	Head of Regulatory Services	
<b>Section 93</b> The officer responsible for authenticating under this Act	Head of Regulatory Services	



TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>		
<b>Section 2</b> The officer to hold on deposit the list of politically restricted posts and Section 2 – provision of certificates as to whether a post is politically restricted	Director Law and Governance	
<b>Section 3A</b> The officer responsible for the grant and supervision of exemptions from political restriction	Chief Executive (can consult with the Monitoring Officer)	
<b>Sections 15-17 (and Regulations made thereunder)</b> The officer responsible for undertaking all matters relating to the formal establishment of political groups within the membership of the Council.	Director Law and Governance	
<b><u>LOCAL GOVERNMENT ACT 2000</u></b>		
The officer responsible for ensuring a proper record is made of Cabinet decisions and that the document comprising the Authority's Executive Forward Plan is published in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	Director Law and Governance	
<b>Section 81</b> To establish and maintain the Councillors' Register of Interest and ensure it is available for public inspection	Director Law and Governance (The Monitoring Officer)	
<b>Section 9P and 37</b> To ensure that copies of the constitution are available for inspection	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT AND HOUSING ACT 1989</b>		
To make payments of relevant allowances in accordance with the Council's Councillors Allowances Scheme	Director Law and Governance or Director Finance and Resources	
To defray expenses of any members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough	Director Law and Governance or Director Finance and Resources	
All references to the Proper Offices in the Local Government Act 2000 and subordinate legislation	Director Law and Governance	
<b><u>THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) (ENGLAND) REGULATIONS 2011</u></b>		
Section 4 Publishing the verification number of local government electors for the purpose of petitions	Director Law and Governance	
<b><u>PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984</u></b>		
<b>Section 48</b> Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Head of Regulatory Services	
<b>Section 59</b> Authentication of any notice or other document which has been authorized by a relevant health protection authority are authorized or required by or under this Act to give, make or issue	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b><u>PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984</u></b>		
<b>Section 61</b> Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act.	Head of Regulatory Services	
Requirement to appoint a suitably qualified person as the Council's medical advisor on environmental health and proper officer for notifiable diseases	Head of Regulatory Services	
Proper Officer for the purposes of Consultant in Communicable Disease Control under this Act and the Health Protection Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010	Director Public Health	
<b><u>HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010</u></b>		
<b>Sections 2, 3 and 6</b> Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.	Head of Regulatory Services	
<b><u>FOOD SAFETY ACT 1990</u></b>		
<b>Section 49(3)</b> Any document which a food authority is authorised or required to give, make or issue under this Act	Head of Regulatory Services	
<b><u>CIVIL EVIDENCE ACT 1995</u></b>		
<b>Section 9</b> To certify Council records for the purposes of admitting the document in evidence in civil proceedings	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b><u>CRIME AND DISORDER ACT 1998</u></b>		
Section 11 and 12 To apply for the discharge or variation of a Child Safety Order	Director Law and Governance	
Sections 17 To exercise any function on the need to prevent crime and disorder and offending by children and young persons	Director Children’s Services	
<b><u>CRIMINAL JUSTICE AND POLICE ACT 2001</u></b>		
<b>Part 2</b> Delegated power to authorise officers to enter premises and seize items where the Council has a power of seizure under this Act and to perform other related duties (return and security of seized items)	The Chief Executive and Directors	
<b>Section 20</b> Application for closure orders of unlicensed premises	Head of Regulatory Services	
<b><u>LOCAL GOVERNMENT FINANCE ACT 1988</u></b>		
<b>Section 114 and 115</b> The officer to be responsible for the proper administration of the authority’s financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)	Director Finance and Resources (Chief Finance Officer)	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>LOCAL GOVERNMENT FINANCE ACT 1988</b>		
<b>Section 116</b> Notification to the Council's auditor of any meeting to be held under Section 115 of the 1988 Act (meeting to consider any report of the Chief Finance Officer under Section 114)	Director Finance and Resources (Chief Finance Officer)	
<b>Section 139A</b> Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	Director Finance and Resources (Chief Finance Officer)	
<b>LANDLORD AND TENANT ACT 1927 AND THE LANDLORD AND TENANT ACT 1954</b>		
<b>Section 23 (1927 Act)</b> <b>Section 66 (1954 Act)</b> The officer who shall receive all notices on behalf of the Council	Director Law and Governance	
<b>LOCAL GOVERNMENT (CONTRACTS) ACT 1997</b>		
Certification of relevant powers to enter into contracts	Director Finance and Resources (Chief Finance Officer), Director Law and Governance and posts designated in accordance with article 10.01(b) as chief officers	
<b>WEIGHTS AND MEASURES ACT 1985</b>		
<b>Section 72(1)(a)</b> The Chief Inspector of Weights and Measures	Head of Regulatory Services	
<b>LOCAL AUTHORITIES' CEMETRIES ORDER 1977</b>		
Schedule 2, Article 10, Part 11.1(1) – To appoint an officer for the purpose of signing the Grants of Exclusive Right of Burial Deeds on behalf of the burial authority <i>Note: It is not necessary for that deed to be executed under seal</i>	Head of Regulatory Services	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b><u>NATIONAL HEALTH SERVICE ACT 2006</u></b>		
<p><b>Section 2B</b></p> <p>The exercise by the Authority of its duty to take steps as it considers appropriate for improving the health of the people in its area</p>	Director of Public Health	
<p><b>Section 111</b></p> <p>The exercise by the authority of any functions prescribed by Secretary of State in relation to dental public health</p>	Director of Public Health	
<p><b>Section 249</b></p> <p>The exercise by the authority of its duty to cooperate with the prison service with a view to improving the exercise of their respective functions in relation to securing and maintaining the health of prisoners</p>	Director of Public Health	
<p><b>Section 6C(1)</b></p> <p>The exercise by the authority of any of the Secretary of State's public health functions, which it is required to carry out by regulations issued by the Secretary of State</p>	Director of Public Health	
<p><b>Section 7A</b></p> <p>The exercise by the authority of any of the Secretary of State's public health functions, which are delegated to it by the Secretary of State</p>	Director of Public Health	
<p><b>Section 73A(1)(d)</b></p> <p>The exercise by the Authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health</p>	Director of Public Health	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b><u>NATIONAL HEALTH SERVICE ACT 2006</u></b>		
<b>Section 73A(1)(e)</b> The exercise by the Authority of its functions under section 325 Criminal Justice Act 2003 (cooperating with “responsible bodies” in relation to the assessment of risks posed by certain offenders)	Director of Public Health	
<b>Section 73A(1)(f)</b> The exercise by the Authority of such other functions relating to public health as may be prescribed	Director of Public Health	
<b>Schedule 1</b> The exercise by the authority of any of its functions as set out in Schedule 1	Director of Public Health	
<b><u>HEALTH ACT 2006 AND SMOKE FREE (PREMISES AND ENFORCMENT) REGULATIONS 2006</u></b>		
<b>Section 10</b> To carry out the functions of the enforcement authority under Regulation 3 of the Smoke Free (Premises and Enforcement) Regulations 2006	Head of Regulatory Services	
<b>OTHER MISCELLANEOUS PROPER OFFICER OR STATUTORY OFFICER FUNCTIONS</b>		
Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority	Director Law and Governance	
Caldicott Guardian	Director Policy, Insight and Communications	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<b>NON-EXECUTIVE DECISION MAKING</b>		
<p>The report author of any report to be considered by the Council or a Committee/Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:</p> <p>(a) The identification of and compilation of lists of background papers to reports;</p> <p>(b) The identification of exempt documentation</p>	Director Law and Governance	



**Milton Keynes City Council**

**Scheme for the Selection of the Deputy Mayor**



## **“POINTS” SYSTEM FOR THE SELECTION OF DEPUTY MAYOR**

1. The convention is that each year the Deputy Mayor will progress to the office of Mayor (if he/she wishes to do so).
2. Each political group as constituted in accordance with Regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990 shall be credited on the day after the Annual Election (or 1 May in a year with no election) with a number of points equivalent to the number of Members of the Council within that Group.
3. 57 points (the current number of elected Members) would be deducted from the group which is to nominate the Deputy Mayor as Mayor at the Annual Council Meeting.
4. The outcome of the calculations in accordance with the scheme shall be notified to Group Leaders in time for Annual Group Meetings.
5. The political group with the highest number of points after the process described in (2) above shall be invited to nominate a candidate for the Deputy Mayoralty in the ensuing year.
6. If the invitation is declined by the group concerned, the option to nominate would then be passed to the Group with the second highest number of points.
7. In the event of a party group declining the nomination for the ensuing year, that group shall nevertheless be deemed to have exercised its right and its points shall be adjusted accordingly, (ie 57 points will be deducted at the next review).
8. In the event that two or more political groups have the same number of points and no agreement is reached between them as to which group shall have the right to nominate a candidate for the Deputy Mayoralty, the matter will be referred to Council for decision. The 57 points deduction will be made from the political group whose nomination is approved by the Council.
9. The formal procedure of election of the Candidate as Deputy Mayor will take place at the Annual Council Meeting.

Adopted by the Council, at its meeting on 12 November 2002 (Minute CL66(d) refers)

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**Milton Keynes City Council**

**Protocol for the Award of Civic Honours**

## **Honorary Aldermen**

### **1. Appointment of Honorary Alderman / Alderwoman**

- 1.1 In accordance with Section 249 of the Local Government Act 1972, the Council may confer the title of Honorary Alderman / Alderwoman on any former Councillor who it considers has provided eminent service to the Council. The term 'eminent services' is not defined in law so is a matter of local interpretation.
- 1.2 'Eminent service' will be defined for appointment at Milton Keynes City Council as an Honorary Aldermen / Alderwomen as follows:
  - a) being a past member of the Council (or predecessor authority); and
  - b) have served 15 years in total, in aggregate, on the Council.
- 1.3 Upon retirement, qualifying Councillors will be canvassed to establish their interest in the honour and their availability to attend a special Council meeting to be appointed.
- 1.4 Appointments of Honorary Aldermen or Alderwomen must take place at a Council meeting specially convened for the purpose. The meeting can occur on the same date of another full council meeting. The nomination will be proposed and seconded.
- 1.5 Two thirds of the members present at the meeting must vote in favour of a resolution for the nominee to be appointed as an Honorary Alderman / Alderwoman. The recipient will be presented with a certificate confirming the title by the Mayor and will be given an opportunity to address the Council for up to 15 minutes.
- 1.6 Honorary Aldermen / Alderwomen cannot be appointed posthumously.

### **2. Rights and Responsibilities of Honorary Alderman / Alderwomen**

- 2.1 The title of Honorary Alderman / Alderwoman does not confer any special privileges or rights upon the appointee to speak or vote at Council meetings, beyond the rights and privileges already afforded to the public.
- 2.2 The only rights that are conferred to an Honorary Alderman / Alderwoman by virtue of their appointment is to be invited to Civic functions and events. The Council will decide which Civic functions and events it is appropriate to invite Honorary Aldermen / Alderwomen to.

2.3 The role of Honorary Alderman / Alderwoman is an honorary one, but to the public an Honorary Alderman / Alderwoman is perceived to be a representative of the Council. In accepting the honour, all Honorary Aldermen / Alderwomen must agree and adhere to the protocol laid down by this Council. There are two key elements:

- a) That the person becoming an Alderman / Alderwoman does so in the full knowledge that they are perceived to be a Civic representative of the Council and must not bring the Council into disrepute.
- b) In taking this role, the Alderman / Alderwoman agrees to become apolitical in public when using the title of Alderman / Alderwoman; knowing that any views expressed may be interpreted as views of the Council.

### **3. Removal of Title of Honorary Alderman / Alderwoman**

3.1 There may be occasions where, due to the behaviour of individuals who have been appointed as Honorary Aldermen / Alderwomen, the Council may wish to remove the title from an individual in order to protect the reputation of the Council.

3.2 Removal of the title of Honorary Alderman / Alderwoman will procedurally follow the same process as appointment (proposed and seconded, and then a resolution of two thirds of those present must be passed in favour of removal). However, it may take place at any meeting of Full Council rather than a specially convened meeting.

3.3 Removal of the title of Honorary Alderman / Alderwoman must be proposed by notice of motion (Council Procedure Rule 11.1) which must set out the circumstances of how an Alderman / Alderwoman has not acted in accordance with 2.3 a) or b).

3.4 Upon receipt of a motion to remove the title of Honorary Alderman / Alderwoman, the Director of Law and Governance will notify an affected Alderman / Woman and offer the right of reply (either in writing, or in person, pursuant to public speaking rights).

3.5 Should the affected Alderman / Alderwoman indicate that they consent to the honour being removed, the motion will be moved, seconded, and put to the vote without debate.

### **Freedom of the City**

#### **4. Award of Freedom of the City**

4.1 In accordance with Section 249 of the Local Government Act 1972, the Council may confer the Freedom of the City on any person, organisation, or military unit either in recognition of their exceptional service to the city, or because they are a person of distinction.

- 4.2 Any councillor may propose the award of Freedom of the City, in writing to the Director of Law and Governance, who will consult with the Leaders of Political Groups, to establish if there is sufficient consensus to achieve the required number of councillors in support of bestowing the honour. The nominated person, organisation, or military unit will then be canvassed to establish their interest and availability.
- 4.3 Awarding the Freedom of the City must take place at a Council meeting specially convened for the purpose. The meeting can occur on the same date of another full council meeting. The nomination will be proposed and seconded.
- 4.4 Two thirds of the members present at the meeting must vote in favour of a resolution for the nominee to be awarded the Freedom of the City. They will be presented with a certificate conferring the title by the Mayor and will be given an opportunity to address the Council.
- 4.5 Freedom of the City is the highest honour that a council can grant and in order to preserve its status and value, conferment should be strictly limited to those who have made a very significant contribution to the City, or who is genuinely a person of distinction because of outstanding achievements.
- 4.6 Freedom of the City cannot be awarded posthumously.

## **5. Rights and Responsibilities of Freedom of the City**

- 5.1 The award of Freedom of the City does not confer any special privileges or rights upon the appointee to speak or vote at Council meetings, beyond the rights and privileges already afforded to the public.

## **6. Removal of Freedom of the City**

- 6.1 There may be occasions where, due to the behaviour of recipients of Freedom of the City, the Council may wish to remove the title in order to protect the reputation of the Council.
- 6.2 Removal of Freedom of the City will procedurally follow the same process as appointment (proposed and seconded, and then a resolution of two thirds of those present must be passed). However, it may take place at any meeting of Full Council rather than a specially convened meeting.
- 6.3 Removal of Freedom of the City must be proposed by notice of motion (Council Procedure Rule 11.1) and must set out how the recipient has behaved in such a way that the reputation of the City has been damaged.