

# East Sussex County Council Constitution



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### Decision Making Arrangements

#### 1 *Constitution*

The Constitution sets out the political decision making arrangements which have been adopted by the County Council.

#### 2 *Cabinet*

The Cabinet comprises the Leader and Deputy Leader of the Council and five other members of the administration appointed by the Leader. Its functions are set out in Table 1 of Part 3 of the Constitution. The Leader has delegated some of his/her decision making powers to the Cabinet and to individual Lead Cabinet Members (see Table 3 in Part 3 of the Constitution).

#### 3 *Scrutiny Committees*

The roles and functions of County Council's scrutiny committees are set out in Article 6 in Part 2 of the Constitution. Places are allocated to the party groups in proportion to the number of seats on the County Council held by each group. The number of chairs and vice-chairs from each party group reflects the proportion of seats it has on the Council.

#### 4 *Regulatory Committee*

Regulatory functions are performed through a Regulatory Committee from which the Planning Committee and panels to undertake the quasi-judicial functions of the County Council are drawn. Again, places on the Regulatory Committee and the Planning Committee are allocated to party groups in proportion to the number of seats on the Council held by each group.

#### 5 *Other Committees*

The Council also appoints a Governance Committee, a Standards Committee and a range of other committees and panels to perform specific functions. A complete list of committees and their size and directions as to where their terms of reference can be found in the Constitution are set out in paragraph 9 below.

## DECISION MAKING ARRANGEMENTS

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### **6 Committee Memberships**

Where places are allocated in accordance with political proportionality, each group nominates the members to fill the places allocated to it. If you wish to change the committees on which you serve, you should discuss the matter with your Group Leader or Group Whip. They will inform the Chief Executive in writing of any changes.

### **7 “Substitutes” on Committees**

Where a member is unable to attend a meeting, it is possible for them to resign temporarily and for their political group to nominate a replacement on the basis that the permanent member will subsequently resume his or her seat on the committee. Notice of the change must be given in writing to the Deputy Chief Executive before the start of the meeting. The notice must be signed by the Leader or Deputy Leader of the appropriate political group. Forms for this purpose are available from the Member Services Team. The arrangements are formalised in Standing Order 48.5, although the following specific points need to be borne in mind:

- “substitutes” are not permitted in relation to the Cabinet;
- the chairs of the scrutiny committees have agreed that there should be a presumption against the appointment of “substitutes” on scrutiny committees. This is on the basis that it will be very difficult for a member attending a meeting on a one-off basis part way through an investigation to make a meaningful contribution. Given the strong desire on the part of all party groups to work together on these committees, the chairs feel that full representation from each party group is less important than in other situations;
- only members of the Regulatory Committee may perform the functions of that committee or its sub-committees or panels. Accordingly, if a member is unable to attend, say, the Planning Committee any “substitute” must be drawn from the Regulatory Committee.

### **8 Committee Preferences**

In thinking about your committee preferences, you will wish to consider whether there are committees or sub-committees on which it would not be sensible for you to serve because of your professional or other interests. You will wish to consider particularly whether you have personal interests which could involve you in conflicts of interest and, therefore, frequently having to declare an interest and leave meetings. This situation is most likely to arise in relation to the Planning Committee.

## DECISION MAKING ARRANGEMENTS

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### 9 SIZE OF THE CABINET AND COMMITTEES

	<b>Membership</b>	<b>Terms of Reference</b> (Articles and Sections below refer to the Constitution)
<b>Cabinet</b> (Quorum 4)		Part 3, Table 1
Leader of the Council	1	
Deputy Leader of the Council	1	
Other councillors appointed by the Leader	5	
	<b>Total 7</b>	
<b>Scrutiny Committees</b> (Members of the Cabinet may not serve on a Scrutiny Committee but will be expected to comply with a request to attend a meeting of a Scrutiny Committee to address issues relating to their area of responsibility – Standing Order 49.2)		
<b>People</b> (Quorum 8, of whom 6 must be County Councillors)		Part 2, Article 6
Councillors	11	
Parent Governors	2	
Denominational representatives	2	
	<b>Total 15</b>	
<b>Health Overview and Scrutiny</b> (Quorum 4 County Councillors)		Part 2, Article 6
Councillors	7	
Co-opted Members nominated by Borough & District Councils	5	
Co-opted Members nominated by the voluntary sector	2	
	<b>Total 14</b>	
<b>Place</b> (Quorum 6)	11	Part 2, Article 6

## DECISION MAKING ARRANGEMENTS

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<b>Audit Committee</b> (Quorum 4 County Councillors)		Part 3, Table 5
(Members of the Cabinet may not serve on the Audit Committee)		
Councillors	7	
Independent Members	2	
	<b>Total 9</b>	
<b>Regulatory Committee</b> (Quorum 9) (Members of the Cabinet may not serve on the Regulatory Committee)	<b>18</b>	Part 3, Table 4
<b>Planning Committee</b> (Quorum 4) (Membership of the Committee must be drawn from the Regulatory Committee)	<b>7</b>	Part 3, Table 4
<b>Governance Committee</b> (Quorum 3)	<b>6</b>	Part 3, Table 5
<b>Standards Committee</b> (Quorum 4)	<b>7</b>	Part 2, Article 9
<b>Pension Committee</b> (Quorum 3)	<b>5</b>	Part 3, Article 5

## DECISION MAKING ARRANGEMENTS

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### 10 Other Committees, Panels, Boards and Forums

*Note: For Panels of the Regulatory Committee see list in Part 3.*

	<b>Membership</b>	<b>Terms of Reference</b> (Articles and Sections below refer to the Constitution)
1. County Joint Consultative Committee	5 Councillors, 8 employee representatives (6 UNISON, 1 T&GWU, 1 GMB)	Part 3, Table 5
2. Joint Advisory Committee (Schools)	5 Councillors and representatives of teachers and support staff	Part 3, Table 5
3. County Consultative Committee (Governors)	5 Councillors and representatives of Governors	Part 3, Table 5
4. Standing Advisory Council for Religious Education	5 Councillors and other members in accordance with statutory requirements	Part 3, Table 5
5. East Sussex Schools Forum	Lead Cabinet Member for Education and Inclusion, Special Educational Needs and Disability plus representatives of other interests in accordance with statutory requirements.	Part 3, Table 5
6. Corporate Parenting Panel	7 Councillors	Part 3, Table 5
7. Fostering Panel	1 Councillor and other members in accordance with statutory requirements	Part 3, Table 5
8. Recruitment Panels (Chief Executive and Directors)	5 Councillors selected as the need arises	Part 3, Table 5
9. Recruitment Panel (management posts other than those listed in 8 above).	5 Councillors selected as the need arises	Part 3, Table 5

## DECISION MAKING ARRANGEMENTS

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10. Pension Board	3 employer representatives, 3 scheme member representatives, independent chair	Part 3, Table 5
11. Assessment Sub-Committee (Standards)	3 Councillors drawn from the Standards Committee	Part 2, Article 9.04
12. Hearings Sub-Committee (Standards)	3 Councillors drawn from the Standards Committee	Part 2, Article 9.04
13. East Sussex Health and Wellbeing Board	4 Councillors and other members in accordance with statutory requirements	Part 3, Table 5

## **The Council's Constitution**

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

References to legislation including statutory instruments contained within this Constitution may have been superseded and therefore substituted by changes derived from the European (Withdrawal) Act 2018 (“the Act”) and subordinate legislation introduced following the United Kingdom’s exit from the European Union. Users should check references contained within to ensure that they are up to date.

References to European Union legislation, obligations and directives within the Council’s Constitution, policies, practices and guidance should be read as ‘retained’ European Union legislation, obligations and directives.

The Constitution is divided into 16 articles which set out the basic rules governing the Council’s business (see Part 2 of the Constitution). More detailed procedures and codes of practice are provided in separate rules and protocols in subsequent parts of this document.

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

Article 1 of the Constitution sets out its purpose and the overall objectives of the County Council. Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny of decisions (Article 6)
- The Cabinet (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees (Article 10)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

## **How the Council Operates**

The Council is composed of 50 councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

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

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

## **How Decisions are Made**

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader of the Council, the Deputy Leader and up to 8 other councillors. The Leader is elected by the County Council and the Leader appoints the other Cabinet members. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. Cabinet meetings are generally open for the public to attend except where personal or confidential matters are being discussed. The Leader and the Cabinet have to make decisions which are in line with the Council's overall policies and budget. If the Leader and the Cabinet wish to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **Overview and Scrutiny**

The scrutiny committees, together with the Health Overview and Scrutiny Committee and Audit Committee, support the work of the Cabinet and the Council as a whole. They can allow citizens to have a greater say in Council matters by holding inquiries in public into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Leader and Cabinet. They can 'call-in' a decision which has been made by the Leader and Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Leader and Cabinet reconsider the decision. They may also

be consulted by the Leader and Cabinet or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

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

### **Citizens' Rights**

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

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

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council, the Cabinet and the Council's Committees except where, for example, personal or confidential matters are being discussed;
- see reports and background papers, and any record of decisions made by the Council and Cabinet which are not exempt or confidential;
- petition to request a referendum on a mayoral form of Cabinet;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees if invited to do so. At each ordinary meeting of the Council a period of up to 30 minutes is set aside for questions from the public;
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;

## CONSTITUTION – PART 1 – SUMMARY AND EXPLANATION

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- complain to the Council. The Council seeks to resolve complaints informally through local resolution wherever possible. Where this is not possible, they can escalate their complaint through the Council's formal complaints process;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Committee if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor; and
- Request information from the Council under the Freedom of Information Act 2000.

The County Council has a policy of open access to files and other records and each department has been required to produce a Code of Practice which encourages openness. The County Council also holds as many meetings as possible in public, giving access to agendas reports and any background documents. While the County Council adopts a strong policy of openness there have to be safeguards to protect individuals' privacy and in relation to legal, commercial, financial or otherwise sensitive information.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Council's Deputy Chief Executive at County Hall, Lewes BN7 1UE.

## **Article 1 - The Constitution**

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

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

### **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of East Sussex County Council.

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

The purpose of the Constitution is to:

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

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

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

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

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## Article 2 - Members of the Council

### 2.01 Composition and eligibility

(a) **Composition.** The Council comprises 50 members, otherwise called councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

(b) **Eligibility.** Only registered voters of the county or those living or working there will be eligible to hold the office of councillor.

### 2.02 Election and terms of councillors

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

### 2.03 Roles and functions of all councillors

#### (a) Key Roles

##### *Representing the Local Community*

- (i) To be familiar with the needs, priorities and aspirations of their local communities. In order to do this, they should make themselves known within their electoral divisions, be accessible and liaise/consult extensively with their local communities, organisations (including, where appropriate, town and parish councils) and businesses through, for example, meetings, neighbourhood forums, surgeries and other means.
- (ii) To represent the views of their constituents and local organisations (including, where appropriate, those of town and parish councils) on matters within the responsibility of the County Council. This can include:
  - Acting as an adviser or advocate for groups with a special interest
  - weighing up different, often conflicting, interests expressed within the local community and attempting to represent the community as a whole
  - providing advice on matters within their local area and the implications of particular courses of action.
- (iii) To promote the County Council and what it is about and contribute to a fuller understanding within local communities of the role and

functions of the County Council, explaining the reasons for decisions and the background to them, listening to views expressed and feeding them into the County Council, thereby improving choices and decisions.

- (iv) To familiarise themselves with the Council's policies, plans and priorities.
- (v) To assist the Council in being both a listening and an accessible organisation.
- (vi) To take up matters raised with them by their constituents and to respond to their constituents or ensure that a response is provided and, where appropriate, to act as their advocate.

### *Policy Formulation and Review*

- (vii) To participate in the formulation and review of Council policy and decisions about the role of the Council and what kind of authority it should be, at meetings of the County Council, committees, sub-committees and panels of which they are members. In doing so, councillors are expected to be constructive but challenging in considering whether services should be provided by the Council and, if so, how (including whether they should be provided by the Council alone or in partnership with others) and to what standard. An innovative and questioning approach is required.
- (viii) To participate in consultation exercises undertaken by the County Council.
- (ix) To participate in consideration of the County Council's budget and in the decision making on the final budget.
- (x) To participate in keeping under review the County Council's employment policies and practice to ensure that the County Council maintains its standing as a good and supportive employer.
- (xi) To participate in the scrutiny and monitoring of County Council policies and decisions and their implementation to see that services are being provided:
  - in the most cost-effective way
  - in a way which is meeting the needs of service users
  - to the quality required by service users

and ensuring that arrangements are in place to secure continuous improvement in the way in which County Council services are

## CONSTITUTION – PART 2 – ARTICLES OF THE CONSTITUTION

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provided, having regard to a combination of economy, efficiency and effectiveness and the principles of Best Value.

### *County Council Working with Others*

- (xii) To encourage and participate in local partnership working (whether the County Council is involved or not) for the benefit of local communities by helping to provide the best quality service in the most cost-effective way and providing easy access to information about services by those who may have a need of them.
- (xiii) To work with partners and other organisations to which the County Council appoints representatives as a member of those bodies to which the councillor is appointed and, in those cases, to explain the County Council's position, to listen to the views of others and to report back to the County Council.

### *Representing the County*

- (xiv) Community leadership is at the heart of local government. The County Council as the strategic tier of local government is the only body which will represent the interests of the people of East Sussex as a whole and endeavour to ensure that the County receives fair treatment. The Council Plan sets out how the Council will achieve its four priority outcomes, which are:
  - Driving sustainable economic growth;
  - Keeping vulnerable people safe;
  - Helping people help themselves;
  - Making best use of resources now and for the future.

County councillors will be required to play a full part in the delivery of these, both locally and, more strategically, countywide.

- (xv) Where appointed to serve on the Local Government Association General Assembly (or one of its executives or forums) or any other national or regional bodies, to contribute to and influence the work of the Association or other body, to explain the County Council's position and to report back to the County Council.

### *Regulatory Function*

- (xvi) To participate with other members, as appropriate, in performing the regulatory functions of the County Council e.g. determining planning applications, providing advice to borough/district councils on applications where they are required to consult the

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County Council, hearing and determining appeals against decisions of the Council not to approve applications for registration of premises or persons under various legislation, hearing appeals under the Council's personnel policies and practices.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

### 2.04 Conduct

In carrying out their duties, councillors will observe the Members' Code of Conduct and the General Principles governing the Code of Conduct. They are expected to behave at all times in accordance with the highest standards of personal conduct and in such a way as to maintain public confidence in the County Council.

### 2.05 Allowances

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

## Article 3 - Citizens and the Council

### 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and petitions.** Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution in accordance with the timetable as prescribed under legislation.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, the Cabinet, Cabinet Members and committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) find out from the forward plan what key decisions will be taken by the Leader and Cabinet and when;
  - (iii) see reports and background papers, and any records of decisions made by the Council and the Leader and Cabinet; and
  - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the opportunity to participate in the Council's question time and contribute to investigations by overview and scrutiny committees if asked to do so.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council itself under its complaints procedure;
  - (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints procedure;
  - (iii) the Standards Committee about a breach of the Code of Conduct for Members.

### 3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers or the Council's contractors and those acting on the Council's behalf and must not wilfully harm things owned by the council, councillors or officers or its contractors or those working on its behalf. The Council will take all reasonable and proportionate action within its power in pursuance of this provision to secure the legitimate interests of those involved.

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## Article 4 - The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:

- The County Council Financial and Business Plan;
- The East Sussex Children and Young People's Plan;
- Safer Communities Partnership Business Plan;
- Local Transport Plan;
- Plans and alterations which together comprise the Development Plan / documents;
- Youth Justice Plan;
- Climate Emergency Plan;

and such other plans and strategies as the County Council shall from time to time determine.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 4.02 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to / or not wholly in accordance with the budget;
- (d) electing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;

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- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- (l) all other matters which, by law, must be reserved to Council.

### 4.03 **Council meetings**

There are three types of Council meeting:

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

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

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

### **5.01 Role and function of the Chairman and Vice-Chairman**

The Chairman and Vice-Chairman will be elected by the Council annually. The incumbent Chairman and Vice Chairman will determine the terms by which they wish to be addressed for their term of office. The Chairman (and in their absence, the Vice-Chairman) will have the following roles and functions:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (d) to promote public involvement in the Council's activities;
- (e) to be the conscience of the Council; and
- (f) to attend civic and ceremonial functions as the principal representative of the County (except where a political representative is appropriate in which case the Leader, or another member of the Cabinet will represent the County Council).

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## **Article 6 - Overview and Scrutiny Committees**

### **6.01 Appointment of overview and scrutiny committees**

The Council will appoint the following overview and scrutiny committees to discharge the functions conferred by section 21 of the Local Government Act 2000:

- (i) People Scrutiny Committee
- (ii) Place Scrutiny Committee
- (iii) Health Overview and Scrutiny Committee

[Note: The Council also appoints an Audit Committee.]

The Council will vary the number and scope of committees from time to time.

### **6.02 Proceedings of overview and scrutiny committees**

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

### **6.03 Functions of overview and scrutiny committees**

Within the scope of their terms of reference, overview and scrutiny committees shall:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and recommendations to the full Council and/or the Cabinet, or a joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants;
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Leader, Cabinet, individual cabinet members or any joint or area committees in accordance with the procedure outlined in the Constitution;
- (v) consider any Councillor Call for Action (CCfA) in accordance with the agreed procedure; and
- (vi) Consider any petition in accordance with the Petition Scheme.

#### 6.04 Powers of overview and scrutiny committees

(a) **Policy development and review:** Overview and scrutiny committees may:

- (i) assist the Council, Leader and Cabinet in the development of the budget and policy framework by undertaking analysis of policy, performance and resource issues;
- (ii) undertake research, community (and other) consultation in support of policy development and review functions;
- (iii) consider and implement mechanisms to encourage and enhance community participation in matters being reviewed;
- (iv) question the Leader, members of the Cabinet and/or committees and the Chief Executive and Directors about their views on issues and proposals affecting the area; and
- (v) liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny:** Overview and scrutiny committees may:

- (i) review and scrutinise decisions made by the Leader, Cabinet, committees and council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives and performance targets;
- (iii) question the Leader, Cabinet members, committees, the Chief Executive and Directors about their decisions and performance, whether generally in relation to service plans and targets over time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and full Council arising from the outcome of scrutiny projects;
- (v) review and scrutinise the performance of other public bodies in the area; this can be achieved by requesting representatives of these bodies to:
  - (a) submit reports and/or other written information to an overview and scrutiny committee;

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- (vi) attend and address an overview and scrutiny committee about their activities and performance;
- (vii) host a site visit by members of an overview and scrutiny committee.
- (viii) question and gather evidence from any other person (with their consent).

(c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.

### 6.05 The remit of overview and scrutiny committees

[Note: The Audit Committee's remit can be found in Table 5, Part 3 of the Constitution.]

<b>People Scrutiny Committee - Principal service areas in scope</b>
<b>Children's Social Care:</b> Commissioning and delivery of social care services for children and young people Health services (exercised by the County Council) Safeguarding vulnerable children and young people Looked after children Youth development services Youth offending services
<b>Education:</b> Early years, childcare and extended schools services Learning and school effectiveness Inclusion support services Adult education Special Education Needs School admissions and school transport School organisation and place planning Skills (Education)
<b>Adult Social Care:</b> Commissioning and delivery of social care services for adults and older people Support for carers Universal preventative and 'signposting' services related to social care for adults and older people Safeguarding vulnerable adults Public Health
<b>Community Safety</b> including the work of the East Sussex Safer Communities Steering Group Crime and disorder matters (Police and Justice Act 2006)

<b>Place Scrutiny Committee - Principal service areas in scope</b>
<b>Transport and Environment:</b> Planning and development control Transport and highways (including Transport for the South East) Environment Waste and minerals Rights of way and countryside management Flood and coastal erosion risk management
<b>Economic Development and Regeneration:</b> Economic development, skills and infrastructure Culture (including LEP)
<b>Community Services:</b> Archives, records and libraries Customer Services Emergency Planning Gypsies and travellers Registration Service Road safety Trading Standards
<b>Corporate functions:</b> Financial Management Property asset management Procurement IT & Digital Personnel and Training Procurement Legal Services
Communications Member Services / Democratic Services
Policy and Performance Equalities
Coroner Services
Voluntary sector
Devolution Local Government Reorganisation

### **Health Overview and Scrutiny Committee (HOSC)**

To exercise the specific functions given to local authorities to scrutinise the health services within their locality as follows:

- 1) To scrutinise matters relating to the provision of health care and to promote the equality of opportunities in health care for the inhabitants of East Sussex.
- 2) To make reports and recommendations to local NHS bodies, as defined, patients' representatives, the County Council and to other relevant bodies on matters affecting the provision of health care for the inhabitants of East Sussex.
- 3) To respond to consultation by any local NHS body or Foundation Trust with reference to any proposal for substantial development of the health service in the County, and/or affecting the inhabitants of East Sussex or for a substantial variation in the provision of such service excluding those exempt from consultation as specified in regulations and to make comments by the due date specified by the local NHS body referring the matter.
- 4) To consider and respond to consultations or requests for information by the Secretary of State (or on their behalf) in relation to NHS proposals for service change affecting the inhabitants of East Sussex which have been called in by the Secretary of State, or where a request has been made to call in such a proposal.
- 5) To make a request to the Secretary of State that a proposal for service change affecting the inhabitants of East Sussex be called in where the committee is satisfied that the criteria for requesting a call-in (as set out in statutory guidance) are met.
- 6) To evaluate and review the effectiveness of the implementation or other outcome of its recommendations in improving the health services for the inhabitants of East Sussex.
- 7) To undertake all the statutory functions of the scrutiny committee in accordance with relevant current legislation and national guidance relating to reviewing and scrutinising health service matters.
- 8) To encourage the County Council, District and Borough Councils to take into account the implications of their policies and activities on health and the promotion of equality in the provision of health care.
- 9) To contribute to the development of policy to improve the provision of health care for the inhabitants of East Sussex.
- 10) To respond to or make proposals for joint scrutiny of health provision in adjoining areas which may impact on the provision of health care for the inhabitants of East Sussex including appointing members of the committee to relevant Joint Health Overview and Scrutiny Committees and agreeing the Terms of Reference for such committees.
- 11) In all of the above, to seek, and take account of, views of the inhabitants of East Sussex and to liaise with local Healthwatch in this respect.

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## **Article 7 - The Cabinet**

### **7.01 Role**

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

### **7.02 Form and composition**

The Cabinet will consist of the Council Leader (who shall be the Chairman of the Cabinet) and the Council's Deputy Leader (who shall be Vice-Chairman of the Cabinet) together with at least 1, but not more than 8 other councillors as determined by the Leader.

### **7.03 Leader and Deputy Leader**

The Leader will be a Councillor elected to the position of Leader by the Council at the post-election annual meeting or if there is a vacancy in the position of Leader of the Council, the Council shall, at its next meeting, elect a Leader of the Council. The Leader will hold office:

- (a) for a term of office which starts on the day of his/her election as Leader, and ends on the day of the post-election annual meeting which follows his/her election as Leader; or until
- (b) he or she resigns from the office; or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by resolution of the Council; or
- (e) he or she is otherwise disqualified by law.

The Leader shall appoint one of the members of the Cabinet to be the Council's Deputy Leader at the post-election annual meeting. The Deputy Leader shall hold office until:

- (a) the end of the term of the Leader; or
- (b) the Leader removes the Deputy Leader from office giving written notice of the removal to the Deputy Chief Executive; or
- (c) he or she resigns from the office; or
- (d) he or she is no longer a councillor; or
- (e) he or she is removed from office by resolution of the Council; or
- (f) he or she is otherwise disqualified by law

If for any reason there shall be a vacancy in the position of Deputy Leader, the Leader shall appoint another Deputy Leader from among the members of the Cabinet.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.

If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant the remaining members of the Cabinet must either act collectively in the Leader's place or they must arrange for a Cabinet member to act in the place of the Leader.

#### **7.04 Other Cabinet members**

Other Cabinet members will be Councillors, who shall hold office until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office by the Leader, who must give written notice of the removal to the Deputy Chief Executive; or
- (d) they are otherwise disqualified by law.

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

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **7.06 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

#### **7.07 Role of Leader of the Council**

The details below are descriptive only and may be changed by the Leader in the light of experience; as far as legislation permits.

The following functions are allocated to the Leader of the Council:

The Leader will have overall responsibility at the political level for orchestrating work in relation to setting corporate priorities and strategic policy direction, and for the presentation of this work to the Council and the wider community. He or she will be its principal spokesperson on corporate and strategic issues. In this context, the Leader will:

- (i) appoint a Deputy Leader and members of the Cabinet and assign portfolios to them;
- (ii) determine the content of portfolios assigned to Cabinet Members;
- (iii) determine which matters shall be decided by the Cabinet collectively and which shall be delegated to Cabinet Members;
- (iv) discharge or arrange to be discharged the executive functions of the Council;

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- (v) delegate the discharge of any executive functions within the remit of a portfolio of that Cabinet Member;
- (vi) delegate the discharge of executive functions to an officer of the Council;
- (vii) chair the Cabinet, guide its work, ensuring coherent direction and action and that, where relevant, proposals are made to the County Council for decision within appropriate timescales;
- (viii) work closely with other Cabinet members to ensure the development of effective policies, reflecting the principles of Best Value in services;
- (ix) lead the Cabinet work in:
  - developing corporate priorities and corporate policy direction, including the content of the County Council Financial and Business Plan;
  - monitoring performance and preparing an annual report on the performance achieved by the Council;
  - developing revenue budget and capital programme strategies;
  - ensuring probity and financial monitoring;
  - keeping under review the organisation and management processes of the Council, including the democratic structures;
  - developing, in consultation and partnership with others, a strategy for promoting the social, economic and environmental well-being of the county of East Sussex;
  - enhancing partnership working and public consultation and participation;
  - developing a public relations/corporate information strategy; and guide proposals through the County Council;
- (x) provide political guidance to the Chief Executive and Directors on the overall corporate priorities and objectives set by the County Council and ensure coherent action by the Council both internally and externally;
- (xi) share in the responsibilities of the Cabinet and have the responsibilities of an individual member of the Cabinet, with a specific portfolio of responsibilities;
- (xii) in consultation with the Head of Paid Service and the Monitoring Officer to draw up a four-month forward programme of Cabinet business and to keep it under review;
- (xiii) act as an ambassador for the County Council:
  - promoting its work and acting as its principal political spokesperson;
  - participating in consultation;

- listening to, and taking account of, the views of organisations, the public and businesses; and
- representing the County Council at all appropriate levels.

### 7.08 Role of Cabinet Members

The following functions are allocated to the Cabinet Members:

To support and work with the Leader and other members of the Cabinet to ensure coherent direction and action by the County Council, acting in accordance with Council decisions and, as part of that, to ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively. In pursuance of this:

- (i) to play a leading role in the management of the County Council and decisions about the services it provides and how they are provided and thereby to make a significant contribution to making the County Council, in the view of those it serves, the best of local authorities;
- (ii) as part of (i) above, to participate with other members of the Cabinet in consideration of steps to: revitalise local democracy through increased public consultation and participation; ensure the creation of Best Value services; strengthen the County Council's ethical framework; and enhance, in partnership with others, the Council's community leadership role;
- (iii) to take a special interest in the activities of a specific department, an area of activity or a specific geographic area of the county, known as the Cabinet member's portfolio. This may involve taking a special interest in the development and monitoring of on-going objectives or short-term objectives to deal with particular issues;
- (iv) to provide political guidance to the Chief Executive and appropriate Director(s) on those activities in respect of which it has been agreed that the councillor should take a special interest, to advise the Cabinet on them and to steer policy developments or changes and other proposals for action requiring the approval of the County Council through the Council. In so doing, the councillor will have regard to the overall corporate priorities and objectives set by the County Council and the need for coherent action by the Council both internally and externally;
- (v) to exercise executive functions delegated to Cabinet members by the Leader as set out in Part 3 of the Constitution;
- (vi) in relation to the County Council's Financial and Business Plan, Cabinet members will:

- (a) agree corporate priorities and objectives for consideration by the County Council;
- (b) monitor performance against the Plan;
- (c) review annually the priorities and objectives in the Plan;
- (d) prepare an annual report on the performance achieved by the County Council during the previous year;
- (vii) to participate with the other Cabinet members in:
  - (a) settling guidance which should be given to the County Council on the way in which budgets should be prepared, overall budget priorities and the assumptions which should be made in preparing budgets, having regard to the County Council's overall corporate priorities and objectives as set out in the Plan: and to recommend to the Council an annual budget and a three-year rolling budget for planning purposes;
  - (b) developing a strategy for promoting the wellbeing of the county of East Sussex and a sense of direction for its communities;
  - (c) monitoring the organisation and management processes of the County Council to ensure that they continue to meet the needs of the County Council and those it serves and to advise the Council on any recommendations for change;
  - (d) agreeing a public relations/corporate information strategy and participate in its implementation;
- (viii) to encourage and participate in working with partners and other organisations involved in the provision of services which link with those provided by the County Council or which have an interest in or contribute to the well-being of the county or communities within it;
- (ix) to act as an ambassador for the County Council, promoting its work (particularly in those areas where the councillor has been designated to take a special interest) and participating in consultation, listening to, and taking account of, the views of organisations, the public and businesses;
- (x) to keep in touch with the views of councillors and take them into account in reaching decisions and, with other Cabinet members,

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to consider how Cabinet thinking on strategy and policy issues can best be shared with councillors as it develops;

- (xi) to provide information to and appear before overview and scrutiny committees as requested by the committee;
- (xii) to fulfil the roles set out in paragraph 2.03 in Article 2 of the Constitution.

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

### **8.01 Regulatory and other committees**

The Council will appoint the committees set out in Part 3 of this Constitution to discharge the functions that are not the responsibility of the Leader and the Cabinet.

### **8.02 Composition of the Regulatory Committee**

- (a) A member of the Cabinet will not be permitted to serve on the Regulatory Committee or undertake any of its functions. They may attend if invited so to do, or as an observer of the Planning Committee;
- (b) Members of the Planning Committee should not take part in the decision making on a planning matter in which they are involved as a local member, apart from attending the meeting(s) and expressing the views of their constituents: unless the matter is one on which the majority of members of the Regulatory Committee are similarly affected and the Committee would be unable to act;
- (c) Members whose professional or personal interests might create regular conflict of interest in matters coming before the Planning Committee should not be appointed to the Committee. Separate provisions about giving notice to the Deputy Chief Executive where a member is about to act in a professional or private capacity in any matter in which the Council has an interest is contained in Standing Order 64.1 (see Council Procedure Rules in Part 4 of the Constitution).

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## **Article 9 - The Standards Committee**

### **9.01 Standards Committee**

The Council has established a Standards Committee.

### **9.02 Composition**

The Standards Committee will be composed of seven councillors (who may not include the Leader or Deputy Leader). The quorum of the Committee shall be 4 councillors.

### **9.03 Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) to agree procedures for dealing with potential breaches of the Members' Code of Conduct;
- (e) monitoring the operation of the Members' Code of Conduct;
- (f) advising, training or arranging to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (g) to liaise with the Independent Person(s) following receipt of a complaint in relation to a potential breach of the Code of Conduct;
- (h) dealing with any reports on allegations of breaches of the Council's Code of Conduct that are referred to the Monitoring Officer for investigation and determination;
- (i) To establish sub-committees of at least 3 members drawn from the Standards Committee to carry out the roles and functions listed below (quorum to be 2 members):

- (i) to make an initial assessment of any complaint received alleging a breach of the local Code of Conduct by any councillor and to either refer the matter to the Monitoring Officer for investigation or other action or decide that no action should be taken in respect of the complaint;
- (ii) to determine complaints that councillors or co-opted members have acted in breach of the Member's Code of Conduct, including the imposition of any sanctions available;
- (iii) to grant dispensations relieving a member from either or both of the restrictions (participating in discussions and in voting)

- (j) to discharge or make arrangements for discharging any of the functions conferred upon the Committee
- (k) to submit to the Council an annual report on the work of the Committee
- (l) to grant dispensations relieving a member from either or both of the restrictions (participating in discussions and in voting)

#### **9.04 Terms of Reference of the Assessment Sub-Committee**

Being mindful of the relevant legislation:

1. The Assessment Sub-Committee will, subject to paragraph 2 below, conduct an initial assessment of all written complaints received by the County Council's Monitoring Officer on the appropriate Complaints Form for such purposes or such written complaints submitted by letter or email setting out all the relevant information required on such Complaints Form.
2. The Assessment Sub-Committee will only have jurisdiction to consider written allegations that an elected or co-opted Member or former Member of the County Council has failed, or may have failed, to comply with the County Council's Code of Conduct for Members.
3. The Assessment Sub-Committee is empowered to do one of the following:
  - (i) decide that no action should be taken in respect of the allegation;
  - (ii) ask for additional information from the complainant on the allegation before concluding the initial assessment;

- (iii) if the allegation is likely to be reasonably substantiated and it is in the public interest to warrant the County Council's funds being spent on a local investigation, refer the allegation to the County Council's Monitoring Officer, with an instruction that s/he arranges for an investigation of the allegation; or directs that s/he arranges training, conciliation or such other appropriate action as is permitted by the relevant legislation; or
- (iv) where the allegation is in respect of a person who is no longer a member of the County Council, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other authority,

and shall authorise the Monitoring Officer to take all reasonable steps to implement its decision(s), with reasons, and to notify the person making the allegation and the member concerned of that decision.

4. **Composition** - The Assessment Sub-Committee shall comprise 3 members. There is no requirement for fixed membership or a fixed Chair of the Assessment Sub-Committee.
5. **Quorum** - The quorum for a meeting of the Assessment Sub-Committee shall be 2 members.
6. **Frequency of Meetings** - The Assessment Sub-Committee will meet as and when required to enable it to undertake its initial assessment of any allegations within 20 working days of receipt of an allegation by the County Council.

### 9.05 Terms of Reference of the Standards Sub-Committee (also known as the Hearing Sub-Committee)

Being mindful of the relevant legislation:

1. To determine whether to accept the Monitoring Officer's finding of no breach or to go to a local hearing.
2. In the event that a hearing of the Standards Committee is required, the Hearings Sub-Committee may be convened to hear and determine any allegation that a member of the County Council has failed, or may have failed, to comply with the County Council's Code of Conduct, and determine the appropriate sanction.
3. **Composition** – The Standards Sub-Committee (Hearing) shall comprise of 3 members of the Standards Committee.
4. **Independent Person** – The views of the Independent Person appointed

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by the authority must be sought, and taken into account, before the Hearing Sub-Committee makes its decision on an allegation the authority has decided should be investigated.

5. **Quorum** - The quorum for a meeting of the Standards Sub-Committee (Hearing) shall be 2 members.
6. **Frequency of Meetings** - The Standards Sub-Committee (Hearing) shall meet as and when required to hear and determine any allegation(s) against an elected or co-opted member of the Council.

## **Article 10 - Area Committees and Forums**

### **10.01 Area Committees**

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with relevant borough, district, parish and town councils and the chairs of relevant parish meetings when considering whether and how to establish area committees.

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## **Article 11 - Joint Arrangements**

### **11.01 Arrangements to promote wellbeing**

The Council and / or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area, may:

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

### **11.02 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives, or other organisations such as (but not limited to) NHS bodies, to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other bodies.
- (b) The Leader may establish joint arrangements with one or more local authorities or other organisations such as (but not limited to) NHS bodies, to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other bodies.
- (c) Except as set out below, the Leader may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Leader may appoint members to a joint committee from outside the executive in the following circumstances:
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Leader may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area;
  - the joint committee is with a single district or borough council and relates to executive functions of the County Council. In such cases, the Leader may appoint to the joint committee any

councillor who is a member for an electoral division which is wholly or partly contained within the area;

- where the joint committee is established under the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) or such superseding legislation.

In each of these cases the political balance requirements do not apply to such appointments.

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

### 11.03 Access to information

- The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- If all the members of a joint committee are members of the executive in each of the participating authorities, then its access to information regime is the same as that applied to the executive.
- If the joint committee contains members who are not on the executive of any participating authority, then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 11.04 Delegation to and from other local authorities

- The Council may delegate non-executive functions to another local authority or body or, in certain circumstances, the executive of another local authority or body.
- The Leader may delegate executive functions to another local authority or body or the Executive of another local authority or body in certain circumstances.
- The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.

### 11.05 Contracting out

The Leader may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 12 - Officers

### 12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Executive, Directors and Deputy Chief Executive.** The full Council will engage persons for the following posts:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<p>As Head of the Paid Service the Chief Executive may determine the staff required to meet the needs of the Council and has the final authority on decisions relating to staffing. The Chief Executive is responsible for:</p> <ul style="list-style-type: none"> <li>• Providing corporate and operational leadership to officers and line management of the corporate management team;</li> <li>• Being accountable to the Council for staff organisation and development;</li> </ul> <p>Being the Returning Officer for County Council elections.</p>
Deputy Chief Executive (and Monitoring Officer)	<p>The Deputy Chief Executive oversees:</p> <ul style="list-style-type: none"> <li>• Legal Services;</li> <li>• Member Services;</li> <li>• Coroner's Services;</li> <li>• Communications;</li> <li>• Policy;</li> <li>• Performance, Research and Intelligence.</li> </ul> <p>As the Council's Monitoring Officer, the Deputy Chief Executive is accountable for ensuring the Council's business and all decisions are in accordance with the law and the Constitution.</p> <p>The Deputy Chief Executive is responsible for:</p>

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	<ul style="list-style-type: none"> <li>• Member conduct and complaints against Members;</li> <li>• Ensuring the lawfulness of all proposed actions and decisions;</li> </ul> <p>Authorising any legal action by the Council and managing action against the Council.</p>
Chief Operating Officer	<p>The Chief Operating Officer has responsibility for corporate functions including:</p> <ul style="list-style-type: none"> <li>• Assets, buildings and facilities management;</li> <li>• Finance;</li> <li>• HR policy and advice;</li> <li>• Insurance;</li> <li>• Audit;</li> <li>• IT;</li> <li>• Pensions;</li> <li>• Procurement;</li> </ul> <p>Risk Management (all officers carry some responsibility).</p>
Director of Adult Social Care and Health	Discharges the functions as Director of Adult Social Care and has lead responsibility for all functions relating to adults' social care and safeguarding and partnership work and joint commissioning with the NHS.
Director of Children's Services	Responsible for the statutory functions as Director of Children's Services, children and young people's social care, early childhood, youth services, youth offending and all functions relating to schools, education and skills.
Director of Communities, Economy and Transport	Lead responsibility for the Council's functions in relation to communities, economy, highways and transport, infrastructure, strategic planning, environment, energy, waste strategy, trading standards, libraries and archives, registration service and ceremonies
Chief Finance Officer and s.151 Officer	The Chief Finance Officer carries responsibility for the sound and lawful

	<p>management of the Council's money. The Chief Finance Officer has final say over most spending decisions within the budget set by Members. Particular responsibilities include:</p> <ul style="list-style-type: none"> <li>• Ensuring the financial prudence of all decisions;</li> <li>• Administering the Council's financial affairs;</li> <li>• Providing financial advice to officers and Members;</li> <li>• Managing the Council's pensions scheme.</li> </ul> <p>The Chief Finance Officer reports to Full Council and the Council's external auditor any potentially unlawful expenditure or action likely to cause a significant loss.</p>
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(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Deputy Chief Executive	Monitoring Officer
Chief Finance Officer	Chief Finance Officer

Such posts will have the functions described in Article 12.02-12.04 below.

(d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

## 12.02 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 12.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by members, staff and the public.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council - or to the Cabinet in relation to a Cabinet function - if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Contributing to corporate management**

(d) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(e) **Conducting investigations.** The Monitoring Officer will conduct, or arrange to be conducted investigations into allegations of misconduct by Councillors and make reports or recommendations in respect of them to the Standards Committee.

(f) **Receiving reports.** The Monitoring Officer will receive and act on reports and decisions of case tribunals.

(g) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

(h) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(i) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.

(j) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or The Head of Paid Service.

#### 12.04 Functions of the Chief Finance Officer

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

#### 12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

#### 12.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

#### 12.07 Employment

## CONSTITUTION – PART 2 – ARTICLES OF THE CONSTITUTION

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The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

## Article 13 – Decision Making

### 13.01 Principles of decision making

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explain what options were considered and give reasons for decisions taken.

### 13.02 Types of decision

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

- (b) **Key decisions.**

- (i) A key decision means an Executive decision which 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 namely above £500,000 per annum.

OR

to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the area of the County.

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

### **13.03 Decision making by the full Council**

Subject to Article 13.07, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.04 Decision making by the Cabinet**

Subject to Article 13.07, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.05 Decision making by overview and scrutiny committees**

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.06 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.07, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

### **13.07 Decision making by Council bodies acting as tribunals**

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

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

### **14.01 Financial management**

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

### **14.02 Contracts**

Every contract made by the Council will comply with the Procurement and Contract Standing Orders set out in Part 4 of this Constitution.

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## **Article 15 - Review and Revision of the Constitution**

### **15.01 Duty to monitor and review the constitution**

The Deputy Chief Executive, as the Council's Monitoring Officer, will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

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

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

### **15.02 Changes to the Constitution**

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Cabinet where an executive function is involved. The Council has delegated authority to the Governance Committee to agree the delegation of the Council's non-executive powers to officers, other local authorities and public bodies so far as the law allows.
- (b) **Changes from Leader and Cabinet form of Executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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

### **16.01 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** The procedure to suspend Standing Orders is set out in Part 4 of this Constitution. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **16.02 Interpretation**

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

### **16.03 Publication**

- (a) The Deputy Chief Executive will make available a copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Deputy Chief Executive will ensure that copies are available for inspection at council offices and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Deputy Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

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## **Schedule 1 - Description of Executive Arrangements**

The following parts of this Constitution constitute the Cabinet arrangements:

- (1) Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
- (2) Article 7 (The Cabinet) and the Cabinet Procedure Rules;
- (3) Article 10 (Area Committees and Forums);
- (4) Article 11 (Joint Arrangements);
- (5) Article 13 (Decision making) and the Access to Information Procedure Rules;
- (6) Part 3 (Responsibility for Functions).

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## **Responsibility for Functions Exercised only by the County Council**

1.01 **Article 4** in Part 2 of the Constitution sets out the functions which may only be exercised by the Council.

1.02 Council functions shall include those functions shown in Table 2 as Council functions.

### **Cabinet Responsibilities and Functions**

1.03 **Article 7** in Part 2 of the Constitution provides that the Cabinet will carry out all of the County Council's functions which are not the responsibility of any other part of the County Council, whether by law or under this Constitution. The executive functions which are the responsibility of the Leader and delegated by the Leader to the Cabinet are set out in Table 1 in Part 3.

1.04 The Leader has delegated certain executive powers to individual Cabinet members. Details are set out in Table 3.

1.05 Executive functions shall include those functions shown in Table 2 as executive functions.

1.06 The Leader has delegated certain executive powers to the Chief Executive, Directors and other officers. These, together with the powers delegated by the Council to the Chief Executive, Directors and other officers are set out in Table 6. Separate delegations to the Chief Executive, Directors and other officers in relation to contracts are set out in the Procurement and Contract Standing Orders and in relation to financial matters in the Financial Procedure Rules.

### **Overview and Scrutiny Committee Responsibilities and Functions**

1.07 **Article 6** in Part 2 of the Constitution sets out the role and functions of the overview and scrutiny committees established by the County Council.

### **Responsibility for Council Functions**

1.08 **Article 8** in Part 2 of the Constitution enables the Council to appoint such committees as it considers appropriate to discharge functions which are not specifically the responsibility of the Cabinet, the overview and scrutiny committees or the Standards Committee. The County Council has appointed a Regulatory Committee with the role and functions set out in Table 4.

1.09 The County Council has also appointed the following committees to undertake the functions of the County Council listed in Table 5 which are not the responsibility of the Cabinet or to assist the Cabinet by advising it on issues which are its responsibility.

### **Standards Committee Responsibilities and Functions**

1.10 **Article 9** in Part 2 of the Constitution sets out the role and functions of the Standards Committee established by the County Council.

### **Joint Arrangements**

1.11 **Article 11** in Part 2 of the Constitution sets out details of joint member bodies established by the County Council.

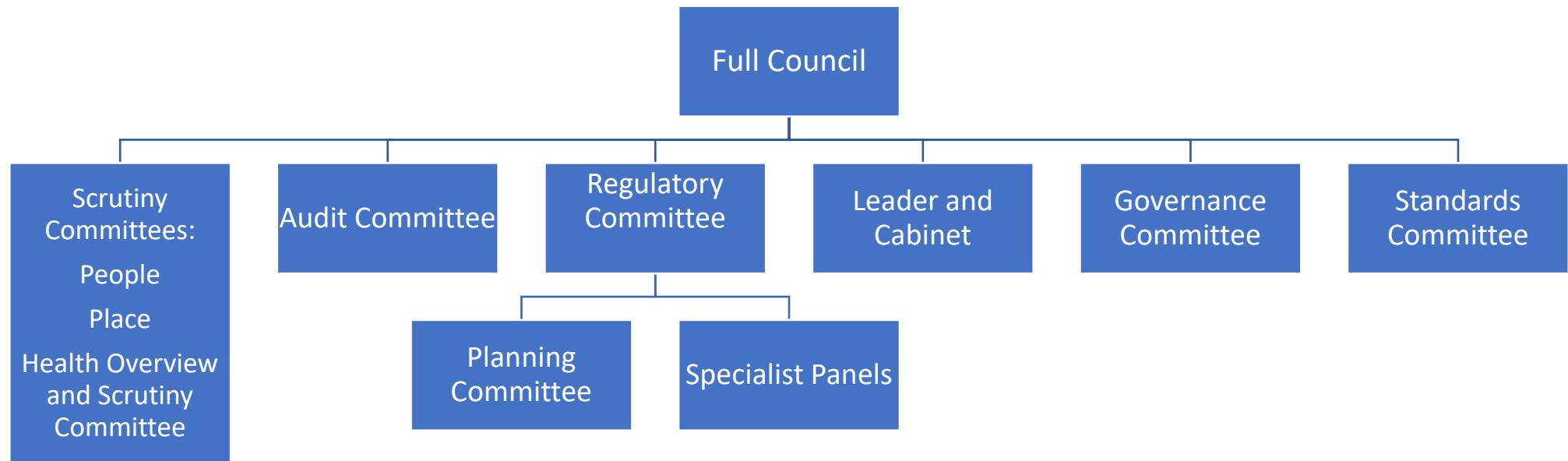
### **Structure Chart**

1.12 This is a structure chart showing how the various decision-making mechanisms of the County Council relate to each other:

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*Structure Chart 1*



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**Table 1**

**Cabinet Responsibilities and Functions**

**Policy Co-ordination**

1. To advise the County Council on the:
  - formulation of its corporate objectives, priorities, standards, key tasks, performance indicators and strategy, including European affairs;
  - the overall direction, review and updating of the Council's Financial and Business Plan (the Council Plan), other statutory plans and longer term financial and other plans and strategies;
  - nature of and need for actions to be taken in the light of value for money studies and corporate policy reviews;
  - economy, efficiency and effectiveness of the Council's activities and the need for new services and the necessity of existing ones;
  - overall organisation, co-ordination and management of the Council to ensure that it is designed to make the most effective contribution to the achievement of the Council's objectives;
  - Council's policy towards and representation on regional, national and international bodies;
  - policies for the promotion of the economic wellbeing of the County which do not erode the County's environmental capital or disadvantage the more vulnerable members of society, and to implement those policies within the guidelines set by the County Council; including co-ordination of the implementation of the County Council's economic strategy across all County Council services;
  - priorities for all expenditure in the economic development budget.
2. To ensure the County Council follows best practice in relation to its risk management arrangements.
3. To devise and oversee implementation of the Council's strategy for communication both within the County and beyond.
4. To be responsible for allocating and controlling the financial, staff and land resources of the Council and to act as the corporate client. (The appointment of staff is not a Cabinet function).
5. To provide a focus for community leadership within East Sussex, promoting the economic, social and environmental well-being of the County.
6. To advise the Council on its policies and practices in relation to the impact of the Council's activities on the environment.
7. To advise on any other matters referred to it.

## Resources

### *Finance*

8. To advise the County Council on the current and future in respect of both capital and revenue expenditure having regard to the Council's Financial and Business Plan and overall forward programme and their effects on the finances of the Council and on audit issues:
  - discuss with the external auditor before the audit commences the nature and scope of the audit, and the external audit fee and consider whether the external audit is of sufficient depth and carried out competently;
  - discuss problems and reservations arising from the interim (systems) and final audits and any matters the external auditor may wish to discuss (in the absence of Directors if necessary);
  - review the external auditor's management letter (or any alternative source of assurance issued by the external auditor) and the conclusions of value for money studies and make recommendations to the County Council as appropriate;
  - review the internal audit programme, ensuring co-ordination between internal and external auditors, and that the internal audit function is adequately resourced and has appropriate standing within the Council and its paid service;
  - consider the Chief Internal Auditor's annual report and to report annually to the County Council on internal control within the Council.
9. To advise the County Council on the estimates of bodies which the Council is required to finance.
10. To exercise control over the Council's approved revenue and capital budgets and deal with requests for supplementary estimates, and to vire expenditure where this does not involve a significant change to an existing policy, or development of a new policy.
11. To supervise the borrowing of money authorised by the Council in accordance with the policy laid down by the County Council and to manage the County debt.
12. To exercise the powers and duties of the Council in respect of:
  - insurance;
  - coast protection; and
  - debts and other obligations.

### *Information Systems/Information Technology*

13. To advise upon and implement the County Council's IT and Digital Strategy.

14. To develop and keep under review corporate IT systems.

*Property*

15. To approve the acquisition, appropriation and disposal of property, including the determination of the future use of all land and property where the current use is to cease.
16. To act as landlord for all property held by the Council, including the provision of office accommodation, accommodation for meetings and common services.
17. To keep under review:
  - the land holdings of the Council and to consider future requirements to ensure the most economic and effective use of land in the interests of the Council as a whole;
  - land acquisition policies;
  - building and building maintenance policies.

This shall include ensuring regular corporate reviews and the setting and monitoring of corporate standards.

18. To exercise the powers and duties of the Council in all matters relating to Magistrates' Courts land and buildings.
19. To make compulsory purchase orders.
20. To exercise the powers and duties of the County Council under any enactment relating to smallholdings.
21. To manage and control all land.

**Community Services**

22. To exercise all the powers and duties of the Council in respect of:
  - (a) the Public Library and information service;
  - (b) archives and records;
  - (c) museums and assistance for the Arts;
  - (d) the registration of births, deaths and marriages (but excluding the approval of premises for the solemnisation of marriages) and coroners services;

- (e) trading standards, consumer protection and other related matters for the protection of the public, including animal health (except as specifically delegated to the Regulatory Committee);
- (f) sport, including joint use of sports facilities, (but excluding physical education and sport at educational establishments) and the development, in co-operation with the borough and district councils, of sport and recreation policies for the County as a whole;
- (g) community safety;
- (h) emergency planning and the local authority response to major emergencies;
- (i) charities;
- (j) gypsy and traveller sites.

**23.** To plan and seek to develop and maintain effective relationships with borough, district and town/parish councils and other public, independent, voluntary and private agencies and representative organisations.

### **Children's Services**

**24.** To exercise all the powers and duties of the Council:

- (i) as local authority for the County in respect of education for children and young people;
- (ii) which under any enactment stand referred to local authorities designated as social services authorities in respect of children and young people;
- (iii) in relation to careers.

### **Adult Social Care**

**25.** To exercise all the powers and duties of the Council:

- (i) which under any enactment stand referred to local authorities designated as social services authorities in respect of adults;
- (ii) in relation to (a) the issue of certificates to blind persons and (b) the issue of badges for motor vehicles used by people with disabilities;
- (iii) in respect of the grant of financial and other assistance to voluntary organisations, in relation to any matters within the purview of the County Council as a social services authority.

### **Transport and Environment**

**26.** To exercise all the powers and duties of the Council in relation to:

- (i) highways and bridges and the traffic thereon, private streets, vehicle parking, litter on highways, road safety and the provision of weighbridges (except those powers delegated to the Regulatory Committee);
- (ii) the promotion of a co-ordinated system of public passenger transport; arrangements for the development and operation of public transport including railways and the making of grants towards public transport;
- (iii) the preparation of transportation plans and programmes;
- (iv) its functions as waste disposal Authority;
- (v) the safety of reservoirs and disused tips;
- (vi) the management of statutory and permissive footpaths, bridleways and byways (except those powers delegated to the Regulatory Committee);
- (vii) oil and chemical pollution.

**27.** To co-ordinate the use of Council owned plant and transport.

**28.** To exercise all the powers and duties of the Council:

- (i) as County Planning Authority, except those delegated to the Planning Committee, subject to the Cabinet informing the County Council of significant resource and other policy implications for the Council of local plans coming forward for certification;
- (ii) relating to ancient monuments and historic buildings;
- (iii) on all matters in relation to the management of the coast and the countryside (except those matters in relation to commons which have been delegated to the Regulatory Committee).

### **General**

**29.** To exercise the general power of competence given to local authorities under section 1 of the Localism Act 2011 in relation to executive functions.

**Delegations to Individual Cabinet Members**

30. The Leader to authorise individual Cabinet members to undertake such executive functions as he or she considers appropriate including to exercise the general power of competence given to local authorities under section 1 of the Localism Act 2011 in relation to executive functions. (In exercising such functions, Cabinet members shall comply with any protocols which are issued from time to time).

**TABLE 2****Responsibility for Local Choice Functions**

The functions specified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('2000 Regulations') will be allocated as set out in the Table below.

	<b>FUNCTION</b>	<b>ALLOCATION</b>
1.	Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the 2000 Regulations	Executive (Cabinet and Lead Member)
2.	Determining appeals against decisions made by or on behalf of the authority	The Council (delegated to the Regulatory Committee and relevant appeals panels)
3.	Making arrangements for the hearing of appeals against exclusion of pupils	Executive (Cabinet and Lead Member) *
4.	Making arrangements for the hearing of Schools Admission Appeals	Executive (Cabinet and Lead Member) *
5.	Making arrangements for the hearing of appeals by governing bodies over a requirement that they take pupils excluded from other schools	Executive (Cabinet and Lead Member) *
6.	The discharge of any function relating to the control of pollution or the management of air quality	Executive (Cabinet and Lead Member) *
7.	The obtaining of information under Section 330 of the Town & Country Planning Act 1990 as to interests in land	Allocated to each of the Executive (Cabinet and Lead Member) and the Council (delegated to the Planning Committee *) so far as required for carrying out other functions allocated to those bodies

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8.	The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Allocated to each of the Executive and the Council (delegated to the relevant committees *) so far as required for carrying out other functions allocated to those bodies
9.	Making of agreements for the execution of highways works	Executive (Cabinet and Lead Member) *
10.	Appointments of individuals to outside bodies and revocation of such appointments	School governing bodies – Council (delegated to Director of Children's Services *) All other such bodies – Council (delegated to Governance Committee)
11.	Power to make agreements placing staff at the disposal of other authorities	Executive (Cabinet and Lead Member) *

\* = delegation of power also to officers as set out in Table 6

Note: Lead Members can exercise those functions reserved to the Executive

**Table 3**

**Responsibility for executive functions exercised by Cabinet Members, as Listed by the Leader (Article 7.06 of the Constitution refers)**

<b>Who is responsible (1)</b>	<b>Function (2)</b>	<b>Limitation (3)</b>
Individual member of the Cabinet in relation to the functions set out in column (2), subject to the limitations in column (3)  The Cabinet member making the decision will be the member allocated the appropriate responsibilities by the Leader, except that where that member is unable to act (whether through a conflict of interest, illness or absence) another member of the Cabinet may exercise the function on their behalf:	<p align="center"><b>Any executive function including:</b></p> <p>[a] approval to spend budgets (including grant(s)) or supplementary credit approval, transfers between budget heads and budget monitoring;</p> <p>[b] agreeing annual reports;</p> <p>[c] monitoring performance of services.</p> <p>[d] agreeing concordats or other similar agreements or statements of intent with other parties;</p> <p>[e] approving responses to consultation papers;</p> <p>[f] any decision required under the Procurement and Contract Standing Orders;</p> <p>[g] approving the acquisition and disposal of land or property;</p> <p>[h] approving the making of compulsory purchase orders for the acquisition of land or property;</p>	<p>All provisions listed in this column apply to all functions listed in column (2). In all cases the decision must be consistent with the Policy Framework and corporate strategies. In addition, the following matters are not included in the delegations, namely those:</p> <p>[i] properly reserved to the Council as part of the Budget and Policy Framework;</p> <p>[ii] which the Leader and/or the Cabinet have reserved to the Cabinet or subject to any guidance they have given;</p>

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<p>In case of any uncertainty as to who may act, the Monitoring Officer will decide after consultation with the Leader.</p>	<p>[i] approval, amendment or rescission of orders and schemes relating to traffic management.</p>	<p><i>The exercise of the function is also subject to:</i></p> <ul style="list-style-type: none"><li>[a] the provisions of the Constitution including the Financial Procedure Rules (and financial provision being available) and the Procurement and Contract Standing Orders;</li><li>[b] consultation with other Cabinet members as appropriate;</li><li>[c] the protocol on decision making approved by the Council;</li><li>[d] the right of the member(s) concerned to refer the matter to the Cabinet if they so choose;</li><li>[e] the matter being referred to the Cabinet where there is a dispute between the member authorised to take the decision and another Cabinet member who has been consulted under the Protocol on Decision Making.</li></ul>
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**Table 4**

**Regulatory Committee Responsibilities and Functions**

The following functions shall be undertaken only by members of the Regulatory Committee:

**A Planning Committee**

- (i) to deal with all matters relating to the control of development and issues arising therefrom;
- (ii) to exercise the statutory regulatory powers and duties of the Council in relation to rights of way, including the creation, stopping up and diverting of footways and bridleways, the duty to keep a definitive map and statement under review, the duty to re-classify roads used as public paths, the duty to protect the rights of the public to use them and the power in relation to the removal of obstructions;
- (iii) to exercise the quasi-judicial and statutory regulatory powers and duties of the Council in relation to other highways (including the duty to assert and protect the rights of the public to use and enjoyment of highways, powers in relation to the removal of obstructions and the power to issue licences and consents and to take other action under Sections 115, 139, 142, 147, 169, 171, 172, 178, 179 and 180 of the Highways Act 1980 insofar as they are the responsibility of the County Council);
- (iv) to authorise the County Council as County Planning Authority to participate in planning obligations under Section 106 of the Town and Country Planning Act 1990; and
- (v) to consider objections received in relation to orders made under the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 and regulations made thereunder and make recommendations to the decision maker.

**B To exercise all the powers and duties of the Council in relation to:**

- (i) the licensing and regulation of agencies for the supply of nurses;
- (ii) approval of premises for the solemnisation of marriages;
- (iii) explosives;
- (iv) poisons;
- (v) the issues of licences relating to the movement and sale of pigs; the licensing of collecting centres for the movement of pigs and licences to move cattle from a market;

- (vi) making, amending, revoking or re-making byelaws;
- (vii) the employment of children;
- (viii) safety certificates for sports grounds and regulated stands at sports grounds.

**C** To approve and review as necessary a programme of training for members in relevant aspects of public administrative law to enable them to carry out their duties in accordance with the principles of natural justice and the law.

**D** To issue guidance from time to time to assist members to carry out their duties and to improve procedures and working practices.

**E** To provide the following panels to exercise the powers and duties of the County Council in relation to various quasi-judicial statutory functions:

- (i) Approved Marriage Premises Review Panel;
- (ii) Discretionary Transport Appeal Panel;
- (iii) Commons and Village Green Registration Panel.

Members of the panels listed above, except where indicated otherwise, are appointed by the Deputy Chief Executive in consultation with the Leader as the need arises. The County Council has agreed to waive the political balance provisions of the Local Government and Housing Act 1989 in relation to these panels, on the basis that they will comprise a member of each group where possible. The terms of reference of the panels are as follows:

**i) Approved Marriage Premises Review Panel**

*Terms of Reference*

- (i) To review decisions made by the Proper Officer for Registration and to make determinations in accordance with the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 where an applicant for, or holder of, an approval is aggrieved.

*Membership*

Three members of the Regulatory Committee.

**ii) Discretionary Transport Appeal Panel**

*Terms of Reference*

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- (i) To consider individual cases and make arrangements on behalf of the County Council to pay for or provide transport to and from an education provider for pupils and students whom the Director of Children's Services does not consider to qualify either statutorily or under the normal policy of the County Council for such transport.

### *Membership*

Three members of the Regulatory Committee.

### **iii) Commons and Village Green Registration Panel**

#### *Terms of Reference*

- (i) To determine the registration of common land or town or village greens;
- (ii) To determine amendments to the registers of common land and town or village greens.

#### *Membership*

Three members of the Regulatory Committee.

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**Table 5**

**Other Committees and Panels appointed to undertake functions which are not the responsibility of the Cabinet, or to assist the Cabinet by advising it on issues for which it is responsible, or established in accordance with legislative requirements.**

1. Governance Committee
2. County Joint Consultative Committee
3. Joint Advisory Committee (Schools)
4. County Consultative Committee (Governors)
5. Standing Advisory Council for Religious Education
6. East Sussex Schools Forum
7. Pension Committee
8. Pension Board
9. Corporate Parenting Panel
10. Adoption Panel
11. Fostering Panel
12. Recruitment Panels (Chief Executive, Directors and Deputies)
13. Health and Wellbeing Board
14. Audit Committee
15. Joint Waste and Recycling Committee
16. ACCESS Joint Committee
17. Channel Panels

[For Joint Committees and Boards with other authorities see Article 11 of the Constitution.]

**1. Governance Committee**

*Terms of Reference*

1. To make recommendations to the Council on the allocation to political groups of places on those committees, sub-committees, panels and other bodies to which the political balance provisions of the Local Government and Housing Act 1989 apply;
2. To make recommendations to the County Council on the members to be appointed to:
  - (a) the Regulatory Committee;
  - (b) the Planning Committee;
  - (c) the Scrutiny Committees;
  - (d) the Governance Committee;
  - (e) the Pension Committee;
  - (f) the Standards Committee;
  - (g) outside bodies to which the political balance provisions of the Local Government and Housing Act 1989 apply;
  - (h) the Audit Committee.
3. To appoint:
  - (a) co-opted members to serve on Committees;
  - (b) members and/or officers to other outside bodies/nominate members and/or officers for consideration for appointment.
4. To advise the County Council on the scheme of allowances to members and any amendments thereto.
5. To make appointments to the Independent Remuneration Panel.
6. To advise the County Council on its Standing Orders and Financial Regulations.
7. To consider and advise the Council on remaining constitutional matters, including the membership of committees and proposed changes in their terms of reference and possible changes to the Constitution.

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8. To keep under review the County Council's corporate governance arrangements and compliance with them and to make changes to the County Council's Policy Statement and Operational Framework.
9. To agree the delegation of the Council's non-executive functions and powers to officers, other local authorities and public bodies so far as the law allows.
10. To enter into arrangements to receive, on behalf of the County Council, the delegation of a function from another local authority or public body.
11. To approve the Council's Annual Governance Statement and the Statement of Accounts, having considered whether appropriate accounting policies have been followed and any issues raised by the external auditor from the audit of accounts.
12. To determine services to be provided for members of the Council.
13. To approve the County Council's corporate personnel and employment policies.
14. To approve pay decisions in relation to Chief Officers, Deputy Chief Officers and Assistant Directors.
15. To approve remuneration packages of £100,000 or more, provided the existing grade bands and terms and conditions are applied, any proposed exceptions are applied and that proposed exceptions are reported to the County Council.
16. Within these policies, to exercise the powers and duties of the Council in relation to the terms and conditions of employment of staff, personnel policy and practice, including the promotion of arrangements for the proper training and development of employees and ensuring that good recruitment and retention practices are adopted.
17. To ensure the introduction of appropriate arrangements for the promotion of effective communication and joint consultation between the Council and its employees.
18. To exercise the powers and duties of the County Council in respect of County Council elections and electoral matters.
19. To consider reports from the Local Government and Social Care Ombudsman where there has been a finding of maladministration against the County Council.

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20. To undertake the role of 'Member Responsible for Complaints' as outlined in the Local Government & Social Care Ombudsman code 2024.
21. To exercise the powers and duties of the County Council in respect of the making of payments or the provision of other benefits in cases of maladministration.
22. To determine the selection process for appointment to the Pension Board.
23. To appoint to, and remove from, the Pension Board.
24. To agree the level of remuneration for Pension Board Members.
25. To agree reasons for councillor non-attendance at meetings and grant dispensations from the requirement for councillors to attend at meetings of the Council to allow them to remain qualified until such time as they are able to attend a meeting of the Council.

### *Membership*

Six members appointed in accordance with political balance provisions.

**2. County Joint Consultative Committee**

*Terms of Reference*

- (i) To provide machinery for regular collective consultation and negotiation on industrial relations matters and for consultation on health, safety and welfare matters between the County Council and its employees, always provided that no issues specific to any one department or questions relating to individuals on such issues as discipline and efficiency etc. shall be within the jurisdiction of the Joint Committee.
- (ii) To consider any relevant matter referred to it by the County Council, or by either Side of the Joint Committee.
- (iii) To make recommendations to the Cabinet on matters referred to in paragraphs (i) and (ii) above.

*Membership*

Five members (to be appointed in accordance with political balance) and eight employee representatives (six to be appointed by the East Sussex Branch of UNISON, one by the Transport and General Workers Union and one by the General Municipal and Boilermakers Union).

**3. Joint Advisory Committee (Schools)**

*Terms of Reference*

To act as a channel of communication between members and teaching and support staff and to enable them to become better informed on matters affecting the Education Service.

*Membership*

Five members and representatives of the teaching and support staff.

**4. County Consultative Committee (Governors)**

*Terms of Reference*

To act as a channel of communication between members and governors and to help them to be better informed on issues affecting the Education Service.

*Membership*

Five members and representatives of governors.

**5. Standing Advisory Council for Religious Education**

*Terms of Reference*

To advise on collective worship and on the provision of religious education in schools in accordance with the syllabus.

*Membership*

Five members and other representatives in accordance with the statutory requirements.

**6. East Sussex Schools Forum**

*Terms of Reference*

To advise the local authority on matters relating to the schools budget and on changes to the funding formula for schools.

The Forum may also be used as a mechanism for consultation between the local authority and partners with the Education Service on wider issues relating to education funding.

*Membership*

Maintained School Members

Nine headteachers (five primary, two secondary, one special, one pupil referral unit)

Four governors (three primary, one secondary)

Academies

Eight members (three primary, four secondary, one special)

Non School Members (one each)

Early Years Development and Childcare Partnership

Professional Associations

Diocese of Chichester

Diocese of Arundel and Brighton

16 – 19 representative

Observer status

Lead Cabinet Member for Education and Inclusion, Special Educational Needs and Disability

Director of Children's Services

Education and Skills Funding Agency Representative

## 7. Pension Committee

### *Terms of Reference*

The Pension Committee will exercise on behalf of East Sussex County Council all of the powers and duties in relation to its functions as the Scheme Manager and Administering Authority for the East Sussex Pension Fund except where they have been specifically delegated to another Committee. The Pension Committee will exercise its functions in accordance with the fiduciary duties of the Council as the administering authority of the East Sussex Pension Fund.

The Pension Committee will have the following specific roles and functions, taking account of advice from officers and the Fund's professional advisers:

- (i) Ensuring the Fund is administered, managed and pension payments are made in compliance with the regulations and having regard to statutory guidance that govern the operation of the Local Government Pension Scheme from time to time, and other legislation.
- (ii) Determining the Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including but not limited to, funding, investment, administration, communication and governance.
- (iii) Determining how the various administering authority discretions are operated for the Fund.
- (iv) Monitoring the implementation of all Fund policies and strategies on an ongoing basis.
- (v) In relation to the LGPS ACCESS Pension Fund Pool:
  - a) considering pooling matters including recommendations made by the ACCESS Joint Committee;
  - b) determining the transition of the assets held by East Sussex Pension Fund in relation to the Pool and the funds or sub-funds operated by the Operator;
  - c) recommending to the Governance Committee a member of the East Sussex County Council Pension Committee to sit on the ACCESS Joint Committee, as and when required, having regard to the advice of the Head of Pensions;
  - d) appointing an East Sussex County Council officer to working groups such as the Officer Working Group as and when required;

- e) advising the representative on the ACCESS Joint Committee and Officer Working Group on such matters as may be required;
- f) monitoring the performance of the LGPS ACCESS Pool and its Operator and recommending actions to the ACCESS Joint Committee, Officer Working Group or ACCESS Support Unit, as appropriate;
- g) receiving and considering reports from the LGPS ACCESS Joint Committee, Officer Working Group and the Operator;
- h) undertaking any other decisions or matters relating to the operation or management of the LGPS ACCESS Pool as may be required, including but not limited to, appointment, termination or replacement of the Operator and approval of the strategic business plan.

- (vi) Making arrangements for actuarial valuations, ongoing monitoring of liabilities and undertaking any asset / liability and other relevant studies.
- (vii) Making decisions relating to employers joining and leaving the Fund. This includes approving which employers are entitled to join the Fund, and any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.
- (viii) Agreeing the policy for exit credits and terms on which employers may leave the Fund. Approving decisions on cessations, post cessation arrangements, guarantees and bonds.
- (ix) Agreeing the terms and payment of bulk transfers into and out of the Fund.
- (x) Ensuring robust risk management arrangements are in place, considering and making recommendations in relation to the internal audit strategy and internal audit report pertaining to the management of the fund and reviewing its findings.
- (xi) Agreeing the Fund's annual business plan and annual and medium-term budgets, and monitoring progress against them.

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- (xii) Selection, appointment and dismissal of the Fund's advisers and suppliers, including actuary, benefit consultants, investment consultants, global custodian, fund managers, lawyers, pension fund administrator, Additional Voluntary Contribution providers and independent professional advisors. This includes determining the services to be provided and monitoring those services, including where this relates to shared services arrangements.
- (xiii) Agreeing the Fund's 'Knowledge and Skills Policy' and monitoring compliance with the policy.
- (xiv) Agreeing the Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.
- (xv) Considering views expressed by employing organisations and staff representatives in relation to the operation of the East Sussex Pension Fund.
- (xvi) Considering the Fund's financial statements and approving an Annual Report on the activities of the Fund in line with legislation and guidance.
- (xvii) Considering the 'Breaches Register' at every quarterly Pension Fund meeting and reviewing recommendations from the Pension Board.

### Notes:

1. No matters relating to East Sussex County Council's responsibilities as an employer participating within the East Sussex Pension Fund are delegated to the Pension Committee.
2. As a Non-Executive Committee, no matters relating to the Pension Fund's non-executive responsibilities as Scheme Manager are delegated to an Executive of East Sussex County Council.
3. The Committee's primary contacts will be the Head of Pensions, Chief Finance Officer and its retained advisors.

### **Training**

The East Sussex Pension Fund has a dedicated 'Knowledge and Skills Policy' which applies to all members of the Committee and which includes the expectation to attend regular training sessions in order they may maintain an appropriate level of knowledge and skills to perform their role effectively.

### *Membership*

- (i) The East Sussex Pension Committee will be composed of five members of East Sussex County Council, determined by the Council at the Council's Annual Meeting. (N.B. When making nominations Members should have regard to the need to ensure a balance of experience and continuity).
- (ii) Named substitutes are permitted for East Sussex County Council members.

## 8. Pension Board

### ***Introduction***

(i) The Pension Board is established by East Sussex County Council (ESCC) under the powers of Section 5 of the Public Services Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme (LGPS) Regulations 2013 ("the LGPS regulations" which includes such regulations as govern the Local Government Pension Scheme from time to time). ESCC is the scheme manager (and administering authority) to the East Sussex Pension Fund (ESPF).

(ii) The East Sussex Pension Fund Board was appointed by East Sussex County Council (the Scheme Manager and Administering Authority to East Sussex Pension Fund) as its Local Pensions Board in accordance with section 5 of the Public Service Pensions Act 2013 and Part 3 of the Local Government Pension Scheme Regulations 2013. As such, Parts 4 Rules of Procedure (Council's procedural Standing Orders) sub-parts 1, 2, 3, 4, 5 and 6 of the Constitution of East Sussex County Council do not apply to this Pension Fund Board unless expressly referred to within and permitted by these Terms of Reference and Rules of Procedure.

The Board will exercise all its powers and duties in accordance with legislation and these Terms of Reference and Rules of Procedure. The Board shall have the power to do anything which is considered to facilitate, or is conducive or incidental to, the discharge of its functions.

### ***Powers of the Pension Board***

(iii) The Pension Board will exercise all its powers and duties in accordance with the law and this Terms of Reference.

(iv) ESCC considers this to mean that the Pension Board is providing oversight of these matters and, accordingly, the Pension Board is not a decision-making body in relation to the management of the Fund but instead can make recommendations to assist in such management. The Fund's management powers and responsibilities which have been, and may be, delegated by ESCC to committees, sub-committees and officers of ESCC, remain solely the powers and responsibilities of those committees, sub-committees and officers including but not limited to the setting and delivery of the Fund's strategies, the allocation of the Fund's assets and the appointment of contractors, advisors and fund managers. The Pension Board operates independently of the ESPF Pension Committee.

(v) The Pension Board will ensure that in performing their role it:

- is done effectively and efficiently and
- complies with relevant legislation and
- is done by having due regard and in the spirit of The Pensions Regulator's Code of Practice and any other relevant statutory or non-statutory guidance.

### ***Objectives and role of the Pension Board***

(vi) The role of the Pension Board is defined by the LGPS Regulations as being to assist the Scheme Manager (ESCC as Administering Authority) to:

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- secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS and requirements imposed in relation to the LGPS by the Pensions Regulator
- ensure the effective and efficient governance and administration of the LGPS. This should be interpreted as covering all aspects of governance and administration of the LGPS including funding and investments.

(vii) In doing this the Pension Board:

- shall assist the Scheme Manager with such matters as the LGPS Regulations and guidance may specify
- shall seek assurance that due process is followed with regard to the Pension Committee and may review any decisions made by or on behalf of the Scheme Manager or action taken by the Scheme Manager
- shall seek assurance that any identified issues raised by Pension Board members are considered.
- shall comment on and assist in identifying and managing breaches of the law in relation to ESPF matters.
- shall make representations and recommendations to the Pension Committee as appropriate and shall consider and, as required, respond to any Government / Responsible Authority or Scheme Advisory Board requests for information or data concerning the Fund.
- may also undertake other tasks, including (but not limited to):
  - assisting the Pension Committee by reviewing aspects of the performance of the ESPF – for example by reviewing the risk management arrangements within ESPF (although the Pension Committee will remain accountable for risk management);
  - reviewing administration standards or performance or review efficacy of ESPF member and employer communications;
  - reviewing published policies to ensure they remain fit for purpose and are complete;
  - reviewing ESPF annual reports;
  - being part of any consultation process with the purpose of adding value to that process based on, for example, their representation of employers and ESPF members;
  - discussing strategic matters such as communications where requested by the Pension Committee.
- will produce an annual report which is shared with the Scheme Manager. It will outline the work of the Pension Board throughout the scheme year, which will help to –
  - inform all interested parties about the work undertaken by the Pension Board
  - assist the Pension Board in reviewing its effectiveness and identifying improvements in its future operations.

- shall carry out an annual self-assessment of the effectiveness of the Pension Board, and produce a report on this which will be shared with the Pension Committee.
- must provide a record of each meeting to the following Pension Committee meeting and may make reports and recommendations to the Pension Committee insofar as they relate to the role of the Pension Board
- shall assist in considering whether the East Sussex Pension Fund is being managed in accordance with the LGPS and other relevant legislation, including consideration of cases that have been referred to the Pension Regulator and/or the Pension Ombudsman; recommending changes to processes, training and/or guidance where necessary.
- shall monitor administrative processes and support continuous improvements.
- will ensure the scheme administrator supports employers to communicate the benefits of the LGPS to scheme members and potential new members.

### ***Membership***

(viii) The Pension Board shall consist of:

- a) 3 employer representatives - employer representatives that can offer the breadth of employer representation for the ESPF.
- b) 3 scheme member representatives – member representatives nominated to ensure a broad representation of scheme membership (active, deferred, and pensioners) to include:
  - a. two will be nominated by the trade unions, and
  - b. the rest will be drawn from the total ESPF active, deferred and pensioner membership.
- c) 1 Independent Chair.

(ix) The Pension Board shall be chaired by an Independent Chair.

(x) Substitutes for Board members are not permitted.

(xi) The Quorum of the Board will be 3 Members, excluding the Independent Chair. To be quorate the meeting must include at least one employer representative and one scheme member representative.

(xii) The Board has the power to set up working groups

### ***Appointment of members of the Pension Board***

(xiii) The appointment process has been approved by the Governance Committee

(xiv) All appointments to the Pension Board shall be by the Governance Committee under delegated authority from the County Council, including the Independent Chair. The Vice Chair will alternate between scheme member representatives and employer representatives at each meeting. The Vice Chairs will be nominated from the existing Board members whenever one of the existing Vice Chairs is replaced.

(xv) Appointments to the Pension Board shall be managed, wherever possible, so that appointment and termination dates are staggered such that there remains continuity for one meeting to the next.

***Term of office***

(xvi) Employer representative appointments will expire after a 4 year period from their date of appointment by the Governance Committee or such time as resolved by the Governance Committee. The Governance Committee may agree an extension to this period by up to a further 2 years after which there shall be a further appointment process. Reappointment of existing members is permitted. Appointment will automatically cease if the individual is no longer in the employment of that employer, no longer holds office in relation to that employer or is no longer an elected member of that employer, as appropriate.

(xvii) Scheme member representative appointments will expire after a 4-year period from their date of appointment by the Governance Committee or such time as resolved by the Governance Committee. The Governance Committee may agree an extension to terms of office up to a further 2 years after which there shall be a further appointment process. Reappointment of existing members is permitted. Appointment will automatically cease if the individual is no longer a trade union representative or representative of ESPF members (in accordance with the criteria set by the Governance Committee).

(xviii) The Independent Chair appointment will expire after a period of 4 years from their date of appointment by the Governance Committee. The Governance Committee may agree an extension to terms of office by up to a further 2 years after which there shall be a further appointment process. Reappointment of the Independent Chair is permitted.

(xix) Term dates may not be exact due to the period of the appointment process. The term of office may therefore be extended for this purpose or other exceptional circumstances by up to three months with the agreement of the Governance Committee.

(xx) A Pension Board member who wishes to resign shall submit their resignation in writing to the Independent Chair. A suitable notice period must be given, of at least 1 month, to enable a replacement member to be found.

(xxi) The role of the Pension Board members requires the highest standards of conduct and the ESCC Code of Conduct for Members will apply to the Pension Board's members. ESCC Standards Committee will monitor and act in relation to the application of the Code.

(xxii) Poor performance will result in corrective action being taken, and in exceptional circumstances the removal of the Pension Board member by the Governance Committee.

(xxiii) Removal of the Independent Chair will be by the Governance Committee.

***Chairing***

(xxiv) It will be the role of the Chair to -

- Settle with officers the agenda for a meeting of the Pension Board
- Manage the meetings to ensure that the business of the meeting is completed

- Ensure that all members of the Pension Board show due respect for process and that all views are fully heard and considered
- Strive as far as possible to achieve a consensus as an outcome
- Ensure that the actions and rationale for decisions taken are clear and properly recorded
- Uphold and promote the purpose of the Pension Board, and to ensure that meetings are properly conducted and professional advice is followed
- To use their expertise and experience and liaise with the Head of Pensions to arrange such advice as required subject to agreement by the Head of Pensions on such conditions as that officer determines
- Sign the minutes of each Pension Board meeting following approval by the Board
- Prepare with the Head of Pensions an appropriate budget for the Pension Board's consideration before being formally considered by the Scheme Manager along with the ESPF Annual Budget
- Liaise with officers and advisors on the requirements of the Pension Board, including advanced notice for Scheme Manager officers to attend and arranging dates and times of Board meetings
- Provide guidance on all points of procedure and order at meetings having regard to advice from officers
- Other tasks which may be deemed appropriate by the Scheme Manager for the Independent Chair of the Pension Board
- 
- Liaise with the Chair of the Pension Committee as deemed appropriate
- Other tasks that may be requested by the Board, within the remit of these Terms of Reference and subject to agreement with the Head of Pensions
- Annually review and report on the activities of the Pension Board.
- Commission a triennial review of LGPS & public pension fund non-statutory best practice guidance (referencing the SAB & other relevant bodies deemed relevant by the Board) which then brings recommendations to the Committee (when appropriate) for amendments to the operation of the Fund.

### ***Support arrangements and administration***

(xxv) ESCC officers will provide governance, administrative and professional support to the Pension Board, and ESCC Member Services will provide secretariat support to the Pension Board, and as such will ensure that:

- meetings are timetabled for at least four times per year
- adequate facilities are available to hold meetings
- an annual schedule of meetings is produced
- suitable arrangements are in place to hold additional meetings if required
- papers are distributed 5 clear working days before each meeting except in exceptional circumstances

- draft minutes of each meeting are normally circulated 7 working days following each meeting including all actions, decisions and matters where the Pension Board was unable to reach a decision will be recorded.
- Final reports, minutes and agendas relating to the Pension Committee are shared appropriately with the Board.

(xxvi) The records of the meetings may, at the discretion of the Board, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A (2) of that Act.

(xxvii) The minutes and any consideration of the Pension Board shall be submitted to the Pension Committee.

(xxviii) The Pension Board must comply with the General Data Protection Regulation and the Scheme Manager's data protection policy. It must also adhere to the Scheme Manager's requirements, controls and policies for Freedom of Information Act compliance.

### ***Expert advice and access to information, including the Pension Committee***

(xxix) The Pension Board will have access to professional advice and support provided by officers of ESCC and, via them and where appropriate, advisers to the ESPF. In addition, Pension Board members will receive the final reports, minutes and agendas relating to the Pension Committee, save where the Committee expressly decides otherwise such as where an item is exempt, although this is anticipated to be in exceptional cases.

(xxx) Insofar as it relates to its role, the Pension Board may also:

- request information and reports from the Pension Committee or any other body or officer responsible for the management of the Fund
- examine decisions made or actions taken by the Pension Committee or any other body or officer responsible for the management of the Fund.
- access independent professional advice from actuaries, other independent advisers, and investment managers as required, where there are major matters being considered, i.e. investment strategy, triennial valuation, etc.,
- access to professional advice regarding non-major decisions will require the approval of the Pension Committee for additional resources
- attend all or any part of a Pensions Committee meeting unless they are asked to leave by the Committee or as a result of a conflict of interest.

(xxxi) ESCC officers will provide such information as is requested that is available without incurring unreasonable work or costs.

### ***Knowledge and Skills***

(xxxii) Pension Board members will be required to have the 'capacity' to carry out their duties and to demonstrate a high level of knowledge and of their role and understanding of:

- the scheme rules (i.e. regulations)
- the schemes administration policies

- the Public Service Pensions Act (i.e. being conversant with pension matters relating to their role) and the law relating to pensions.

(xxxiii) A programme of updates and training events will be organised by ESPF officers.

(xxxiv) It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.

(xxxv) In line with this requirement, Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to

- participate in training events (a written record of relevant training and development will be maintained)
- undertake a personal training needs analysis or other means of identifying any gaps in skills, competencies and knowledge relating to Pension Board matters.
- comply with the Fund's Knowledge and Skills Policy insofar as it relates to Pension Board members.

### ***Standards and Conflicts of Interest***

(xxxvi) A conflict of interest is defined in the Public Service Pensions Act 2013 as:

“in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the Pension Board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

(xxxvii) The Public Service Pensions Act 2013 requires that members of the Pension Board do not have conflicts of interests. As such all members of the Pension Board will be required to declare any interests and any potential conflicts of interest in line with legal requirements in the Public Service Pensions Act 2013 and the Pension Regulator’s code. These declarations are required as part of the appointment process, as well as at regular intervals throughout a member’s tenure.

(xxxviii) The Pension Board shall adopt a policy for identifying and managing potential conflicts of interest.

(xxxix) Members of the Pension Board must provide, as and when requested by the Scheme Manager, such information as the Scheme Manager requires to identify all potential conflicts of interest and ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest at appointment or whilst a member of the Pension Board.

(xl) Part 5(1) of ESCC Code of Conduct shall apply in relation to the standards of conduct of Pension Board members, insofar as they can be reasonably considered to apply to the role of members of the Board, including the non-disclosure of confidential information.

(xli) Members of the Pension Board must adhere to the requirements of the ESPF Procedure for Monitoring and Reporting Breaches of the Law and should be mindful of the individual legal requirements in Section 70 of the

Pensions Act 2004 relation to reporting breaches of the law in relation to ESPF matters.

***Access to the Public and Publication of Pension Board information***

(xlvi) Members of the public may attend the Pension Board meeting and receive papers, which will be made public in accordance with the Access to Information Rules in ESCC's Constitution.

(xlvi) In accordance with the Public Service Pensions Act 2013, ESCC is required to publish information about the Pension Board and up-to-date information will be posted on the ESPF website showing:

- Names of and information regarding the Pension Board members
- How the scheme members and employers are represented on the Pension Board
- Responsibilities of the Pension Board as a whole
- Full terms of reference and policies of the Pension Board and how it operates.

(xlvi) In accordance with good practice, ESPF may publish other information relating to the Pension Board as considered appropriate from time to time and which may include:

- the agendas and meeting records
- training and attendance logs
- an annual report on the work of the Pension Board.

(xlvi) All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- on the ESPF website – <https://www.eastsussex.gov.uk/yourcouncil/pensions/members/>
  - on the ESCC website – <http://www.eastsussex.gov.uk>,
  - within the ESPF Annual Report and Accounts,
  - within the ESPF's Governance Policy and Compliance Statement.

(xlvi) Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act.

***Expense reimbursement, remuneration and allowances***

(xlvi) All Pension Board members will be entitled to claim travel and subsistence allowances for attending meetings relating to Pension Board business (including attending training) at rates contained in the Members' Allowances Scheme in the ESCC's Constitution. In addition, scheme member representatives may be paid an allowance equivalent to the co-optees' allowance in the ESCC Scheme of Members' Allowances in relation to time spent at meetings and training events relating to their role as a ESPF Pension Board member, unless they are attending they are attending during their normal working day without a reduction in pay or leave (in which case no allowance will be paid for that time).

(xlvi) The Independent Chair's remuneration will be approved by the Governance Committee following consultation with the Chair of the Pension Committee.

(ii) All costs will be recharged to the Fund.

***Accountability***

(I) The Pension Board collectively and members individually are accountable to the Scheme Manager (ESCC), the Pensions Regulator, and the Local Government Pension Scheme Advisory Board. The Local Government Pension Scheme Advisory Board will advise the Responsible Authority (in the case of the LGPS the MHCLG) and the Scheme Manager. The Pensions Regulator will also be a point of escalation for whistle blowing or similar issues.

***Decision Making Process***

(ii) Employer representatives and scheme member representatives have voting rights, albeit the Pension Board is expected to operate on a consensus basis. The Independent Chair does not have voting rights.  
(iii) In the event of an equal number of votes being cast for or against a proposal there shall be no casting vote but the proposal shall be considered to have been rejected. The Scheme Manager shall be alerted when a decision is reached in this manner.

***Reporting and escalation***

(liii) The Pension Board must provide minutes of each meeting to the following Pension Committee meetings and may make reports and recommendations to the Pension Committee insofar as they relate to the role of the Pension Board. Any such reports or recommendations must be provided in advance of the next Pension Committee meeting to the S151 Officer.  
(liv) An annual report of the Pension Board must be provided to the S151 Officer and the Pension Committee and be published in the Fund's Annual Report and Accounts.  
(lv) Where the Pension Board considers that a matter brought to the attention of the Pension Committee has not been acted upon or resolved to their satisfaction, the Pension Board will provide a report to the Monitoring Officer.  
(lvi) The Breaches Register will be presented at each meeting and considered by the Pension Board who may make recommendations to the Pension Committee.

***Review, Interpretation and Publication of Terms of Reference and Rules of Procedure***

(lvii) These Terms of Reference have been agreed by ESCC. The Council will monitor and evaluate the operation of the Pension Board and may review these Terms of Reference and Rules of Procedure from time to time.  
(lviii) These Terms of Reference are incorporated into the Council's Constitution and published on the Council's website and may be amended by the same means as permitted for the Constitution. It will also form part of the ESPF's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

**9. Corporate Parenting Panel**

*Terms of Reference*

1. To discharge the statutory responsibility of the County Council by receiving copies of reports of monthly visits to East Sussex children's homes by an off-line manager.
2. To receive inspection reports concerning East Sussex homes.
3. To monitor progress in meeting high standards in residential care for children in East Sussex homes.
4. To monitor and participate in programmes seeking the views of looked after children in residential and foster care.
5. To receive the views of young people leaving care.
6. To receive reports summarising complaints made by looked after children as part of the regular quarterly reporting statistics.
7. To meet annually with representatives of the East Sussex Foster Care Association and other foster parents.
8. To meet annually with representatives of the Adopted Families Group.
9. To receive reports on how the health needs of looked after children are being met and their educational achievements.
10. To provide an annual report to the Cabinet.

*Membership*

Seven members.

**10. Adoption Panel**

*Terms of Reference*

1. East Sussex County Council will fulfil the County Council's Permanence Policy through the Regional Adoption Agency (Adoption South East) Adoption Panels.
2. The aim of the Adoption South East Adoption Panels is to ensure the provision of a quality adoption for children, birth families and prospective adoptive parents.

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3. The Adoption Panels have “primary responsibility” to act in the best interest of children.
4. The Panels will be committed to anti-discriminatory practice and to ensuring that the welfare of the child is paramount.
5. The Panels will be rigorous in monitoring the quality standards, provide feedback and contribute to the development of good practice.
6. The Panels will be transparent in their decision-making processes.
7. The Panels will consider the case of every child, prospective adopter and proposed adoption placement, referred to it by the Child’s Agency and make recommendations to the Agency decision-maker as to:
  - Whether adoption is in the best interest of a child where a parent has requested that the local authority arrange adoption for their child (i.e. a relinquished child);
  - Whether a prospective applicant is suitable to adopt;
  - whether a prospective adopter would be a suitable adoptive parent for a particular child; and
  - whether a prospective permanent foster carer would be a suitable permanent carer for a particular child.
8. In addition, the Panels will also:
  - consider disruption reports following breakdown of an adoption placement;
  - review all cases of approved adopters after 2 years of approval, if they have not been matched with a child.
9. The Panels will receive medical advice on each case that is referred to it. The Panel Chairs may request legal advice as required. This will be provided by the relevant local authority for the child in relation to adoption matches. Where this relates to the approval of adopters this will be provided by the host of the partnership (East Sussex County Council).
10. Each Panel will give reasons for its recommendations.
11. **The Panels should assist the Local Authority** in drawing up the Local Authority’s Policies and Procedures.
12. The Panels will work within the Local Authority’s Equal Opportunities Policy (a copy will be available to each Panel member).

13. The Panels should meet at sufficiently regular intervals to meet the needs of the service.
14. The functions of the Panels are required to be carried out by the members meeting as a Panel and cannot be undertaken by means of correspondence.
15. The Panels will meet together twice a year for a business meeting to discuss policy and procedural issues with the Local Authority's Head of Service for Looked After Children.

### *Membership*

One Central List servicing Adoption South East Adoption Panels in the area covered by the Regional Adoption Agency, Adoption South East

## **11. Fostering Panel**

### *Terms of Reference*

The aim of the Fostering Panel is to ensure the provision of quality fostering, supportive lodgings, remand and intensive lodgings (rails) and short break services to children and young people looked after by the Local Authority.

The role of the Panel is to make recommendations to approve, review and terminate the approval of foster carers, supportive lodgings, remand and intensive lodgings carers (rails) and short break carers in accordance with the Fostering Services (England) Regulations 2011, the Children Act 1989 and Departmental policy.

The Panel will be committed to anti-discriminatory practice and to ensuring that the welfare of the child is paramount.

The Panel will be rigorous in monitoring the quality standards, provide feedback and contribute to the development of good practice.

The Panel will be transparent in its decision-making processes.

### *Membership*

One councillor, appointed by the executive, and other members in accordance with statutory requirements.

## **12. Recruitment Panels (Chief Executive, Directors and Deputies)**

### *Terms of Reference*

To deal with appointments to the posts of Chief Executive, Directors and Deputies and any disciplinary action in relation to holders of any of those

posts, subject to the provisions of the Officer Employment Procedure Rules.

### *Membership*

Five members of the Council selected as the need for a Panel arises; the panels to be constituted in accordance with the political balance provisions.

## **13. Health and Wellbeing Board**

### *Terms of Reference*

The East Sussex Health and Wellbeing Board (the “Board”) will be chaired by an elected Member of East Sussex County Council.

A Deputy Chair will be chosen from among the NHS Sussex representatives.

The quorum for a Board meeting shall be half of the membership including at least one elected Member of the County Council and one representative of NHS Sussex.

In the event of equal votes the Chair will have the casting vote. All members of the Board will be entitled to vote.

### **Role and Function**

- To provide whole system leadership for the health and wellbeing of the people of East Sussex and the development of sustainable and integrated health and care services.
- To provide strategic influence over the commissioning and provision of health, public health and social care services in East Sussex.
- To strengthen democratic legitimacy by involving democratically elected representatives and patient representatives in commissioning and provision decisions across health and social care and provide a forum for challenge, discussion, and the involvement of local people.
- To bring together the NHS, the County Council and others to develop a shared understanding of the health and wellbeing needs of the community using robust and up to date evidence.
- To drive local commissioning and delivery of health care, social care and public health and create a more effective and responsive local health and care system that reduces the need for health and social care in the longer term and/or prevents the need for a more expensive service.

- To jointly undertake responsibilities for addressing population health need and to work together to inform strategic planning of health and social care, through oversight of integrated investment plans including the Better Care Fund and Improved Better Care Fund.
- To undertake any other responsibilities delegated to the Board.

These functions will be delivered through the following activities:

### Identify needs and priorities

1. Publish and refresh the East Sussex Joint Strategic Needs Assessment (JSNA), using a variety of tools, evidence and data including user experience, to ensure that the JSNA supports commissioning and policy decisions and identification of priorities.

### Deliver and review the Joint Local Health and Wellbeing Strategy

2. Review and update the Joint Local Health and Wellbeing Strategy regularly to ensure the identified priorities reflect the needs of East Sussex and that it clearly explains our joint purpose to residents, communities, staff and volunteers in all organisations.
3. Ensure the County Council, NHS Sussex and NHS providers have regard to and contribute to the delivery of the Joint Local Health and Wellbeing Strategy and integrate its agreed objectives into their respective plans.
4. Ensure the Sussex Health and Care Assembly (the Integrated Care Partnership) builds on and aligns with the priorities and goals of the Joint Local Health and Wellbeing Strategy and JSNA, including the development of the Integrated Care Strategy for Sussex.
5. Review recommendations from the East Sussex Health and Care Partnership Executive Board, or equivalent body, with regard to transforming services and the overall strategic investment patterns to meet population health needs and deliver outcomes, reflecting national policy where this is appropriate.
6. Oversee and hold partners to account for the implementation of agreed plans.

### Ensure achievement of outcomes

7. Communicate and engage with local people about how they can achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing.
8. Have oversight of the use of relevant public sector resources across a wide spectrum of services and interventions, with greater focus and integration across the outcomes spanning healthcare, social care and public health.
9. Work in partnership with the Sussex Health and Care Assembly to:
  - Support and promote greater integration and collaboration across health and social care;
  - Support co-ordination of the strategic direction and collaboration across health and social care; and
  - Improve outcomes for East Sussex residents.

10. Have a relationship with the East Sussex Strategic Partnership to strengthen the engagement of a wider range of stakeholders in all determinants of health.

### Reporting

11. Propose recommendations regarding the work of the Health and Wellbeing Board to:

- East Sussex County Council;
- NHS Sussex; and
- NHS provider Trusts.

12. Direct issues to and receive reports from the appropriate Scrutiny Committees of the County Council, and the East Sussex Strategic Partnership and the Sussex Health and Care Assembly.

### Membership:

The East Sussex Health and Wellbeing Board (the Board) includes representation from all bodies in East Sussex with major responsibilities for commissioning and providing health services, public health and social care.

It shall be comprised of:

- 4 Members\* of the Council chosen by the Leader of the Council;
- 2 Members\* representing the five District and Borough Councils;
- East Sussex County Council Director of Public Health;
- East Sussex County Council Director of Adult Social Care and Health;
- East Sussex County Council Director of Children's Services;
- Chief Executive of East Sussex Healthcare NHS Trust\*\*;
- Three representatives of the NHS Integrated Care Board\*\*\*;
- One representative of Healthwatch East Sussex\*\*\*\*.

*\* To avoid conflict of interest Members must be different from the Health and Overview Scrutiny Committee Member.*

*\*\* The Chief Executive of East Sussex Healthcare NHS Trust represents all NHS provider trusts operating in East Sussex*

*\*\*\* The NHS representatives also provide representation on behalf of NHS England – South East*

*\*\*\*\*To avoid conflict of interest Healthwatch East Sussex will not be members of the Health and Overview Scrutiny Committee Member or any Council Scrutiny Committee.*

### **Observers**

In addition to the Members listed above, additional non-voting observers from relevant agencies will be invited to attend to assist in achieving the Board's objectives. The invited observers with speaking rights are:

- One Member\* from each of the three Borough and District Councils within East Sussex that are not voting representatives;
- Chief Executive of East Sussex County Council;

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- One representative of the East Sussex Voluntary, Community and Social Enterprise Sector;
- Sussex Police and Crime Commissioner;
- Chief Fire Officer East Sussex Fire and Rescue Service.

#### **14. Audit Committee**

##### *Terms of Reference*

To act as the principal non-executive, advisory function supporting those charged with governance by exercising the Audit Committee functions as follows:

- 1) To review and provide independent scrutiny in relation to all internal and external audit matters.
- 2) To consider the effectiveness of the Council's risk management processes, internal control environment and corporate governance arrangements and to recommend any changes to Governance Committee or Cabinet as appropriate.
- 3) To consider the external auditor's annual letter (if provided) and the Chief Internal Auditor's annual report and opinion and the level of assurance they can give over the Council's risk management processes, internal control environment and corporate governance arrangements.
- 4) To review and scrutinise the effectiveness of management arrangements to ensure probity and legal and regulatory compliance, including, but not limited to contract procedure rules, financial regulations, codes of conduct, anti-fraud and corruption arrangements and whistle-blowing policies.
- 5) To consider the major findings of internal and external audit and inspection reports, and Directors' responses, and any matters the Chief Internal Auditor or District Auditor may wish to discuss (in the absence of Directors if necessary).
- 6) To review the Council's assurance statements, including the Annual Governance Statement, ensuring that they properly reflect the risk environment, and any actions required to improve it.
- 7). To review the internal audit strategy and annual plan and the external auditor's annual audit and inspection plan and to monitor performance of both internal and external audit.
- 8) To review the annual statement of accounts and the external auditor's report to those charged with governance.
- 9) To review and monitor treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.
- 10) To review and monitor the asset disposal and investment strategy.

### **15. Joint Waste and Recycling Committee**

#### *Terms of Reference*

##### Purpose of the Committee

The County Council with Hastings Borough Council, Rother District Council and Wealden District Council have established the Joint Waste and Recycling Committee with the intention of facilitating the authorities in working together to improve the quality and effectiveness of the discharge of their waste collection functions under the relevant provisions of the Environmental Protection Act 1990.

The Joint Waste and Recycling Committee will also facilitate the authorities to work in partnership with East Sussex County Council as the Waste Disposal Authority to maximise integration opportunities.

#### *Membership*

2 members of the Council and members from Hastings Borough Council, Rother District Council and Wealden District Council.

Further information is available by clicking the following link:

[Committee details - Joint Waste and Recycling Committee - Rother District Council \(moderngov.co.uk\)](http://Committee%20details%20-%20Joint%20Waste%20and%20Recycling%20Committee%20-%20Rother%20District%20Council%20(moderngov.co.uk))

### **16. ACCESS Joint Committee**

The ACCESS Joint Governance Committee oversees the execution of the Government's requirement that Local Government Pension Scheme investments are pooled.

The Committee is made up of one elected councillor from the Pension Committee of each of the following constituent councils:

- Cambridgeshire County Council
- East Sussex County Council
- Essex County Council
- Hampshire County Council
- Hertfordshire County Council
- Isle of Wight Council
- Kent County Council
- Norfolk County Council
- Northamptonshire County Council

- Suffolk County Council
- West Sussex County Council

### **Terms of Reference of the Joint Committee**

#### Part 1 Functions in relation to the Operator

1. Specifying Operator services: Deciding, in consultation with the Councils, the specification of services and functions that the Operator will be required to deliver including the sub-funds and classes of investments required to enable each Council to execute its investment strategy.
2. Procuring the Operator: agreeing the method and process for the procurement and selection of the Operator.
3. Appointing the Operator: Making a recommendation to the Councils as to the identity of the Operator and the terms upon which the Operator is to be appointed.
4. Reviewing the Performance of the Operator: Keeping the performance of the Operator under constant review and making arrangements to ensure that the Joint Committee is provided with regular and sufficient reports from the Officer Working Group to enable it to do so including but not limited to:
  - 4.1 the performance of the Operator against its contractual requirements and any other performance measures such as any Service Level Agreement (SLA) and key performance indicators (KPIs) and Officer Working Group recommendations on any remedial action;
  - 4.2 sub-fund investment performance;
  - 4.3 investment and operational costs including the annual review of investment manager costs;
  - 4.4 performance against the strategic business plan agreed by the Councils.
5. Managing the Operator:  
The Joint Committee shall:
  - Make recommendations to the Councils on the termination or extension of the Operator Contract and
  - Make decisions about any other action to be taken to manage the Operator Contract including the giving of any instruction or the making of any recommendation to the Operator including but not restricted to recommendations on investment managers (within any regulatory constraints that may apply).
6. Appointment of Advisers

- 6.1 The Joint Committee may appoint such professional advisers on such terms as it thinks fit. Any procurement of advisers must comply with the constitution of the Authority designated to undertake the

procurement and that Authority will enter into a contract with the appointed adviser on behalf of the Authorities.

6.2 The Joint Committee shall decide which tasks shall be performed by the Client Unit and which Council shall manage the Client Unit including the employment arrangements for employees in the Client Unit.

### Part 2 Functions in relation to management of Pool Assets

7. The Joint Committee shall make recommendations to the Councils on the strategic plan for transition of assets that are to become Pool Assets.

### Part 3 Functions Concerning Pool Aligned Assets

8. Making recommendations to the Councils about Pool Aligned Assets (including proposals concerning the migration of investments-such as passive investments via life fund policies to become Pool Aligned Assets) in accordance with this Agreement or any other delegation to the Joint Committee by the Councils.

### Part 4 Functions concerning Business Planning and Budget

9. Make recommendations to the Councils about the annual strategic business plan for the Pool

10. Determine the budget necessary to implement that plan and meet the expenses of undertaking the Specified Functions (insofar as they will not be met by individual transaction costs paid by Councils to the Operator) in accordance with Schedule 5 hereof.

11. Keep the structures created by this Agreement under review from time to time and make recommendations to the Councils about:

- the future of the Pool;
- any changes to this Agreement; and
- as to the respective merits of continuing to procure operator services by means of a third party or by creation of an operator owned by the Councils.

12. The Joint Committee is required to commence the first review of this Agreement by the second anniversary of its first meeting.

13. The Joint Committee is required to undertake a review of the Pool and this Agreement:

- to be completed 18 months before the expiry of each and every Operator Contract including as a result of the exercise of any option to terminate the Operator Contract;
- whenever a Council gives notice of withdrawal under clause 12 of this agreement

### *Membership*

1 member of the Council (the Chair of the Pension Committee) and 1 member from each of the respective Councils on the Joint Committee.

**17. Channel Panels**

*Terms of Reference*

Under its statutory duties set out in Section 36 and 38 of the Counter Terrorism and Security Act 2015 and the Counter-Terrorism and Border Security Act 2019, East Sussex County Council will lead Channel Panels for East Sussex covering the needs of adults and children. It will provide a Chair and Deputy Chair, appointed by the Director of Adult Social Care and Health. These will be senior officers considered to have the required skills and experience and the appropriate authority to facilitate the engagement of multi-agency partners and the direction of their resources.

The Panel will develop a support plan for individuals who are adopted as Channel cases because they are vulnerable to being drawn into terrorism. It will ensure accurate records are kept detailing the support plan, agreed actions and decision-making. Governance arrangements for Channel will be through the statutory multi-agency East Sussex Community Safety Partnership.

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**Table 6**

**Scheme of Delegations to Officers**

**Summary of Contents**

- 1. General delegation**
- 2. Delegations to Chief Executive and all Directors (excluding the Director of Public Health and the Head of Children's Safeguards and Quality Assurance) listed in paragraph 3 below**
  - A. Financial
  - B. Land and Property
  - C. Human Resources
  - D. General
- 3. Delegations to particular Officers**
  - A. Chief Executive
  - B. Chief Operating Officer
  - C. Director of Communities, Economy and Transport
  - D. Director of Children's Services
  - E. Director of Adult Social Care and Health
  - F. Deputy Chief Executive
  - G. Chief Finance Officer
  - H. Director of Public Health
  - I. Head of Children's Safeguards and Quality Assurance / Head of LAC Services (Provider Services)

**Delegation of Powers to Chief Executive and all Directors**

Within the provisions of the Standing Orders and Financial Regulations of the County Council the following powers are delegated to Chief Executive and all Directors (including the Deputy Chief Executive but excluding the Director of Public Health) in relation to the services for which they are responsible. All references in these delegations to Acts or Regulations are to include reference to legislation amending or re-enacting the same. The operation of these delegations is subject to Standing Orders, the Code of Conduct and this Constitution.

Any interpretation of this Scheme of Delegations to Officers shall be in accordance with the Council's and the Leader's wish that the scheme shall not be construed restrictively.

**1. General Delegation**

The power to manage the services for which they are responsible, including taking and implementing decisions which aid in maintaining the operational effectiveness of those services, and which fall within a policy decision taken by the Council. The power to be exercised: (a) in conformity with any instructions given by the Chief Executive and with Standing Orders, Financial Regulations, approved revenue estimates and the approved capital programme; and (b) having regard to any legal advice by the Deputy Chief Executive.

To the extent permissible by law, the functions delegated to the Chief Executive, Directors, Chief Finance Officer, Deputy Chief Executive and Director of Public Health may be carried out by other officers employed by this and other Councils or by external contractors either fully or under the general supervision and control of the officer with delegated responsibility and authorised by the Chief Executive or any Director, the Chief Finance Officer, Deputy Chief Executive or Director of Public Health according to the authorisation in the departmental internal scheme.

**2. Delegations to Chief Executive and all Directors**

**A. Financial**

1. Subject to the limitations in Financial Regulations and elsewhere in these delegations, to incur expenditure for which provision has been made in the approved revenue budget, provided no commitment to further expenditure is made which is not similarly provided for, including transferring sums between budget headings, writing off debts as irrecoverable, assessing the amount of contribution for services provided and authorising ex gratia payments.

**B. Land and Property**

1. (a) To authorise the granting, determination or obtaining of easements, wayleaves and licences (including agreements for the seasonal use of agricultural land) over or in respect of land held for or required for the purposes of the County Council, including approval of the terms of the transaction. This power shall not be exercised, except in the case of land used or required for a public highway, without first taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Deputy Chief Executive and the Chief Operating Officer which will include provision to comply with corporate property requirements.  
(b) After taking appropriate professional advice, as set out in (a) above, to approve the terms of any transaction as described in (a) above.
2. After taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Deputy Chief Executive and the Chief Operating Officer which will include provision to comply with corporate property requirements:
  - (a) to authorise the sale or leasing of land to statutory undertakers for the purposes of their statutory functions;
  - (b) subject to financial provision existing and the net rent not exceeding £50,000 per annum, to authorise the taking of a lease, tenancy or licence of land or buildings and to authorise the determination of such a lease, tenancy or licence;
  - (c) to authorise the granting of a lease or tenancy of land and buildings and all associated documents (including a Commercial Transfer Agreement) in relation to the formation of new or expanded school/educational facilities (including but not exclusive to Academies, Trusts and Free Schools) and to authorise the determination of such a lease or tenancy or associated agreement;
  - (d) to authorise the granting of a lease, tenancy or licence of land or buildings for a period not exceeding 21 years and to authorise the determination of such a lease, tenancy or licence;
  - (e) to hire or hire out or authorise the use of buildings or facilities held or required for the purposes of the County Council; and
  - (f) to grant consent:
    - (i) to the underletting or assignment of any lease or tenancy of land under the control of the County Council;
    - (ii) under restrictive covenants the benefits of which are vested in the County Council.

- (iii) for the modification of a covenant, title restriction or encumbrance or an overage position.
- 3. Following consultation with the Lead Cabinet Member for Resources and Climate Change and the Cabinet Member responsible for the service concerned: (1) in cases of urgency to approve the acquisition of any interest in land required for the purposes of the Council; and (2) subject to Financial Regulations, to approve on behalf of the Council the price or other consideration for the acquisition of any interest in land, after taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Chief Executive and the Chief Operating Officer. (Refer to paragraph 4 below if acquisition cost is below £100,000).
- 4. After taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Chief Executive and the Chief Operating Officer and having consulted the Chief Operating Officer, to approve the terms of any land acquisition where the payment to the other party does not exceed £100,000 (in the case of a lump sum payment) or £50,000 per annum (in respect of an annual rental) (subject to financial provision existing), and to maintain a register of all such transactions which should be available for inspection by members. (Refer to paragraph 3 above if acquisition is above £100,000).
- 5. After taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the County Council which will include provision to comply with corporate property requirements:
  - (a) to authorise land to be declared surplus where the area of land does not exceed 0.2 hectare (0.494 acre);
  - (b) to approve dedications of land; and
  - (c) to authorise the acquisition of land for operational purposes up to an area of 0.2 hectare (0.494 acre) subject to there being provision within approved capital or revenue budgets.
- 6. After taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Chief Executive and the Chief Operating Officer to authorise the payment of appropriate disturbance costs and a sum equal to a home loss payment on the acquisition of properties purchased in advance of the confirmation of a compulsory purchase order.
- 7. After taking appropriate professional advice in accordance with guidelines which may from time to time be laid down by the Chief Executive and the Chief Operating Officer and after consulting the relevant Cabinet members (if the proposed terms are less than the market value) to approve the terms of lettings to charitable organisations.

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8. After consultation with the Chief Executive to authorise the service of counter notices to blight notices.
9. To seek planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.
10. To be responsible for the client functions covered by Service Level Agreements as set out below, these functions to be exercised in accordance with the Procurement and Contract Standing Orders and any other guidelines which may from time to time be laid down:

### Commissioning professional property services:

- preparing and agreeing tender lists for competitively procured professional services;
- preparation of tender documentation;
- tender evaluation;
- establishing and reviewing quality thresholds;
- resolving technical problems, disputes and queries;
- performance monitoring;
- processing applications for payment of professional services;
- review of systems of delivery.

### Service Department Client Functions

- preparation and holding of budgets for capital projects;
- commissioning client agent in accordance with corporate policy;
- preparation of client project design standards;
- agree final selection of consultants;
- approval of contract terms i.e. timescales/budgets;
- accept handover and organise occupation.

11. To take, and to give approval to take, all lawful steps to take, recover and retain possession of County Council land and property, to secure at all times that trespassers do not enter on to such land and to remove trespassers from such land; and to engage in any lawful activities in connection therewith.

**C. Human Resources**

Where appropriate the following delegations to the Chief Executive and Directors are qualified by the appropriate section(s) of the Personnel Scheme of Delegations and HR Policies and Procedures.

1. Within the approved financial estimates of the department concerned to set the staffing complement and to appoint employees to all posts other than those reserved for elected member appointment and to approve starting salaries.
2. In accordance with national and/or local agreements and/or policy and criteria approved by the County Council to set terms and conditions of employment of staff and, provided the estimates of the department or for the project concerned are not thereby exceeded, to accelerate the incremental position of any employee whose post is not reserved for elected member appointment, provided the maximum of the grade for the post is not exceeded.
3. Provided that the cost can be met from within the approved training estimates to:
  - (a) arrange and approve the training of employees in accordance with the County Council's post entry scheme of training, training policy and practice; and
  - (b) approve the attendance of officers at professional conferences.
4. In accordance with the policy of the County Council and, where appropriate, after taking medical advice:
  - (a) to extend an employee's period of sick leave on full pay or half pay for a maximum period not exceeding three months;
  - (b) to vary the requirement to return to duty for a minimum period of five months following maternity leave.
5. To allow an employee to return to work on a part-time basis on full pay for up to two months, provided medical advice is sought and it will contribute positively to the employee's eventual return to full duty.
6. In accordance with the policy of the County Council to authorise:
  - (a) special leave, paid and/or unpaid, to include special leave for trade union activities;
  - (b) extended maternity leave without pay;
  - (c) compassionate leave for up to two weeks;

- (d) officers on or above Spinal Column Point 23 on the Single Status Scheme to engage in other business or take up additional appointments;
- (e) an employee to use their private vehicle on official business;
- (f) approval of applications for loans to employees in accordance with the Employee Loans Policy;
- (g) applications to participate in the lease car scheme from officers travelling over 3,500 miles but less than 4,000 miles per annum on official business in cases where there is a range of similar posts carrying out similar duties and average business miles in the group of posts is 4,000 miles or more but mileage variations exist due to geographical or other factors;
- (h) in respect of participation in the lease car scheme, a higher threshold than 4,000 miles on official business per annum being applied in respect of his or her department if departmental circumstances make that necessary;
- (i) within guidelines developed by the Chief Executive, to reduce lease car user contributions by 25% or 50% within the general scheme as a recruitment and retention incentive for individual or groups of posts where labour wastage is detracting from operational efficiency on the basis that departments will meet any additional costs from within existing budgets;
- (j) to agree to the payment of a relocation allowance above the maximum figure in the relocation scheme in appropriate circumstances after consultation with the Chair of the Governance Committee and the Leaders of the other Groups.
- (k) extensions of the time limit for making claims under the Relocation Grant Scheme;
- (l) in circumstances in which the County Council could normally be expected to assume some responsibility, ex gratia payments to staff up to a maximum of £1000. Ex gratia payments above £1000 and not exceeding £10,000 may be authorised by the Chief Officer after consultation with the Chief Finance Officer and Deputy Chief Executive. (The degree of negligence on the part of the claimant will be taken into account in assessing the payment). Payments in excess of £10,000 to be authorised by the Lead Member for Resources and Climate Change;
- (m) honoraria payments for special merit up to £1000;

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- (n) honoraria payments to staff who temporarily undertake additional duties or responsibilities in accordance with the scheme for the time being in force;
- (o) planned overtime for staff on or above Spinal Column Point 23 on the Single Status Scheme;
- (p) the amount of sickness allowance to be discounted following an award to an employee by the Criminal Injuries Compensation Board;
- (q) in special cases, variations in the normal repayment provisions relating to:
  - (i) training expenses where the employee leaves within two years of completing a course of study;
  - (ii) relocation expenses where the employee leaves within the period stated in the scheme in consultation with the Chief Operating Officer;
- (r) the dismissal of unsatisfactory probationary employees;
- (s) in special cases, salary and/or service condition protection to employees redeployed for reasons other than redundancy or re-organisation.

7. To accredit trade union representatives and safety representatives appointed by the recognised trade unions in accordance with the agreement for 'Recognition of and Facilities for Union and Safety Representatives'.
8. To authorise increases to locally agreed departmental special payments and allowances to reflect movement in the relevant cost of living / wage award as appropriate.
9. To dismiss staff in accordance with the County Council's disciplinary and other procedures.
10. (a) To grade all posts below LMG Band 1 where the skill requirement is confined to that department.  
(b) In agreement with the Chief Executive to grade all other posts in this group.
11. In relation to in-house provider posts below general manager/consultancy manager level (i) to enable an in-house provider to fulfil a contract within the terms of the tender award; or (ii) as a result of the loss of, or variation in the terms of, a contract:

- (a) to increase the number of posts within an in-house provider, provided that where the variation is beyond that set out in the business plan the Chief Operating Officer is satisfied that the revised employment costs can be met from income and that, where appropriate, the statutory rate of return can still be achieved;
- (b) to reduce the number of posts within an in-house provider, by redundancy if necessary;
- (c) to set the pay and conditions of service on which staff in the in-house providers are employed and to vary those pay rates and conditions of service.

The employment policies adopted for the in-house providers shall be followed in achieving any reductions in the number of posts or in making any variations in the pay and conditions of service on which staff are employed.

### **D. General**

1. To sell, or dispose of, at the best price obtainable surplus vehicles, plant, stores and equipment, subject to competitive tenders being obtained wherever practical.
2. To approve plans of small buildings and other similar projects required for the purposes of the service concerned, except in the case of buildings or projects involving a major change in design policy or which are unique.
3. (a) To authorise officers of their department to act as inspectors for the purpose of, or otherwise to enter premises and to enforce the provisions of, any enactment which it is the duty of the County Council to enforce.  
(b) To authorise officers of their department to prosecute or defend or to appear on the County Council's behalf in proceedings before a Magistrates' Court, Family Proceedings Court or County Court.
4. Within any policy guidelines issued by the County Council, to provide services, supply goods or carry out works to others whether based in East Sussex or outside, subject to consultations with the Deputy Chief Executive and the Chief Operating Officer, as to compliance with any necessary legal and financial requirements.
5. To approve full applications by the County Council to funders in accordance with County Council's Corporate Funding Protocol.
6. To accept sponsorship deals involving the receipt by the County Council of sums between £10,000 and £100,000. NOTE: deals involving sums under £10,000 can be approved by the appropriate Deputy Director. Deals involving sums of over £100,000 require the approval of the Cabinet.
7. To charge for discretionary services on the basis that anyone who requires the discretionary service agrees to take it on those terms pursuant to section 93 of the Local Government Act 2003, subject to consultations with the Deputy Chief Executive and the Chief Operating Officer as to compliance with any necessary legal and financial requirements.
8. To exercise the general power of competence given to local authorities under section 1 of the Localism Act 2011.
9. To sign data sharing/processing agreements on behalf of the County Council.
10. Within their area of responsibility to make a discretionary grant to any organisation of up to and including £29,999 in any one financial year (in line with Procurement and Contract Standing Orders as set out in Part 4, (8) 1.10. Procurement Type Summary Tables) where there is no competitive process. In line with Procurement, discretionary grants over £29,999 should be subject to a competitive process as per the Corporate

Funding Protocol. For grants that are passported (i.e. grant is received by the Council and passed on to local organisations) without a competitive process normal Departmental Delegations apply.

**3. Delegations to Particular Officers**

**A. Chief Executive**

1. (a) To be the Returning Officer for County Council elections.
- (b) In circumstances considered special by the Chief Executive, to delegate to any senior officer (nominated in that behalf by the Chief Executive) the right to exercise the powers of the Chief Executive as Returning Officer for County Council elections.
- (c) To increase annually the fees and disbursements payable in respect of County Council elections by the same percentage as the pay award made by the NJC for Local Government Services.
2. To apply the Voluntary Severance Scheme, in consultation with the Chief Operating Officer, the Deputy Chief Executive and Assistant Director of Human Resources and Organisational Development or their representatives.
3. To appoint to Assistant Director posts where there is no competitive process involved.
4. To deal with issues relating to the fees paid to the County Medical Adviser.
5. In relation to members' allowances:
  - (a) after consultation with the Chief Operating Officer to implement revised rates for members' allowances, including payments for travelling and subsistence;
  - (b) after consultation with the Chair of the Governance Committee to approve additions to the list of outside bodies for which members may claim payment of travelling expenses,
- and to make changes to the Members' Allowances Scheme accordingly.
6. To make minor changes to Standing Orders, Delegations to the Chief Executive, Directors and other officers, the Terms of Reference of Committees, Sub-Committees and Panels and existing protocols, after consultation with the Group Leaders.
7. To set the allowance and expenses for Independent Persons.
8. To exercise any of the functions and powers delegated to any member of staff so far as the law allows.
9. In consultation with Group Leaders, to make temporary appointments to Assistant Director roles.

10. To agree, in consultation with the relevant Director as appropriate, individual compensation settlements and their terms, and to enter into agreements accordingly.

*Note:*

*(i) The Chief Executive, as the Head of the Paid Service, has certain statutory responsibilities under the Local Government and Housing Act 1989.*

*(ii) The Chief Executive or his/her nominee has been appointed to serve with the President of the East Sussex Valuation Tribunal on a two person panel to appoint Valuation Tribunal members.*

**B. Chief Operating Officer**

*Finance*

1. To implement decisions of National Negotiating Bodies affecting employees, except insofar as such decisions give discretionary powers to employing authorities.

*Corporate Property Functions*

2. To undertake corporate property reviews.
3. To develop policies, and set and monitor corporate standards to achieve the policies in relation to:
  - land acquisition;
  - new build and maintenance;and to ensure corporate mechanisms are in place to achieve this role.
4. To provide Health and Safety advice and guidance in respect of property matters.
5. To provide and maintain the County Council's terrier and other corporate property information.
6. To provide property advice to the County Council on corporate functions including the following client agent functions in relation to corporate property responsibilities:
  - property services input to property reviews and property audits;
  - asset valuations;
  - advice on the mix between temporary/permanent and freehold/leasehold accommodation;
  - property and land acquisition and disposal service.
7. To prepare and maintain approved lists of works consultants and contractors.

*Other Property Matters*

8. To declare surplus to County Council requirements and to authorise the disposal of small areas of surplus land where:
  - (a) no alternative form of development is considered possible; and
  - (b) the area of land is less than 0.2 hectares (0.494 acres).

9. To authorise the disposal of surplus land, buildings and chattels in accordance with the policy set by the Council.
10. To authorise the temporary occupation of a property (for a maximum period of 12 months) where a staff tenancy terminates for any reason other than retirement or death of the employee.
11. To approve the terms of any land disposal where the payment from the other party does not exceed £250,000 (in the case of a lump sum payment) or £50,000 per annum (in respect of an annual rental), and to maintain a register of all such transactions, to be available for inspection by members.
12. After consultation with the Lead Cabinet Member for Resources and Climate Change (subject to Financial Regulations) to approve on behalf of the Council the sale price or other consideration for the disposal of any interest in land, above the limit set in paragraph 11 above.
13. To seek planning permission under Regulation 4 of the Town and Country Planning General Regulations 1992.

### *Corporate Personnel and Training Function*

14. To authorise increases to locally agreed special payments and allowances which have a corporate application to reflect movement in the relevant cost of living index/wage award as appropriate.
15. To increase the ceiling on the Assisted Car Purchase Scheme annually in the light of increases in new car prices.
16. To adjust, on an annual basis, user contributions towards the leasing costs of lease cars.
17. To vary, in special cases, the approved level of assistance with training expenses.
18. To authorise payment of awards under the Local Government (Discretionary Payments) Regulations.
19. To apply the East Sussex County Council Employer discretionary provisions within the Local Government Pension Scheme (LGPS).
20. To agree with the employing Director the salary bands for management posts in LMG Bands 1-10 (below Director level).
21. To approve payments under the Market Supplement Policy, in consultation with the relevant Director, subject to the other options for addressing staff retention problems having been considered and the following criteria having been satisfied:

- (a) the market in which the County Council is competing being examined;
- (b) salary levels in that market for the required skills, qualifications and experience being clearly above the County Council pay levels; and
- (c) non-pay items which might provide a recruitment/retention incentive being thoroughly examined.

22. To accelerate the incremental position of any employee whose post is reserved for elected member appointment, with the exception of the Chief Executive and Chief Officers provided the maximum of the grade for the post is not exceeded.
23. To authorise the premature retirement of non-teaching staff except for those posts reserved for elected member appointment, in which cases premature retirement can be authorised after consultation with the members of the Governance Committee.
24. To extend the time period for aggregation of LGPS membership beyond 12 months in exceptional circumstances.
25. To agree, in consultation with the relevant Director as appropriate, individual compensation settlements and their terms, and to enter into agreements accordingly.
26. To maintain and operate the Corporate Confidential Reporting ("Whistleblowing") Policy.
27. To maintain and operate the 'Email Use Policy', including authority to make any necessary minor amendments or updating.

### *Other Matters*

28. To settle individual claims for compensation arising for reasons other than loss of or damage to an employee's property in those cases where the employee is unable to prove that there is any negligence on behalf of the County Council.
29. To exercise the County Council's powers as a member of the East Sussex Tourist Attractions Association (ESTAA).
  - (a) To exercise day to day management of the Ashdown Forest Trust; and
  - (b) to agree the accounts of, and grants by, the Ashdown Forest Trust after consultation with the Lead Cabinet Members for Resources and Climate Change and Transport and Environment, and the Director of Communities, Economy and Transport.

30. In consultation with the Deputy Chief Executive and Chief Financial Officer, to make the following incidental amendments from time to time to the Procurement and Contract Standing Orders:
  - a. changes to the thresholds set out in the applicable Procurement Legislation to reflect changes made by central government;
  - b. changes to job titles, departments and roles of staff;
  - c. Links or references to or contained within Appendix 1; and
  - d. Changes required to clarify, add or remove definitions.

*Note: The Chief Operating Officer's and the Chief Finance Officer's duties and responsibilities in relation to insurances are set out in the Financial Regulations.*

**C. Director of Communities, Economy and Transport**

1. To authorise, pursuant to the powers contained in the Highways Act 1980 (as amended):
  - (a) the erection and siting of buildings or structures (including but not limited to seats, signs, notice boards and bollards) or the carrying out of works (including but not limited to maintenance):
    - (i) within, over or under the highway and public rights of way;
    - (ii) in front of the prescribed building line;
    - (iii) of a private nature over or under the public highway, subject to securing appropriate bonding arrangements and commuted maintenance payments.
  - (b) interference with or obstruction to highways;
  - (c) the grant of permissions and licences;
  - (d) the grant of permissions and licences including but not limited to skips; trees/shrubs; scaffolding; builders' materials and hoardings.
2. After consultation with the Deputy Chief Executive to serve any notices and to exercise the powers of the County Council to authorise direct action or institute legal proceedings relating to:
  - (a) interference with or obstruction to or nuisance on any highway or land adjoining a highway; and
  - (b) a failure to comply with any prohibition or requirement of the Highways Act 1980, Part 3 of the New Roads and Street Works Act 1991, the Traffic Management Act 2004, National Parks and Access to the Countryside Act 1949, Wildlife and Countryside Act 1981, Dangerous Dogs Act 1989 or Builders' Skips (Markings) Regulations 1984.
3. (a) After consultation with the Deputy Chief Executive, appropriate District Council and local member (save in the case of temporary traffic restrictions), to make, give consent or object to the making of, apply or confirm any order under the provisions of:
  - the Highways Act 1980 (as amended);
  - the Wildlife and Countryside Act 1981;
  - the Road Traffic Regulation Act 1984 (as amended);
  - the Town and Country Planning Act 1990;
  - the Parking Act 1989;
  - the Rights of Way Act 1990;

the Traffic Management Act 2004;  
the New Roads and Street Works Act 1991;  
the Countryside and Rights of Way Act 2000; and  
The Cycle Tracks Act 1984.

- (b) To make provision for the regulation of traffic, pursuant to the County Council's statutory powers, where formal orders are not required.
- (c) To authorise the Deputy Chief Executive to make temporary traffic orders without recourse to the consultation procedure.
- 4. To approve, from time to time, a schedule of prospectively maintainable highways under the New Roads and Street Works Act 1991.
- 5. To authorise the entering into of agreements with developers under Sections 38 and 228 of the Highways Act 1980 and to exercise the powers of the County Council with respect to the formal adoption of private streets generally.
- 6. To authorise the entering into of any agreements under the Highways Act 1980 including (but not limited to) agreements under Sections 6 and 278 of that Act.
- 7. To authorise entry onto any land, including for the purpose of survey and to place or leave on or in that land any apparatus for use in connection with that survey.
- 8. To exercise the discretionary powers of the County Council under the Land Compensation Act 1973 (as amended) and the Noise Insulation Regulations.
- 9. After consultation with the Deputy Chief Executive to serve notices of exemption from the Advance Payments Code (Private Street Works) in appropriate cases where this would not prejudice the County Council.
- 10. To object, when appropriate on highway grounds, to applications to local licensing authorities for licences for goods vehicle operating centres.
- 11. To undertake the powers and duties of the County Council as Enforcement Authority under the Reservoirs Act 1975, including the service of formal notices and the authorisation of legal proceedings.
- 12. (a) In consultation with the Deputy Chief Executive, to grant permits under Section 115(E) of the Highways Act 1980 for the carrying out of trading and similar activities on footways and pedestrianised areas, in cases of unopposed applications.

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- (b) To deal with consultations by district councils exercising their own powers under Section 115(E) of the Highways Act 1980 and to give consent to the exercise of such powers.
- (c) To authorise payment terms and associated conditions where permits are issued under Section 115(E) of the Highways Act 1980 for trading and similar activities on footways and pedestrianised areas, in cases where the Highways Authority is the owner of the land.

13. After consultation with the Chief Operating Officer, to amend the fee for the service provided by the County Council in answering highway enquiries on the CON29 Enquiries of Local Authority Form, based upon current costs.
14. To determine the need for on-street parking bays for blue badge holders close to their residences, in terms of traffic problems.
15. To sign controlled waste transfer notes under the Environmental Protection Act 1990 and the Environmental Protection (Duty of Care) Regulations 1991 in respect of waste transferring between the County Council and another party.
16. After consultation with the Deputy Chief Executive, to determine claimed public rights of way pursuant to Section 53(5) of the Wildlife and Countryside Act 1981.
17. After public consultation, and consultation with the Deputy Chief Executive, and where no objections have been received, to authorise the withdrawal of Town and Village Green applications made under Section 15 of the Commons Act 2006.
18. After public consultation, and consultation with the Deputy Chief Executive, to join applications for the de-registration and replacement of Common Land made under Section 16 of the Commons Act 2006.
19. After consultation with the Deputy Chief Executive to exercise the powers of the County Council contained in the Countryside & Rights of Way Act 2000, including to authorise enforcement action and the removal of obstructions
20. Pursuant to powers contained in the Countryside & Rights of Way Act 2000, to exercise powers of entry, the appointment of wardens and agreements in relation to access.
21. To authorise, pursuant to the powers contained in the Marine & Coastal Access Act 2009, the establishment and maintenance of the England Coast Path, the erection and maintenance and removal of notices and signs and powers of entry.

22. Following recommendations from the Lane Rental Surplus Group and in accordance with The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012, to approve East Sussex Lane Rental Scheme projects with a value below £500,000.

### *Public Transport*

23. (i) To arrange such consultations as appear to him to be appropriate following the notification by an operator of an intention to change a local bus service.  
(ii) To take steps to provide for the provision at short notice of temporary gap filling journeys where an operator withdraws from a route.  
(iii) To award contracts, within established guidelines and policy, to the lowest tenderer.  
(iv) On behalf of the County Council, to enter into a 'de minimis' arrangement with an operator, subject to being satisfied that the particular arrangement is both appropriate and the most cost effective means of securing the provision of a journey.  
(v) To approve requests for fares increases on supported services which are broadly in line with the general level of inflation.

### *Development Control*

24. To determine all applications for planning permission which fall to be determined by the County Council where the proposal is considered to be in accordance with the development plan and current planning policies except where two or more objections on planning grounds have been received within the consultation period.
25. (a) To determine applications for planning permission amounting to minor variations to applications already granted.  
(b) To determine applications for non-material amendments to planning permissions made under the Town and Country Planning Act 1990.  
(c) To determine particulars submitted pursuant to conditions attached to planning permissions.
26. To determine any matter arising under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and associated legislation and any legislation which amends or replaces it.
27. (a) To determine whether an application for prior approval is required under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.  
(b) To determine, where there are less than two objections relating to matters that can be considered by the County Planning Authority

under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, applications for prior approval under the aforementioned legislation.

28. To determine applications for a periodic Review of Old Mineral Permissions made under Paragraph 4 of Schedule 14 of the Environment Act 1995.
29. To determine applications for certificates of appropriate alternative development under Section 232(3) of the Localism Act 2011, in respect of decisions which fall to be made by the County Planning Authority.
30. To determine applications for Certificates of Lawfulness of Existing or Proposed Use or Development under Sections 191 and 192 respectively of the Town and Country Planning Act 1990 (as amended).
31. To determine applications for Listed Building consent for alterations, extension or demolition of a Listed Building under the Planning (Listed Buildings and Conservation Areas) Act 1990, where the proposal is considered to be in accordance with the development plan and current planning policies, except where two or more objections have been received within the consultation period.
32. To assess whether a proposal which is a departure from the Development Plan requires referral to the Secretary of State and, when deemed necessary, make the referral.
33. To respond to consultations by District / Borough Planning Authorities on applications for development in areas which have been notified to them as mineral consultation areas or waste consultation areas.
34. To respond to the to any consultation undertaken by the Marine Management Organisation (MMO), including in respect of Marine Plans or any Marine Licence, unless the proposal raises issues of strategic importance.
35. To submit observations on behalf of the County Planning Authority and the Highway Authority in respect of proposals for development by District Councils.
36. To respond to the relevant District Planning Authority on behalf of the Highway Authority in respect of any statutory or other consultations in relation to proposals for development.
37. To submit observations on proposals for development by local authorities and government departments not involving formal consultation.
38. To give observations, if appropriate, on behalf of the County Council on applications to the Secretary of State for deemed planning permission under Section 90(1) of the Town and Country Planning Act 1990 for the erection of poles, pole mounted equipment and overhead electricity lines

below 33kv.

39. To give observations, if appropriate, on behalf of the County Council on proposals for minor diversions or temporary routes on power lines up to 400kv where no objection is being raised.
40. After consultation with the Deputy Chief Executive, to decide whether to take and/or to discontinue formal enforcement action or initiate any other legal proceedings in any case where they consider it appropriate to do so; any action taken to be reported to a subsequent meeting of the Planning Committee.
41. In consultation with appropriate Directors to authorise the County Council to participate in planning obligations under Section 106 Town and Country Planning Act 1990.
42. To consider requests for variations to agreements made under S106 of the Town and Country Planning Act 1990, in consultation with relevant Directors, the local Members and the Chair of Planning Committee where this materially affects the obligations of, or to the County Council, and to enter into such variation agreements as appropriate.
43. To exercise the powers delegated to the Council by another Planning Authority to provide the planning service for matters detailed in delegations 24 – 30 and 39 – 41 above for sites and proposals that are in accordance with arrangements agreed with the other Planning Authority.

### *Development Plans and Consultation*

44. To respond to consultations by other Planning Authorities on Draft Local Plans and any other Development Plan.
45. To consider, agree and sign Statements of Common Ground that are prepared in support of Development Plans by both the County Council and other planning authorities.
46. To respond to consultations by Town and Parish Councils and other Qualifying Bodies on Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders.
47. To respond on behalf of the Council as County Planning Authority, Highway Authority and/or Lead Local Flood Authority to consultations from government departments and other statutory and non-statutory organisations.
48. To make representations on Development Consent Orders at the Pre-application, Acceptance and Pre-Examination stages, and to further these representations and represent the County Council at the Examination stage.

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49. To agree briefs for joint County and District Local Plan studies.
50. To agree to publish the Waste and Minerals Monitoring Reports and Local Aggregate Assessments.
51. To publish amendments to the Council's Local Development Scheme.

### *Other Matters*

52. To make new Tree Preservation Orders and modify existing Orders.
53. To determine applications for consent to fell, top or lop trees included in a Tree Preservation Order (where this is the responsibility of the County Planning Authority).
54. To submit observations when consulted on applications for felling licences.
55. To authorise the planting of trees, subject to funds being available within the agreed budget.
56. To authorise the service of Notices under Section 207 of the Town and Country Planning Act 1990, requiring the replacement of trees.
57. To exercise the County Council's powers and duties under orders and regulations made under the Plant Health Act 1967 (includes Dutch Elm Disease).
58. After undertaking appropriate consultations, to decline the offer of an access agreement between the County Council and the landowner in respect of woods which clearly have insignificant recreational value.
59. To make arrangements for the transport of pupils and students to school or college where there is a statutory duty or it is the policy of the County Council to provide such transport.
60. To discharge any function relating to the control of pollution or the management of air quality.
61. (a) To discharge the powers, duties and responsibilities of the County Council under the legislation in respect of trading standards and animal welfare, which shall include but not be limited to the legislation listed in 55 below ('the Trading Standards and Animal Welfare Legislation').  
(b) To appoint and designate officers in Trading Standards as authorised officers in respect of the Trading Standards and Animal Welfare Legislation. The Team Manager –Trading Standards is designated the Chief Inspector of Weights and Measures.  
(c) To grant, amend, refuse, suspend and transfer licenses or certificates, and to register persons or premises, pursuant to the Trading Standards and Animal Welfare Legislation.

(d) To authorise the institution of proceedings brought under the Trading Standards and Animal Welfare Legislation.

62. The legislation set out below includes also any enabling enactment, statutory instrument, order in council, byelaw or other order, and any enactment repealing, amending or extending the provisions thereof.

Accommodation Agencies Act 1953  
Administration of Justice Act 1970 – Section 40  
Administration of Justice Act 1985

Agriculture Act 1970  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Cancer Act 1939  
Children & Young Persons (Protection from Tobacco) Act 1991  
Children & Young Persons Act 1933  
Clean Air Act 1993  
Companies Acts 1985/2006  
Consumer Credit Act 1974  
Consumer Protection Act 1987  
Copyright, Designs and Patents Act 1988  
Courts and Legal Services Act 1990  
Criminal Damage Act 1971  
Criminal Justice Act 1988  
Customs & Excise Management Act 1979  
Education Reform Act 1988  
Energy Act 1976  
Enterprise Act 2002  
Environmental Protection Act 1990  
Estate Agents Act 1979  
Explosives Act 1875  
Fair Trading Act 1973  
Fireworks Act 2003  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Forgery & Counterfeiting Act 1981  
Fraud Act 2006  
Hallmarking Act 1973  
Health & Safety at Work etc Act 1974  
Housing Act 2004  
Knives Act 1997  
Legal Services Act 2007 (S198)  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976 (S16)  
Malicious Communications Act 1988  
Medicines Act 1968  
Merchant Shipping Act 1995

Motor Cycle Noise Act 1987  
Motor Vehicles (Safety Equipment for Children) Act 1991  
Olympic Symbol etc (Protection) Act 1995  
Performing Animals (Regulation) Act 1925  
Poisons Act 1972  
Prices Act 1974  
Protection of Animals Act 1911  
Psychoactive Substances Act 2016  
Public Health Act 1961  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Act 1988 and 1991  
Road Traffic Regulation Act 1984  
Telecommunications Act 1984  
Theft Acts 1968 and 1978  
Tobacco Advertising and Promotion Act 2002  
Trade Descriptions Act 1968  
Trade Marks Act 1994  
Unsolicited Goods & Services Act 1971 (as amended)  
Video Recordings Act 1984  
Weights & Measures Act 1985

63. To authorise officers of the East Sussex Fire and Rescue Service or another Local Authority to act as licensing officer and petroleum inspectors, under sections 18 and 19 of the Health and Safety At Work (etc) Act 1974 and the Petroleum (Consolidation) Regulations 2014, on behalf of the County Council.
64. In liaison with Action in Rural Sussex and the Chief Operating Officer to agree arrangements for the consideration of applications for assistance to Village Halls and to determine applications, subject to keeping the Lead Cabinet Member, opposition Group Spokespersons and the local member informed.
65. To determine applications for ordinary watercourse consent, under the Land Drainage Act 1991 as amended.
66. After consultation with the Deputy Chief Executive, to decide whether to take formal enforcement action or initiate legal action under the Land Drainage Act 1991 or the Flood and Water Management Act 2010 in any cases it is deemed appropriate to do so.
67. To respond to the relevant planning authorities on behalf of the County Council as Lead Local Flood Authority in respect of any statutory or other consultation in relation to the drainage and local flood risk aspects of proposals in applications for planning permission (including Notifications for Prior Approvals) and Development Plans.

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68. To designate features which affect flood risk and to determine applications to alter or remove designated features under the Flood and Water Management Act 2010.
69. Under the Safety of Sports Grounds Act 1975 (as amended):
  - (a) after consultation with the East Sussex Fire Authority, to carry out inspections and issue Safety Certificates subject to any matters of particular relevance being reported to the Regulatory Committee.
  - (b) to issue, serve and enforce prohibition notices.
70. Under the Fire Safety and Safety of Places of Sport Act 1987:
  - (a) after consultation with the East Sussex Fire Authority, to undertake the County Council's powers and duties: (i) in respect of inspections, determinations and the issue, amendment and cancellation of certificates under Part III of the Fire Safety and Safety of Places of Sport Act 1987; and (ii) to enforce and institute proceedings under this legislation.
  - (b) to charge applicants for certificates up to the statutory maximum.
71. In relation to libraries:
  - (a) to fix the opening and closing hours; and
  - (b) to set the fees and charges made by the Business Information Services.
72. To take the lead role in Arts related work, including determining applications for grant aid for support for the Arts where the sum applied for is £2,000 or less.
73. To amend the Commons Register following an application under Section 15(8) of the Commons Act 2006.
74. To undertake and be responsible for the day to day management and operation of the Lewes Public Library and Museum Charitable Trust.
75. To set charges for transport conditional permits within guidelines set by the Cabinet.
76. (a) To publish a consultation draft of a Local Nature Recovery Strategy and undertake all tasks under Regulations 4 to 12 (inclusive) of the Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023 in preparing and publishing a draft LNRS.  
(b) To make representations on Local Nature Recovery Strategies prepared by neighbouring authorities.

### *Registration Matters*

77. (a) To exercise the powers of the County Council under the Marriage Act 1994 and the Marriages & Civil Partnerships (Approved

Premises) Regulations 2005, save where a review has been sought which falls to be determined by the Approved Marriage Premises Review Panel.

- (b) To convene a Panel of three Members, drawn from the membership of the Regulatory Committee, to review decisions made by the Proper Officer for Registration under the Marriage and Civil Partnerships (Approved Premises) Regulations 2005.

### *Economy*

- 78. To act as the Accountable Body representative on all matters in respect of which the Council has agreed to act or has been appointed as Accountable Body in respect of Local Enterprise Partnership functions.
- 79. Where the Council is acting as the Local Enterprise Partnership Accountable Body:
  - (a) To agree the issuing of any new funding calls;
  - (b) In consultation with the s.151 officer, to assess bids in response to a funding call and to agree the prioritisation / allocation of loans or grants to bidding organisations;
  - (c) To collect monitoring and evaluation information from the recipients of loans or grants, in accordance with the terms of the relevant funding agreement;
  - (d) Subject to government approval where required, to agree the following variations to the terms and conditions of funding agreements:
    - (i) the completion date of the project;
    - (ii) in consultation with the s.151 officer, amendments to the length and/or conditions of a funding agreement.
  - (e) To approve the submission to Government of Project Change Requests relating to grants and/or loans.

**D. Director of Children's Services**

1. (i) To be the Council's Director of Children's Services pursuant to Section 18 of the Children Act 2004.
- (ii) To discharge the education, children's social services and other functions conferred by Section 18(2) of the Children Act 2004 and any additional functions for which the Director of Children's Services may subsequently become the statutory officer.
- (iii) Without prejudice to the general nature of the functions delegated at paragraphs 1(i) and (ii) above, to exercise the specific function set out below.

*Schools*

2. In consultation with a Standing Panel of teacher representatives, to fix school terms and holidays.
3. To carry out consultations on proposed annual admission limits for all schools for which the Council is the admissions authority and to report thereon to the Cabinet or Lead Cabinet member and to allocate to pupils the school at which education is to be provided in accordance with the County Council's school admissions policies and related criteria and to represent the County Council at school admission appeals.
4. In accordance with the County Council's special education policies and related criteria, to refuse or make arrangements for the assessment and re-assessment of the special educational needs of children and, where appropriate, to make education, health and care plans ("EHC Plans") setting out the special educational needs of children and to arrange for the special educational provision specified in those EHC Plans, including the undertaking of annual reviews of such EHC Plans and related provision, the ceasing of EHC Plans and representing the County Council at tribunals.
5. To require a child under section 19 of the Education Act 1996 to attend alternative provision otherwise than at the school they are registered at, make school attendance orders and, where appropriate, in consultation with the Deputy Chief Executive, to exercise the powers of the County Council to institute proceedings if a child of compulsory school age is not receiving efficient full time education suitable to his/her age, ability and aptitude and to apply to the Court for education supervision orders.
6. To respond to resolutions passed at annual meetings of parents/governors.
7. In conjunction with the Deputy Chief Executive to make Orders, or to amend existing Orders, to provide for Instruments of Government for all

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maintained schools in accordance with the provisions of the Schools Standards and Framework Act 1998.

8. To exercise the Council's powers in respect of pupils excluded from schools.
9. In consultation with the Lead Member for Education and Inclusion, Special Educational Needs and Disability, to exercise all the executive powers and duties of the County Council:
  - (a) To authorise all actions (except for the approval of pension arrangements) considered necessary in connection with school proposals to change category to Foundation (or Trust) or to form an Academy; and
  - (b) To engage with any potential Free School proposers and respond to any consultations proposing the establishment of a Free School; subject to consulting with the Chief Operating Officer in respect of land disposals.
10. To agree the terms of, and entering into, agreements for the joint use of school facilities.

### *Assistance to Pupils/Students*

11. To determine applications for boarding and tuition allowances for pupils and applications for awards and grants to students, including the power to determine where an applicant's circumstances are such that an exception to the normal policy of the County Council ought to be made.

### *Finance and Personnel Functions*

12. To determine annually individual budget shares for schools in accordance with decisions of the County Council, statutory requirements and the approved scheme for the financing of maintained schools.
13. (i) After consultation with the Lead Cabinet Member for Education and Inclusion, Special Educational Needs and Disability, to exercise all the powers and duties of the County Council under Part 4 of the Education and Inspections Act 2006, including Section 60 (Warning Notices); Section 63 (requiring governing body to enter into arrangements); Section 64 (appointment of additional governors); Section 65 (appointment of governing body consisting of interim executive members) and Section 66 (suspension of delegated budget). Action taken Sections 63, 64, 65 and 66 to be reported to following meeting of the Cabinet.  
(ii) In respect of a school which is judged following an OFSTED inspection to be in need of special measures, or requiring significant improvement, to prepare on behalf of the County Council a commentary on the governing body's action plan and to submit to

the Secretary of State a statement of the action proposed by the County Council in support of the action plan and to take all intervention and other consequential action. Where the school's delegated budget is suspended following intervention under 13 (i) or (ii), the Director of Children's Services shall exercise the County Council's powers in relation to all staffing matters.

14. In relation to schools with delegated budgets, to exercise the County Council's residual powers and duties in relation to staffing matters.
15. To approve the premature retirement of teaching staff in accordance with the County Council's policy on the premature retirement scheme for teachers.

### *Buildings/Premises*

16. Except in the case of buildings or projects involving a major change in design policy, to approve on behalf of the Cabinet plans prepared by or on behalf of the County Council for capital projects which have been agreed departmentally and, in the case of existing educational establishments, with the head or principal and governors concerned.
17. To authorise the exercise of the County Council's statutory duty to transfer sites to the trustees of voluntary schools.
18. To authorise the payment of such sums as may be approved by the Department for Education and Skills in respect of the County Council's contribution to aided school projects, subject to the Chief Operating Officer being satisfied that sufficient provision has been made for the expenditure in the revenue or capital budget and that, where required, borrowing authorisation will be available.
19. To authorise members of staff at educational establishments to exercise the powers of removal conferred by Section 547 of the Education Act 1996 (the Deputy Chief Executive is separately authorised to institute proceedings for alleged offences).

### *Miscellaneous*

20. To agree the mileage rates to be paid to parents who make arrangements to transport their children between home and school.
21. To nominate and remove governors to those places allocated to the Local Authority for school governing boards constituted under the School Governance (Constitution) England Regulations 2012 or the School Governance (Federations) England Regulations 2012, as appropriate.

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22. To consider and make decisions relating to the recruitment of governors; the payment of expenses to governors; the training of governors; and any other matters that may be referred to the Director by the Cabinet or the Governance Committee.
23. To approve adjustments to the specification for the cleaning of County Council buildings and the provision of catering services and grounds maintenance services subject, in the case of buildings and catering services and grounds maintenance services not the responsibility of the Children's Services Department to prior consultation with the appropriate Director.
24. To set price increases for school meals under the school meals contract at a rate not to exceed the rate of inflation for food and labour costs, in consultation with the contractor, the prices to be reviewed twice yearly with increases taking effect immediately after the February half term and at the start of the Autumn term.
25. To exercise powers and duties of the County Council in its capacity as trustee of the charity known as the East Sussex Music Trust in compliance with the terms of the Trust Deed and Charities Acts.
26. To make grants to county-wide voluntary organisations for community education and educational development purposes.
27. To authorise expenditure or donations of up to £5,000 by a charity for which the County Council is trustee, and whose purposes relate, among others things, to the advancement of education, subject to consultation with the Chief Executive.

### *Services for Children and Young People*

28. To exercise all the powers and duties of the County Council in accordance with general policies from time to time laid down by the Cabinet for the administration of any arrangements made under the Children Act 1989, the Children Act 2004, or other relevant legislation with respect to services for children and young people. This power includes specifically:
  - (a) approving expenditure in respect of any one family in any period of 12 months of up to £10,000 under Section 17 of the 1989 Act and £5,000 under Section 24 of the 1989 Act (both sums to be uprated annually by the Chief Operating Officer to take account of inflation);
  - (b) giving and refusing consents and imposing and cancelling requirements and prohibitions in respect of the private fostering of children, removing a child under the Adoption and Children Act 2002, and making exemptions to the usual fostering limits under the Children Act 1989;

- (c) authorising in exceptional cases variations from the scale of charges and allowances approved by the Cabinet from time to time for a particular service provided for children and young people;
- (d) in respect of children in care, consenting or withholding consent to applications for residence orders where it is in the best interests of the child concerned; and
- (e) exercising the powers and duties of the Council in respect of children and young people in their care or being looked after by them, including the power to place children and young persons in accommodation to meet their special needs and to appoint independent persons as visitors.

29. To undertake all the powers and duties of the County Council as an adoption agency having regard to the recommendations of the Adoption Panel and to approve the charge for home-study assessments for inter-country adoptions in accordance with the policy agreed by the Cabinet.

30. To undertake statutory visits to children's homes.

31. To make permanent or temporary variations in the approved number of places at any Children's Services establishment.

32. To enforce, make applications and representations to a Court or Magistrate and authorise, institute and defend proceedings under any enactment which stand referred to the Cabinet, in consultation with the Deputy Chief Executive.

33. To agree to the payment of up to 75% of the travelling expenses of employees to and from work at residential and day care establishments where recruitment is difficult.

34. To purchase groceries, meat and other domestic provisions locally for residential and day care establishments under the control of the Cabinet: (a) if satisfactory tenders are unlikely to be obtained; and (b) where client training is involved.

35. To authorise expenditure in relation to children up to a net contribution by the County Council of £20,000 in any one case on alterations/adaptations to premises under section 2, Chronically Sick and Disabled Persons Act 1970.

36. To exercise all the powers of the Cabinet, in such matters as the Director considers urgent, following consultation with the relevant Cabinet member relating to:

- (a) the approval of applications under the Chronically Sick and Disabled Persons Act 1970 involving a net cost to the County

Council of more than £20,000 in so far as they relate to children (see Delegation 35); and

- (b) applications for expenditure under sections 17 and 24 of the Children Act 1989 in excess of the sums set in delegation 28(a).
- 37. To make ex gratia payments of up to £1,000 where justified under the Children's Services Department's complaints procedure.
- 38. To provide individuals or families with family placements and residential and day care accommodation within any agreed policy of the Council.
- 39. To appoint the members of the Adoption panels in accordance with the Adoption Agencies Regulations 2005.
- 40. To appoint the members (except for the appointment of any members who are County Councillors) of the Fostering Panel in accordance with the Fostering Services (England) Regulations 2011.
- 41. To appoint representatives of the Local Safeguarding Children Board in accordance with the Local Safeguarding Children Boards Regulations 2006.
- 42. To grant licences and to approve bodies of persons to enable children to take part in public performances under Section 37 of the Children and Young Persons Act 1963.

**E. Director of Adult Social Care and Health**

1. To exercise all the powers and duties of the County Council in accordance with general policies from time to time laid down by the Cabinet for the administration of any arrangements made under relevant legislation with respect to services for adults including people with disabilities. This power includes specifically:
  - (a) arrangements made under the Care Act 2014, Section 29, National Assistance Act 1948 and Section 2, Chronically Sick and Disabled Persons Act 1970 and the Health and Social Care Act 2001 (expenditure authorised up to a net contribution by the County Council of £50,000 in any one case on alterations/ adaptations to premises);
  - (b) waiving assessed contributions for adaptations to premises/ provision of equipment in exceptional circumstances;
  - (c) authorising the Assistant Director Operations to be appointed as the Council's nominee for obtaining Grants of Probate and dealing with related matters and to seek appointment as Deputy in appropriate cases;
  - (d) under the Mental Health Act 1983 as amended, and the Mental Capacity Act 2005 appointing approved social workers/authorised mental health professionals, Best Interest Assessors and Independent Mental Capacity Advocates, accepting guardianship applications and making orders for the discharge of patients subject to guardianship, acting as the Supervisory Body in relation to the Deprivation of Liberty safeguards and undertaking functions in relation to those safeguards under the Mental Capacity Act 2005;
  - (e) under the Care Act 2014 and National Health Service and Community Care Act 1990, (i) increasing the limits paid for residential care in line with published DSS rates and, when they are no longer published, in consultation with the Chief Finance Officer to take account of inflation; (ii) approving, in special circumstances, packages of home support costing more than net residential care costs; and (iii) making payments to providers of individual care quarterly in advance where the provider will not accept any other terms.
  - (f) disregarding the value of a former dwelling in assessing the client's contribution towards the cost of residential accommodation where it is considered reasonable to do so in consultation with the Chief Executive and the Chief Finance Officer (and where appropriate the relevant Cabinet member); and

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- (g) under Sections 34 – 36 of the Care Act 2014, taking charges against interests in property in consultation with the Deputy Chief Executive and (ii) entering into deferred payments arrangements.
- 2. To make permanent or temporary variations in the approved number of places at any Adult Social Care establishment.
- 3. To purchase groceries, meat and other domestic provisions locally for residential and day care establishments under the control of the Cabinet: (a) if satisfactory tenders are unlikely to be obtained; and (b) where client training is involved.
- 4. To exercise all the powers of the Cabinet, in such matters as the Director considers urgent, following consultation with the relevant Cabinet member relating to the approval of applications under Section 18 of the Care Act 2014 and the Chronically Sick and Disabled Persons Act 1970 involving a net cost to the County Council of more than £20,000 (see delegation E1(a) so far as these do not relate to children).
- 5. To exercise all of the County Council's powers in relation to the misuse of Blue Badges including (but not limited to) the powers under section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended and in relation to offences under Section 117 of the Road Traffic Regulation Act 1984, the Fraud Act 2006 and the Theft Act 1968.
- 6. To approve the terms of, and enter into, Nominations Agreements and any Nomination Protocols in respect of Extra Care and Learning Disability Housing Schemes. The Leader of the Council and Lead Member for Adult Social Care and Health to be notified of any agreements entered into.

**F Deputy Chief Executive**

1. (a) To perform the role of Solicitor to the Council and, as such, to be its chief legal adviser.
- (b) To institute, defend and carry on legal proceedings to protect the County Council's interest or to implement a decision made by it or on its behalf or for the recovery of any debt or sum due to it and to negotiate and settle claims.
- (c) To exercise the County Council's powers to institute proceedings:
  - (i) for alleged contravention of bylaws made by it;
  - (ii) under the Wildlife and Countryside Act 1981, Part 1;
  - (iii) under the Education Act 1996, section 547;
- (d) To institute or defend criminal proceedings on behalf of the County Council.
- (e) (i) To exercise the powers, and to institute proceedings, under the Criminal Justice and Public Order Act 1994, Sections 77 to 79.  
(ii) In consultation with the relevant Chief Officer, to authorise legal proceedings for the recovery of land.

2. To sign, present or sue on petitions in bankruptcy and applications for winding up, to make affidavits, proofs of debts and proxies and to take all necessary action under the Insolvency Act 1986 on behalf of the County Council as shall appear to him to be expedient and in the interests of the Council.

*Note:*

*It is a condition of this delegation that the relevant member of the Cabinet shall be consulted where residents in homes are involved.*

3. To appoint authorised officers (for surveillance purposes) and designated person and single points of contact (for the purposes of communications data) under the Regulation of Investigatory Powers Act 2000.
4. To grant dispensations relieving a member from either or both of the restrictions (participating in discussions and in voting)
5. To appoint Independent Persons for the Standards Committee and to determine the rules and procedures for investigations and hearings by the full Standards Committee or any sub-committee of the Standards Committee.

6. To determine requests by officers and members for assistance under the indemnity with respect to civil liability, except in the case of requests for assistance by members in respect of breaches of the Members' Code of Conduct, where the Chief Executive shall determine such requests.
7. To require information as to interests in land under a power conferred upon the County Council by any Act.
8. To exercise the Council's powers and duties under:
  - (a) the Charities Acts ;
  - (b) the Local Government (Access to Information) Act 1985 to set charges for copy documents and other matters;
  - (c) section 3 of the Local Government and Housing Act 1989 (politically restricted posts).
9. (a) After undertaking consultations, as appropriate, or, in the case of appointments under the Local Government and Housing Act 1989 on receipt of nominations, to appoint members, and fill vacancies.  
(b) In consultation with the Leader of the Council, to approve the appointment of delegates to attend conferences at which the County Council is invited to be represented and at meetings of bodies of which the County Council is a member and to appoint substitutes.
10. To appoint a person(s) to consider representations made by objectors who request a hearing under Section 6(1) of the Commons Registration (East Sussex) Act 1994 and to report to the Cabinet regarding those representations.
11. In relation to school admission appeal panels:
  - (i) to appoint a panel of persons from whom Appeal Panels can be drawn, to comprise: (a) those persons who either have experience in education or are familiar with local educational circumstances or are parents of children currently at a school and whose names he has approved; and (b) those persons who have responded to statutory advertisements for lay members, or who otherwise meet the statutory criteria to serve as lay members, and whose names he has approved;
  - (ii) to constitute from time to time Appeal Panels by the selection of three panel members, subject to statutory requirements;
  - (iii) to appoint panel members as Chairs of Appeal Panels;

- (iv) to approve a list of persons for appointment to Appeal Panels established by governors of voluntary aided schools.
- 12. To make arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (appeals by governing bodies in relation to admitting excluded pupils).
- 13. In relation to Independent Review Panels for school exclusions:
  - (i) to appoint a panel of persons from whom Independent Review Panels can be drawn, to be comprised of one from each of the following three groups: (a) lay panel members, defined as those who have not worked in a school in a paid capacity, although they may have been a school governor or worked as a volunteer; (b) those members who must be, or have been, a governor of a maintained school provided they have served in this capacity for at least 12 months in the last 5 years (but must not be or have been a teacher or headteacher); and (c) those members who are, or have been in the last five years a headteacher of a maintained school. In the event of an exclusion from a Pupil Referral Unit (PRU), the member can either be a headteacher from a maintained school or a teacher in charge of a PRU;
  - (ii) to constitute from time to time Independent Review Panels by the selection of one panel member from each of the three categories above;
  - (iii) to meet statutory requirements, to appoint only lay members as Chairs of Independent Review Panels;
  - (iv) to approve a list of persons for appointment to Independent Review Panels established by governors of voluntary aided schools.
- 14. To enter into model agreements, as amended, under the New Roads and Street Works Act 1991 or any re-enactment thereof.
- 15. In consultation with the Director of Communities, Economy and Transport and the Chief Operating Officer to agree, on behalf of the County Council, to acquire land pursuant to the service on the County Council under Section 150 of the Town and Country Planning Act 1990 of a valid blight notice in respect of land which is blighted under any of paragraphs 13-18 of Schedule 13 to that Act provided he is satisfied that no grounds exist for service of a counter-notice under Section 151 of the 1990 Act.
- 16. To designate the Statutory Scrutiny Officer for the County Council.
- 17. To discharge the County Council's responsibilities for the Coroner Service and for the provision of support for the administration of the Coroner's

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Office, including the appointment of the Senior Coroner, Area Coroners and Assistant Coroners.

18. To agree, in consultation with the relevant Director as appropriate, individual compensation settlements and their terms, and to enter into agreements accordingly.

*Note:*

- (i) *The Deputy Chief Executive has been designated as the Monitoring Officer under the Local Government and Housing Act 1989.*
- (ii) *The Deputy Chief Executive has been authorised to make decisions at Stage 2 of the internal dispute resolution procedure under the Local Government Pension Scheme Regulations 2013 (Note: the Pension Compliance Manager has been authorised to deal with Stage 1 disputes).*

**G. Chief Finance Officer**

1. To make arrangements for the borrowing of such money as the County Council has decided shall be borrowed in accordance with such policy as may be laid down from time to time by the Council and subject to the receipt of the necessary Government approvals.
2. In accordance with the provisions of the Local Government and Housing Act 1989:
  - (a) to issue bonds and to deal with allied detailed matters as reported to the Cabinet;
  - (b) to issue bills in accordance with conditions reported to the Cabinet.

*Note: Delegation 2 above is granted subject to the Chief Operating Officer's reporting at regular intervals to the Cabinet on action taken.*

3. After consultation with the relevant Cabinet members (subject to the provisions of Financial Regulations) to:
  - (a) authorise transfers between budget headings;
  - (b) vary the capital programme;
  - (c) deal with urgent budgetary matters;
  - (d) deal with urgent matters relating to borrowing, investments and excusal of debts; and
  - (e) vary the interest rate chargeable for staff housing advances.
4. After consultation with the Director of Adult Social Care and Health, to set future inter authority and standard charges for residential and day care accommodation, in accordance with the formula recommended by the Local Government Association.
5. To approve fees and charges for 2019/20 onwards and to report to Cabinet and the County Council on those set at a level above inflation as part of the quarterly monitoring
6. To determine whether additional income, e.g. one-off grants, should be held corporately or passed to the relevant department within the Medium Term Financial Plan (See A.5.1.3)
7. To determine the resources available for the Capital Programme, taking into consideration the availability of reserves and balances, funding from other bodies and the affordability of borrowing. (see A.5.3.6)
8. To agree variations within 10% of a capital scheme's current budget where funding has been identified as outlined in A.5.3.8 (see A.5.3.9)

9. To determine annually the capital risk provision and to approve use of the provision for individual project, in consultation with the Capital Strategic Asset Board. (see A.5.3.10)
10. To approve and submit returns to government relating to the Council's role as accountable body for local enterprise partnership functions.

*Note: The Chief Finance Officer has been designated as the Officer with responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.*

### **Responsibilities in relation to the East Sussex Pension Fund**

11. To carry out the statutory duties referred to in Section 151 of the Local Government Act 1972 in relation to the Pension Fund and to provide advice to the County Council, Pension Committee and Pension Board in carrying out their responsibilities.
12. To implement strategies and policies approved by the Administering Authority (including those delegated to the Pension Committee).
13. To manage, in accordance with the policies and strategies approved by the Administering Authority (including the Pension Committee), and in accordance with legislative requirements, the East Sussex Pension Fund including ensuring arrangement for investment of assets and administration of contributions and benefits.
14. To implement policies decided by the Administering Authority (including the Pension Committee).
15. To take action or decide any other Pension Fund related matter on behalf of the Administering Authority in special or emergency situations, in consultation with the Chair of the Pension Committee, including but not limited to where delay in the purchase or sale of investments might be detrimental to the interests of the East Sussex Pension Fund.
16. To approve the terms of an admission or cessation agreement and, where appropriate, any related bond or indemnity, with a body wishing to participate in or leave the East Sussex Pension Scheme/Fund.
17. To undertake any necessary actions relating to employers joining and leaving the fund, or monitoring of such employers, based on decisions made by the Pension Committee.
18. To agree Administering Authority responses to consultations on LGPS matters and other matters where they have minimal impact on the Fund or its stakeholders including relating to minor technical operational matters impacting the Administering Authority only.

19. To implement the Fund's agreed strategic allocation including use of both rebalancing and conditional ranges in accordance with the Investment Strategy.
20. To make decisions to invest up to 5% of the Fund assets outside of the defined Investment Strategy Statement, Implementation plan or rebalancing range to react to market risks or opportunities.
21. To approve payments under the Market Supplement Policy, subject to the other options for addressing staff retention problems having been considered and the following criteria having been satisfied:
  - (a) the market in which the County Council is competing being examined;
  - (b) salary levels in that market for the required skills, qualifications and experience being clearly above the County Council pay levels; and
  - (c) non-pay items which might provide a recruitment/retention incentive being thoroughly examined.
22. Within the approved budget to set the staffing complement and to appoint employees to all posts other than those reserved for elected member appointment and to approve starting salaries.
23. Provided that the cost can be met from within the approved training budgets
  - (a) to arrange and approve the training of employees in accordance with the Pension Funds training policy; and
  - (b) to approve the attendance of officers at professional conferences.
24. In accordance with the policy of the County Council to authorise:
  - (a) honoraria payments for special merit up to £1000;
  - (b) honoraria payments to staff who temporarily undertake additional duties or responsibilities in accordance with the scheme for the time being in force;
  - (c) planned overtime for staff on or above Spinal Column Point 23 on the Single Status Scheme;
  - (d) in special cases, variations in the normal repayment provisions relating to:
    - (i) training expenses where the employee leaves within two years of completing a course of study;
    - (ii) relocation expenses where the employee leaves within the

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period stated in the scheme in consultation with the Chief Operating Officer;

25. To provide information to the media, members of the public and the community.

**H. Director of Public Health**

1. To exercise all the powers and duties of the Director of Public Health as stated in the Health and Social Care Act 2012.
2. To be responsible for all of the County Council's duties to take steps to improve public health.
3. To be responsible for the preparation of an Annual Report on the health of the local population.
4. To action any of the Secretary of State's public health protection or health improvement functions as delegated, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the National Health Service 2006 Act, inserted by section 18 of the 2012 Act.
5. To exercise the County Council's functions in planning for, and responding to, emergencies that present a risk to public health.
6. To be responsible for the County Council public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act)
7. To exercise the Council's dental public health functions, with a view to improving oral health pursuant to the NHS Bodies and Local Authorities
8. If the local authority provides or commissions a maternity or child health clinic, then to have responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food (Amendment) Regulations 2005).
9. To be a member of the Health and Wellbeing Board
10. To exercise such other public health functions as the Secretary of State may prescribe.

**I. Head of Children's Safeguards and Quality Assurance / Head of LAC Services (Provider Services)**

1. To exercise the powers, functions and duties of the County Council as an Adoption Agency, which includes acting as Agency Decision Maker.

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## List of Proper Officers

### Designated by the County Council

#### Local Government Act 1972

Section	Subject	Proper Officer
83	Accepting declarations of acceptance of office	Deputy Chief Executive
84	Receiving resignations from office	Chief Executive
88(2)	Convening Council meeting for election to vacant office of Chairman	Chief Executive
89(1)	Receiving notice of casual vacancy in office of councillor	Chief Executive
100B(2)	<p>To decide which reports are likely to be considered when a meeting is not open to the public.</p> <p>(Note: This delegation in no way restricts the right of Committees or Sub-Committees to decide which reports will be considered in the absence of the press and public)</p>	<p>(a) Deputy Chief Executive in consultation with the Director responsible for preparation of report (or first signatory if more than one Director); or</p> <p>(b) where the Deputy Chief Executive is not in attendance, Director responsible for conduct of Committee or Sub-Committee in question.</p>
100B(7)(c)	To decide whether copies of documents already supplied to members in connection with Council/ Committee/ Sub-Committee agenda and reports, shall also be supplied to the press.	Deputy Chief Executive
100C(2)	Preparation of summary of proceedings of Council/	Deputy Chief Executive (or where Deputy Chief Executive is not in

<b>Section</b>	<b>Subject</b>	<b>Proper Officer</b>
	Committee/Sub-Committee during confidential business.	attendance, the Director responsible for the conduct of the Committee or Sub-Committee in question).
100D(1) (a) 100D(5) (a)	To identify background papers relied on in preparation of reports and to compile a list of background papers relied on in preparation of reports.	Director responsible for preparation of report (or first signatory, if more than one Director).
100F(2)	To decide which documents are excluded from members' inspection as they disclose certain categories of exempt information.	Deputy Chief Executive, after consultation with Director responsible for preparation of report (or first signatory if more than one Director).

Reference to a Director in relation to sections 100B - 100F of the Local Government Act 1972 includes such other officer nominated by a Director to act in his or her absence.

115(2)	Receiving money due from officers to the Council	Chief Finance Officer
146(1)	Specifying securities and verifying change of name and identity of local authority	Deputy Chief Executive
151	Responsibility for proper administration of financial affairs	Chief Finance Officer or Deputy Chief Finance Officer
191(2)	Receiving applications from Ordnance Survey for assistance	Deputy Chief Executive
205(2)	Exercising functions imposed under the Scheme made under Section 63 of the Rent Act 1977 and approved by the Secretary of State	Deputy Chief Executive

<b>Section</b>	<b>Subject</b>	<b>Proper Officer</b>
225(1)	Receiving and retaining deposited documents	Deputy Chief Executive
229(5)	Certifying that a document is a photographic copy for the purposes of legal proceedings	Deputy Chief Executive
234	Authentication of notices, orders or other documents	Deputy Chief Executive and, where the document to be authenticated relates to a power delegated to him or her, the appropriate Director or an officer nominated by the Director.
236	Sending copies of bye-laws etc to district councils	Deputy Chief Executive
238	Certification of copy of bye-laws	Deputy Chief Executive
Schedule 12, para 4(2)(b)	Signing Council meeting summons	Deputy Chief Executive
Schedule 12, para 4(3)	Receiving notice of Council member's address to which Council meetings' summons is to be sent	Deputy Chief Executive
Schedule 21, para 66(1) and (2)	Preparing specification for street works in private streets pursuant to Section 205 of the Highways Act 1980 (Code of 1892) and certifying the resolution of approval and the approved documents or copies	Director of Communities, Economy and Transport
Schedule 21 and para 67	Certifying document detailing amendments to estimate and provisional apportionment of expenses for street works under Section 205 of the Highways Act 1980	Director of Communities, Economy and Transport

## CONSTITUTION – PART 3 – RESPONSIBILITY FOR FUNCTIONS

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<b>Section</b>	<b>Subject</b>	<b>Proper Officer</b>
Schedule 29, para 41 (3), (4) and (5)	Appointing interim superintendent registrars or interim registrars of births and deaths pursuant to Sections 9(1) and (2) of the Registration Service Act 1953	Registration Services Manager
	Exercising powers provided by the local scheme of organisation of the registration service pursuant to Sections 13(2)(h) and 13(3)(b) of the Registration Service Act 1953	Registration Services Manager
	Prescription by the Registrar General of duties under the Registration Acts of proper officers pursuant to Section 20 of the Registration Service Act 1953	Registration Services Manager

## **Local Government Finance Act 1988**

<b>Section</b>	<b>Subject</b>	<b>Proper Officer</b>
116	Responsibility for notifying the external auditor of arrangements for a meeting to consider a report from the Chief Financial Officer under this Act.	Deputy Chief Executive

## **Representation of the People Act 1983**

<b>Section</b>	<b>Subject</b>	<b>Proper Officer</b>
35(1)	Returning Officer for the County Council.	Chief Executive

## Local Government and Housing Act 1989

Section	Subject	Proper Officer
2	Holding of the list of posts which are politically restricted within the definition in sub-sections (2) and (3) of section 2 of the Act	Deputy Chief Executive
5	Be designated as the Monitoring Officer	Deputy Chief Executive
15-17	Receiving notice of formation of political group or of changes in membership of political group; the name of the group; the name of the group leader and deputy; and groups' nominations of members to sit on committees etc.	Deputy Chief Executive

## Commons Registration (East Sussex) Act 1994

Section	Subject	Proper Officer
7	Certification of new registers	Deputy Chief Executive

## Localism Act 2011

Section	Subject	Proper Officer
28	Receive complaints of failure to comply with the Code of Code for Members	Deputy Chief Executive

A Proper Officer may at anytime delegate or authorise other officers to perform the designated duties on his or her behalf.

## **(1) Council Procedure Rules**

### **1. SCOPE**

These rules, more commonly referred as the Council's procedural Standing Orders, are designed to assist the Council (and its Committees) in dealing with their business. Standing Orders are attached.

## STANDING ORDERS

### PART 1 - COUNCIL MEETINGS

#### (A) GENERAL

##### C 1. Interpretation

1.1 In these Standing Orders, unless the context requires otherwise, the following expressions have the meanings given below:

"Council" means the East Sussex County Council;

"Chair of a Committee" includes the Vice-Chair of the Committee or any other member of the Committee nominated by the Chair to act on his or her behalf or acting in his or her absence;

"Chairman" means the Chairman of the Council or the person presiding at the meeting of the Council and such person shall not be a member of the Cabinet or any Scrutiny Committee;

"Committee" includes "Sub-Committees" and any Scrutiny Committees and refers to the Committees and Sub-Committees established from time to time by the Council;

"The Cabinet" means a formal meeting of the Cabinet, as appointed by the Leader of the Council, meeting as a committee, convened in accordance with the access to information provisions of the Local Government Act 1972 as amended.

1.2 "C" before the title of a Standing Order indicates that the order applies to all Committees and, where applicable, Sub-Committees.

1.3 The ruling of the Chairman as to the meaning or application of any of the Standing Orders in Part 1 or as to any aspect of Council procedure (including the order of business) shall be conclusive and shall not be challenged at any meeting of the Council nor open to discussion.

#### 2. Place and time of meetings

2.1 Unless otherwise determined by the Chairman, meetings of the Council shall be held at County Hall, Lewes, commencing at 10.00 am.

2.2 The Annual Meeting shall normally be held in May. Other ordinary meetings shall be held at such intervals as the Council decides.

2.3 In addition, extraordinary meetings may be called by the Chairman or by members of the Council (in accordance with the provisions of Schedule 12 of the Local Government Act 1972) to consider specific business for which they were requisitioned.

2.4 Separate provisions for the Leader of the Council to request an extraordinary meeting of the County Council where the Council does not accept the Cabinet's recommendations in relation to any plan, strategy or budget that forms part of the budget and policy framework are contained elsewhere in the Constitution.

### **3. No smoking**

3.1 Smoking shall not be permitted at meetings of the Council, its Committees and Sub-Committees.

### **Mobile phones**

4.1 Any mobile phones and hand-held computers taken into Council meetings shall be switched off at all times.

### **Refreshments**

4.2 No food shall be taken into meetings of the Council.

### **5. Summons**

5.1 The Deputy Chief Executive shall send to members a summons, agenda and related papers, either by post or electronic mail, setting out the business to be transacted together with the minutes of the preceding meeting (where appropriate).

### **6. Circulation of committee reports**

6.1 After consulting the Chair of the Committee, the Deputy Chief Executive shall settle on behalf of all Committees any reports from Committees to the Council (incorporating appropriate material before the Committee).

### **C 7. Record of Attendances**

7.1 The Deputy Chief Executive shall hold a record of members' attendances at meetings of the County Council, Committees, Sub-Committees and Panels.

**C 8. Admission of public and press and recording of proceedings**

8.1 The press and public shall be excluded for the whole or any part of the proceedings if a motion under Section 100A (2) or (4) of the Local Government Act 1972 is moved, seconded and carried.

8.2 The Chairman may give the Deputy Chief Executive directions as to arrangements for the admission of the public.

8.3 Any member of the public has the right to record, film, broadcast and report meetings of the Council that are open to the public.

**C 9. Motions affecting employees**

9.1 If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct or ability of any person employed or formerly employed by the Council, a motion to exclude the public and press shall be moved forthwith by the Chairman and put without debate.

**10. Order of business**

10.1 The order of business at ordinary meetings of the Council shall be:

1. at an annual meeting and any other meeting where for some reason it is necessary (a) to elect a Chairman and / or (b) to appoint a Vice-Chairman;
2. to choose a person to preside if the Chairman and Vice-Chairman of the Council are not present;
3. to confirm as a correct record the minutes of the previous meeting;
4. to deal with any business expressly required by law to be done;
5. Chairman's business;
6. to deal with any business remaining from the last meeting;
7. at the annual meeting following an election of all members or following the resignation, dismissal or vacation of office by the Leader:
  - (a) to elect the Leader of the Council;
8. at the annual meeting of the Council, the Leader will present to the Council a written record of delegations of executive functions made by him/her to Cabinet Members for inclusion in the Council's Scheme of Delegation at Part

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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3 to this constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (a) names of the County Councillors appointed to the Cabinet by the Leader;
- (b) the extent of any authority delegated to Cabinet Members individually as portfolio holders, including details of any limitation on their authority;
- (c) appoint one of the Cabinet Members to be Deputy Leader;
- (d) the terms of reference and constitution of the Cabinet and such executive committees as the Leader appoints, and the names of Cabinet Members appointed to them;
- (e) the nature and extent of any delegation of executive functions to local committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- (f) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer or officers to whom the delegation is made.

9. at the annual meeting:

- (a) to appoint the Scrutiny Committees, Audit Committee, Regulatory Committee, Planning Committee, Governance Committee, Pension Committee and Standards Committee.
- (b) to appoint a Chair of the Regulatory Committee, and the Planning Committee (from among the members of the Regulatory Committee), and the Chairs of the Audit Committee, Scrutiny Committees, Pension Committee and Governance Committee (and Vice-Chair where the County Council considers it appropriate). The chairs and vice-chairs of the Audit Committee and Scrutiny Committees shall be added together and the positions allocated to the political groups in proportion to the number of seats they have on the Council. Within the allocation, the Chair of the Audit Committee shall be appointed from

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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amongst the members of the largest Opposition Group

- (c) to appoint any other committees and panels

*[Note: Vice-Chairs are currently appointed for the Scrutiny Committees, the Audit Committee and the Planning Committee.]*

10. Questions from members of the public;
11. At the July meeting, to debate the Cabinet's priorities for the year ahead, with the exception of a year of Full Council elections when the debate will be held at the annual meeting;
12. Reports and recommendations of the Cabinet or individual Cabinet Members;
13. Reports and recommendations of the following:
  - Chairs of Scrutiny Committees;
  - Individual Scrutiny Committees;
  - Governance Committee;
  - Standards Committee;
  - Audit Committee.
14. Questions from members of the County Council:
  - (a) oral questions to Cabinet members;
  - (b) written questions of which notice has been given pursuant to Standing Order 44;
15. Reports of the East Sussex Fire Authority;
16. Notices of motion;
17. Any other business specified in the summons or required by law to be dealt with.

10.2 Business falling under the headings 1-4 (inclusive) above shall not be varied but the Chairman may vary the order of business under headings 5-17 (inclusive) where he or she considers this would be appropriate.

10.3 The summons for an extraordinary meeting of the Council shall contain the following matters and no others:

1. the matters referred to in Standing Order 10.1 paragraphs 2 and 4;

2. the specific business for which the meeting has been called or requisitioned.

### **11. Election of Chairman and Appointment of Vice-Chairman**

11.1 The Chairman shall be elected and the Vice-Chairman shall be appointed annually at the annual meeting of the Council.

11.2 There shall be no time limits on the term of office for the Chairman and Vice-Chairman.

### **12. Minutes**

12.1 The Chairman will move the motion "that the Council confirms the minutes of the last meeting of the Council as a correct record".

12.2 There shall be no discussion or motions on the minutes, except upon their accuracy.

12.3 The minutes of the last meeting will be approved at the next appropriate meeting of the Council.

### **13. Council in Committee**

13.1 The Council may resolve itself into a committee of the whole Council.

13.2 Standing Order nos. 10 (order of business), 18 (reserved paragraphs), 19-32 (rules of debate and presentation of reports of committees), 35-39 (notices of motion and amendments) and 43-44 (questions from members) shall not apply to the Council in Committee.

### **14. Suspension of Standing Orders**

14.1 One or more Standing Orders in Part 1 may only be suspended by the Council if a motion to do so is formally moved, seconded and put without discussion when at least 30 members of the Council are present.

Note: the suspension of Standing Orders cannot permit action which is not permitted by law.

### **15. Termination of meetings**

15.1 The Council may, at any time after 5.30 pm regardless of any adjournments which have taken place in the Council's proceedings, however occasioned, determine to dispose of the remaining business on the agenda in accordance with the procedure in Standing Orders 15.2-15.4, below.

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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15.2 A motion to invoke this procedure, shall be formally moved and seconded and put to the vote without debate.

15.3 If the motion is passed, all the remaining business on the agenda (including the matter then under consideration) shall be taken as follows:

- (a) motions to adopt any reserved paragraphs in Committee reports not already disposed of shall be moved formally, in order, and immediately voted upon without debate, subject to the following provisions relating to amendments;
- (b) amendments may only be moved if:
  - (i) notice in writing of the amendment has been given to the Deputy Chief Executive before 5.30 pm on the day of the Council meeting; and
  - (ii) the Chairman considers it appropriate.

Any such amendment, once moved and seconded, shall immediately be voted upon without debate;

- (c) if the report of the East Sussex Fire Authority has not been dealt with, any motion of which notice has been given before 5.30 pm on the day of the Council meeting to the Deputy Chief Executive shall be formally moved, seconded and voted upon without debate. Otherwise, any reserved paragraphs in the Authority's reports shall not be discussed or questions asked of the Nominated Spokespersons;
- (d) any motion of which notice has been given pursuant to Standing Order 36 and which is included on the agenda shall be moved and seconded formally. Subject to (b) above relating to amendments, any motion so moved and seconded shall immediately be put to the vote without debate;
- (e) if a motion is being debated at the time the provisions of this Standing Order take effect, that debate shall immediately be concluded as if the motion "To put the question" had been moved and carried.

15.4 When the Council has decided to dispose of business under Standing Order 15.1, notwithstanding the provisions of Standing Order 35 (motions which may be moved without notice), no business other than that set out above and questions under Standing Order 44 shall be transacted.

## **16. Adjournment of meeting**

16.1 The Chairman may adjourn a meeting of the Council for such period as he or she considers appropriate. The Council may resolve to adjourn a meeting in accordance with the procedure in Standing Order 31 below.

16.2 In the event of an adjournment, the Chairman of the Council may, at the time of the adjournment or subsequently, fix a date and time for the meeting to resume. If no date and time is fixed the outstanding business shall be dealt with at the next ordinary meeting of the Council.

## **C 17. Quorum**

17.1 No business shall be transacted if there is not a quorum.

*NOTE: The Local Government Act 1972, Schedule 12, specifies that a quorum shall be one quarter of the whole number of members of the Council. (Standing Order 14 provides that at least 30 members of the Council must be present when a motion is moved to suspend any Standing Order in Part 1).*

## **(B) PRESENTATION OF REPORTS**

### **18. Reserved paragraphs**

18.1 At ordinary meetings of the Council, when the appropriate agenda item is reached the Chairman shall ask the members (including the Chairs presenting the reports) to state the paragraph numbers on which they wish to speak. Such paragraphs are called "reserved paragraphs".

18.2 When a paragraph is reserved, any other paragraph before the Council ruled by the Chairman to be related shall be deemed to be reserved.

18.3 No discussion shall be permitted on any paragraphs which have not been reserved.

18.4 The Chairman shall then move and put to the vote without discussion the adoption of the whole of the reports of Committees, excluding any reserved paragraphs.

18.5 The Council shall then discuss the reserved paragraphs in the order appearing in the reports unless the Chairman decides otherwise or unless related matters are taken together in accordance with Standing Order 18.6 below. The adoption of each reserved paragraph shall be

moved separately by the Chair of the relevant Committee or another member nominated by him or her unless (with the agreement of the Council) he or she withdraws a paragraph.

18.6 Paragraphs, motions or amendments ruled by the Chairman to be related shall be discussed together when, in the opinion of the Chairman, the appropriate paragraph, motion or amendment is reached.

18.7 When the reports of the East Sussex Fire Authority are reached the Council shall discuss any reserved paragraphs in the order in which they appear. It is open to a member to move a motion expressing views to the East Sussex Fire Authority on a subject covered by a reserved paragraph but not to move an amendment to the paragraph or the reference back of the paragraph to the Authority.

### **(C) RULES OF DEBATE**

#### **19. Members to stand**

19.1 A member shall stand when speaking and shall address the Chairman. If two or more members rise, the Chairman shall call one to speak, and the other or others shall then sit. While a member is speaking the other members shall remain seated, unless rising to a point of order or a personal explanation.

#### **C 20. Respect for the Chairman**

20.1 Whenever the Chairman rises any member standing shall sit and all members except the Chairman shall be silent.

#### **C 21. Relevance of speeches**

21.1 A member shall direct his or her speech strictly to the question under discussion, or to a personal explanation, or to a motion or amendment to be proposed by him or her, or to a point of order.

21.2 The Chairman shall call a member to order for irrelevance, tedious repetition, unbecoming language, improper motives, failure to address the Chairman, reflections of a personal character on any member, employee or former employee of the Council, or any breach of order, and may direct such member, if speaking, to discontinue the speech and be seated. (See also Standing Order 46 (Improper Conduct by Members and the Public))

#### **C 22. Points of order or personal explanation**

22.1 A member may rise on a point of order and shall be heard forthwith. A point of order shall relate only to an alleged breach of a

Standing Order or statutory provision and the member shall first specify the Standing Order or statutory provision and the way in which he or she considers it has been broken.

22.2 With the leave of the Chairman, a member may make a statement by way of personal explanation which must be confined to some material part of an earlier speech by the member at the same meeting of the Council which has been misunderstood.

### **23. Length of speeches**

23. No speech shall exceed five minutes except where:

- (1) a Chair of a Committee (or other nominated member) or the Nominated Spokesperson of the East Sussex Fire Authority is exercising a right of reply;
- (2) the Leader of the Council and the Leaders of the Opposition Groups are speaking at the start of the debate on the Cabinet's priorities. In this instance, each Leader shall be permitted to speak for up to 10 minutes – see Standing Order 45.
- (3) the Council (without debate) allows a member to continue his or her speech for a further period or periods, not exceeding three minutes each; or
- (4) the Council (without debate) consents.

### **24. Requirement for a motion or amendment to be seconded**

24.1 Motions and amendments must be seconded except a motion:

- (a) by the Chairman; or
- (b) to adopt a reserved paragraph.

If required by the Chairman, a motion or amendment shall be put into writing and handed to the Deputy Chief Executive before it is further discussed or put to the meeting.

### **25. Seconder may reserve speech**

25.1 A member seconding a motion or amendment may reserve his or her speech until later in the debate.

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

26.1 A member may not speak more than once on any motion except:

- (1) to speak once on each amendment moved by another member;
- (2) if the motion has been amended since the member last spoke, to move a further amendment;
- (3) if the member's first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which he or she spoke was carried;
- (4) to make a speech, as the seconder of the motion, which, in accordance with Standing Order 25, has been reserved;
- (5) in exercise of a right of reply as mover of a motion (or as the member nominated to reply to the debate) or amendment given by Standing Orders 32 and 36.9(2);
- (6) in exercise of a right of reply under Standing Order 32.7 or 32.8
- (7) on a point of order (stating which Standing Order has been broken) or a personal explanation under Standing Order 22.

**27. Definition of "amendment"**

27.1 Subject to Standing Order 36:

- (1) an amendment shall be relevant to the motion and shall not only have the effect of negating it;
- (2) where there is an amendment:
  - (a) to the report of a Committee containing a recommendation; or
  - (b) to a motion separately referred to on the agenda; or
  - (c) to a motion under Standing Order 35 (motions which may be moved without notice and/or during debate),

the amendment shall either:

- (i) refer a subject of debate (or part of it) to a Committee for consideration or reconsideration with or without instructions; or

- (ii) delete and/or add words;
- (3) where the report of a Committee does not contain a recommendation, an amendment shall only refer the paragraph (or part) to a Committee for consideration or reconsideration with or without instructions;
- (4) the only exception to Standing Orders 27(2) and (3) shall be, with the permission of the Chairman, to make a correction.

*(Note: For restrictions on amendments seeking to rescind or reverse a previous decision of the Council, see Standing Orders 36 and 39.)*

## **28. Disposal of amendments**

28.1 Unless the Chairman decides to the contrary, where notice has been received of more than one amendment on related subjects they will be moved in the order in which they are received by the Deputy Chief Executive and debated (but not voted on) together.

28.2 If an amendment is lost, subject to Standing Order 15 (termination of meetings), other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion, and shall become the substantive motion upon which any further amendment may be moved.

28.3 If an amendment to refer a subject of debate to a Committee has been rejected and no other amendment is moved the Chairman shall, unless a member requires a vote, declare the motion carried.

## **29. Alteration of motions**

29.1 A member may, with the consent of the Council, signified without discussion:

- (1) alter a motion of which he or she has given notice; or
- (2) with the consent of his or her seconder, alter a motion which he or she has moved;

if (in either case) the alteration is one which could be made as an amendment to the motion.

### **30. Withdrawal of motion or amendment**

30.1 A motion or amendment moved during a meeting may be withdrawn by the mover with the consent of the seconder and of the Council, which shall be signified without discussion, and no member may speak upon it after the mover has obtained permission for its withdrawal.

*(See also Standing Order 36.6 which provides that notices of motion submitted under that Standing Order shall only be withdrawn on the written application of all signatories.)*

### **31. Closure of debate on a motion or amendment**

31.1 A member who has not spoken on the matter under consideration may, at the conclusion of a speech by another member, move without comment "to proceed to the next business" or "to put the question" or "to adjourn the debate" or "to adjourn the meeting" on the seconding of which the Chairman shall proceed as follows:

- (1) on a motion "to proceed to the next business", the Chairman shall put the motion to the vote unless he or she considers the matter has not been sufficiently discussed;
- (2) on a motion "to put the question", the Chairman shall put the motion to the vote unless he or she considers the matter has not been sufficiently discussed. If it is passed, then before putting the original motion to the vote the Chairman shall give rights of reply in accordance with Standing Order 32;
- (3) on a motion to adjourn the debate or the meeting, if the Chairman considers that the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed at that meeting, he or she shall put the adjournment motion to the vote without giving any right of reply on that occasion.

### **32. Right of reply**

32.1 Except where the procedure in Standing Order 15 (termination of meetings) is being followed, the Chairman of a Committee moving the adoption of a reserved paragraph (or another member nominated by him or her) shall have a right of reply at the close of the debate upon such motion, immediately before it is put to the vote.

32.2 The Nominated Spokesperson of the East Sussex Fire Authority shall have a right of reply at the close of the debate upon a reserved paragraph in the relevant report.

32.3 Where a motion is separately referred to on the summons, the mover of the motion, and then the Chairman of the most appropriate Committee, or the relevant Cabinet member (if nominated by the Chairman of the Cabinet), shall be entitled to a right of reply at the end of the debate.

32.4 Where a motion has been referred to a Committee, one signatory shall have a right of reply before the Chair of the Committee, or the relevant Cabinet member (if nominated by the Chair of the Cabinet), when the motion is considered by the Council.

32.5 If an amendment is moved, the mover of the original motion shall be entitled to reply at the close of the debate on the amendment, and speak on the amendment.

32.6 Where an amendment has been submitted to the Deputy Chief Executive at least two clear working days before the meeting of the Council, one signatory to the amendment shall have a right of reply at the close of the debate on the amendment immediately prior to the Chair of the Committee, or the relevant Cabinet member (if nominated by the Chair of the Cabinet), exercising his or her right of reply.

32.7 Where a motion is submitted to the Deputy Chief Executive at least two clear working days before the meeting of the Council to express views to the East Sussex Fire Authority on a subject covered by the Authority's report, one signatory of the motion shall have a right of reply at the close of the debate immediately prior to the Nominated Spokesperson of the authority.

32.8 The Leader of the Council shall have a right of reply to the debate on the Cabinet's priorities for the year ahead.

32.9 A member in exercising a right of reply shall confine himself or herself strictly to answering previous speakers and not introduce any new matter.

**(D) VOTING**

**33. Method of Voting**

33.1 Voting at meetings of the Council will be by show of hands unless, by standing, six members demand a recorded vote, in which case the vote shall be by roll-call and shall be recorded in the minutes to show how each member present cast their vote or whether they abstained.

33.2 Where a member so requests immediately after a vote is taken, the way in which he or she voted (or whether he or she abstained) will be recorded in the minutes.

**Recorded Vote on Budget and Council Tax setting**

This is a mandatory standing order under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2014).

33.3 Immediately after any vote is taken at a budget decision meeting of the authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

33.4 Voting in relation to the annual budget setting, including motions and amendments, will be by recorded vote. The vote shall be by roll-call and shall be recorded in the minutes to show how each member present cast their vote or whether they abstained.

**C 34. Voting on appointments**

34.1 Where there are more persons nominated for any position(s) to be filled by the Council than there are vacancies, Standing Order 33 shall not apply and instead voting shall be by roll-call unless otherwise agreed. Where three or more persons are nominated for one position to be filled by the Council, and a majority of the votes cast is not in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken until a majority of votes is cast in favour of one person. This Standing Order shall apply to elections and appointments of members, officers or other persons.

**(E) MOTIONS**

**35. Motions which may be moved without notice and/or during debate**

35.1 The following motions may be moved without notice and the motions marked with an asterisk may also be moved during debate:

- \*1. To appoint a Chairman of the meeting at which the motion is made.
- 2. Motions relating to the accuracy of the minutes.
- 3. To adopt reports and recommendations of Committees and any consequent resolutions.
- 4. To offer condolences or congratulations.
- 5. To authorise the sealing of documents.
- \*6. To refer a matter to a Committee.
- \*7. To express views to the East Sussex Fire Authority on a subject covered by a paragraph in its report which has been reserved for discussion.
- \*8. To resolve the Council into Committee.
- \*9. To appoint a Committee or members thereof where the appointment is occasioned by an item mentioned in the summons to the meeting.
- \*10. To give leave to withdraw a motion.
- \*11. To suspend one or more Standing Orders in accordance with Standing Order 14 (which provides that Standing Orders relating to business at a meeting may be suspended provided at least 30 members of the Council are present when the motion is moved, seconded and put).
- \*12. To exclude the public and press.
- \*13. To give the consent of the Council where such consent is required by Standing Orders.
- \*14. To extend the time limit for a speech.
- \*15. To amend a motion.

- \*16. To proceed to the next business.
- \*17. To put the question.
- \*18. To adjourn the debate of a motion or amendment.
- \*19. Not to hear further a member named under Standing Order 46 (disorderly conduct) or to require such a member to leave the meeting.
- \*20. To deal with the remaining business in accordance with Standing Order 15.3.
- 21. To appoint a Chair or Vice-Chair of any Committee.
- \*22. To adjourn the remaining business before the Council to the next ordinary meeting.
- \*23. Motions relating to a petition being debated by the Council (save where a prior motion moved during the debate remains extant).

### **36. Motions of which notice must be given**

36.1 Any member may give notice of a motion to be considered at a meeting of the Council. The motion shall be

- (1) in writing;
- (2) signed by the member or members of the Council giving the notice; and
- (3) delivered at least 20 working days before the meeting of the Council to the office of the Deputy Chief Executive, by whom it shall be dated, numbered in the order in which it is received, and entered in a book which shall be open to the inspection of every member of the Council; and
- (4) relevant to some matter in relation to which the Council has powers or duties or which directly affects East Sussex.

36.2 If a notice of motion relates to a matter which, under legislation or the County Council's constitution, must be the responsibility of the Cabinet, the motion may only call on the Council to ask the Cabinet to consider a particular course of action and may not bind the Cabinet.

36.3 A notice of motion shall not be used as an alternative to the call in procedure (set out in part 4 of the constitution).

36.4 If any motion of which notice has been given appears to the Deputy Chief Executive to be irregular or otherwise unsuited for discussion, the Deputy Chief Executive shall refer the matter to the Chairman who may reject the motion, or refer to the Council the question whether it shall be considered. A motion so referred shall be entered on the summons and marked "referred" and, on being reached, the Chairman shall state the reason for the reference and at once, without any discussion, put the question whether the motion shall be considered.

36.5 The Deputy Chief Executive may edit any motion to delete any part which appears to be defamatory or to delete improper or unbecoming language and shall inform the first signatory accordingly.

36.6 Once delivered, a motion may only be withdrawn on the written application of all signatories.

36.7 The Chairman shall consider every notice of motion referred to in Standing Order 36.1 and shall direct as set out in Standing Orders 36.10, 36.12 or 36.13.

36.8 (1) A motion:

- (a) the subject of a report from a Committee to the Council; or
- (b) reported under Standing Order 36.13,

shall be treated (unless the Council is recommended to approve the motion without amendment) as an amendment to the relevant paragraph of the Committee's report to the Council and shall be considered with that paragraph.

(2) A motion treated as an amendment under (1) above is in these Standing Orders called a "deemed amendment".

36.9 Where a Notice of Motion has been submitted, and the County Council is due to consider a matter which the Chairman considers to be related, the Member who has submitted the Notice of Motion in advance be given the first opportunity to speak after the report has been moved by the relevant Committee Chair, where it is necessary for the report to be moved.

Motions separately referred to on summons

36.10 (1) If the Chairman considers that a motion falls within (a) or (b) below, he or she shall direct that it shall be included separately on the summons for the next meeting of the Council:

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- (a) it is convenient and conducive to the dispatch of business that the motion should be considered at the next meeting of the Council; or
- (b) the motion is in accordance with Standing Order 39.1 (i.e. signed by 11 members) and seeks to rescind or reverse in whole or in part, or is inconsistent with, a resolution passed by the Council within the preceding six months or raises an issue which is similar to one which has been rejected by the Council within the preceding six months.

(2) The mover of a motion falling within paragraph (1) above shall have a right of reply as provided in Standing Order 32.3.

36.11 Motions directed to the Council by the Chairman shall be included in the summons for the meeting in the order in which they have been received.

### Motions received after dispatch of agenda of appropriate Committee

36.12 (1) If the requirements of paragraph (2) are satisfied, the motion in question shall be a deemed amendment under Standing Order 36.8 (1) above.

(2) The requirements referred to in Standing Order 36.12 (1) above are:

- (a) a notice of motion is received by the Deputy Chief Executive between the date of dispatch of a Committee agenda and 10 clear days before the next following meeting of the Council; and
- (b) the motion relates in whole or part to a matter on which the Committee is reporting to the next following meeting of the Council; and
- (c) the motion is directed by the Chairman to be considered by the Council.

### Motions referred to a Committee or a Lead Cabinet Member

36.13 (1) If Standing Orders 36.10 or 36.12 do not apply, the Chairman shall direct that each motion is referred to a Committee or a Lead Member.

- (2) Where a Committee or Lead Member has considered a motion referred to it by the Chairman they shall report thereon to the Council at the earliest practicable meeting. A Sub-Committee shall report to the Council through its parent Committee.
- (3) When such a motion is considered by the Council one signatory shall have a right of reply immediately before the Chair of the Committee or the relevant Cabinet member (if nominated by the Chair of the Cabinet).

### **37. Members' rights in relation to motions**

37.1 Where the member or members who signed a motion are not present at a meeting at which it is to be considered, another member authorised by him or her may move the motion on behalf of a signatory.

37.2 A member or, if more than one, the first member signing a motion which is referred to a Committee or a Lead Member, shall have notice of each meeting of the Committee or Lead Member at which the motion is to be considered. He or she shall be entitled to attend any meeting at which it is considered and to speak but not vote unless already a member of the Committee.

### **38. Motion not moved to lapse**

38.1 If a motion set out in the summons is not moved or seconded it shall lapse and may not be moved without fresh notice (20 working days).

### **39. Restrictions on Further Motions**

39.1 A member cannot move a motion or amendment which is considered by the Chairman to:

- (a) have the effect of rescinding or reversing in whole or in part or to be inconsistent with, any resolution passed within the preceding six months; or
- (b) raise an issue which is the same as, or substantially similar to, one contained in a motion or amendment which has been rejected by the Council within the preceding six months, unless notice thereof has been given under Standing Order 36.1 (20 working days) and the motion is signed by 11 members of the Council.

39.2 When any motion or amendment as described in Standing Order 39.1 (restrictions on further motions) has been considered by the Council, no member shall propose a motion or amendment which, in the opinion of the Chairman, raises the same, or a substantially similar issue,

within a further period of six months from the date the matter was last considered by the Council. After the expiration of the further period such a motion shall only be considered if the requisite notice has been given (20 working days) and it is signed by 11 members of the Council.

39.3 This Standing Order shall not apply to a recommendation of a Committee.

**(F) 40. PETITIONS**

40.1 A member may present to the Chairman, immediately before an ordinary meeting of the Council, a petition about any matter relating to the County Council or a service for which it is responsible. The Chairman will report to the Council under “Chairman’s Business” details of the petitions which have been presented to him or her and these will be recorded in the minutes.

40.2 Where appropriate, the Chairman shall refer the petition to the Cabinet or relevant Cabinet member or, if appropriate, the relevant Scrutiny Committee and, where he or she does this, the person signing the covering letter accompanying the petition or, if there is no such letter, the first signatory or another person nominated by them, shall be invited to address the Cabinet, relevant Cabinet member, or Committee on the subject matter of the petition for up to five minutes, when the appropriate agenda item is reached.

40.3 A petitioner shall not be permitted to address the Cabinet or relevant Cabinet member where the petition relates to the exercise by the Council of its regulatory or quasi-judicial functions or any of those matters referred to in Standing Order 41.1 (iii).

**(G) QUESTIONS**

**41. Provisions which relate to questions from members of the public and members of the County Council (oral and written)**

41.1 At each ordinary meeting of the Council provision shall be made for questions from members of the public, and oral and written questions from members of the County Council. The following provisions shall apply to all questions:

- (i) Questions must relate to a matter within the Council’s powers or duties (or in the case of questions to the member nominated by the East Sussex Fire Authority or a member who is appointed or nominated by the Council on a statutory body on matters within the powers or duties of the body in question) or which affects East Sussex.

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- (ii) The Chairman shall rule that a question shall not be answered where, in his or her opinion, it is irrelevant or inappropriate or would involve the expenditure of a disproportionate amount of time or money to prepare the answers.
- (iii) Questions must not relate to:
  - (a) the questioner's own particular circumstances;
  - (b) an individual who is in receipt of, or has applied to receive, a service from the County Council or other body;
  - (c) a matter which is the subject of legal proceedings or an appeal to a Tribunal or Government Minister or an investigation by the Ombudsman;
  - (d) the appointment, promotion, dismissal, salary, superannuation or conditions of service or the conduct or ability of an employee or former employee of the Council or other body;
  - (e) an issue where to answer the question would involve disclosing information which is commercially sensitive or financial information relating to an individual or organisation or otherwise confidential information under the Local Government (Access to Information) Act 1985.
- (iv) Questions to Cabinet members must relate to action they have taken as a Cabinet member or to their portfolio and must not raise personal issues.
- (v) Questions shall not be permitted about the conduct of a member of the Council which falls to be dealt with under the procedure agreed by the Standards Committee.
- (vi) The Deputy Chief Executive (a) may edit any question to secure reasonable brevity or to delete any part which appears to him to be defamatory or to delete improper or unbecoming language and shall inform the questioner accordingly; and (b) shall return to the questioner, with an explanation, any question which cannot be dealt with under this Standing Order.
- (vii) When advance notice has not been given of an oral question to a Cabinet member and a questioner uses language described in (vi) above the Chairman shall require the

questioner to withdraw any defamatory or inappropriate words.

- (viii) Answers cannot legally bind the Council but any follow up action/ review will be confirmed to the questioner in writing by the Deputy Chief Executive.
- (ix) In answering any question (written or oral) it shall be deemed a sufficient reply if, where the desired information is contained in a document of the Council or of the East Sussex Fire Authority or other statutory body which has been published, a reference is made to that publication.

41.2 There shall be no discussion of any answer.

41.3 Specific provisions relating to each category of questions are set out in Standing Orders 42 - 44.

“Footnote: the Chairman may rule as out of order an oral question by a member under Standing Order 43 which is on a detailed local issue and could have been dealt with more effectively outside the meeting by reference to the Lead Cabinet Member or the appropriate Chief Officer.”

### **42. Questions from members of the public**

42.1 At each ordinary meeting of the Council a period of up to 30 minutes shall be set aside for questions submitted to the Leader of the Council or the Chair of the appropriate Committee, by persons who reside or work in the area administered by the County Council on any matter within the County Council's powers or duties, which fall within the provisions in Standing Order 41 above. The Leader of the Council may, where appropriate, nominate another Cabinet member to respond to a question.

42.2 A question must be a genuine enquiry and not a statement.

42.3 Questions must be received by the Deputy Chief Executive in writing at least five clear working days before the meeting of the Council, accompanied by the name and address of the questioner.

42.4 Questions shall be dealt with in the order in which they are recorded as having been received by the Deputy Chief Executive.

42.5 A questioner shall be limited to one question per meeting, subject to the right in Standing Order 42.6 below to ask one supplementary question.

42.6 Questioners may include a short statement (which may include a point of clarification, brief contextualising background or summary rationale) as a preface to the question or any supplementary question. The questioner's statement and question combined should be limited to a maximum of three minutes.

42.7 Questions, together with the names and addresses of the questioners and so far as it is practicable, the answer to be given, shall be circulated by the Deputy Chief Executive in the Council Chamber to all members, the public and the press before the meeting starts. The Chairman may at his or her discretion allow the questioner one follow up question, on the same subject as their original question.

42.8 Questions which have been asked, the names and addresses of the questioners and the answers given (but not any supplementaries), shall be attached to the Council minutes.

### **43. Oral Questions by members of the County Council**

43.1 At each ordinary meeting of the Council a period of forty-five minutes shall be set aside for oral questions by members to the Leader of the Council or other members of the Cabinet. The Chairman may, at his or her discretion, extend the period for oral questions.

43.2 The provisions in Standing Order 41 shall apply to oral questions so far as they are relevant. Questions under this agenda item shall be limited to matters not included elsewhere on the agenda for the meeting.

43.3 While members are not required to give notice of their intention to ask a question or of the question itself before the meeting, to assist the Chairman in managing the meeting members are asked, as a minimum, to consider notifying the Deputy Chief Executive before the meeting of their intention to ask a question.

43.4 When the appropriate agenda item is reached the Chairman shall deal with questions as follows:

- (a) the questioners asking the first three questions to be on the nomination of the Leader of the largest opposition group;
- (b) the questioners asking the next two questions to be on the nomination of the Leader of the second opposition group;
- (c) the questioners asking the next two questions to be members of the administration (but not members of the Cabinet);

- (d) questions then to be taken from other members in the order notified prior to the meeting and/or by the time this agenda item is reached but, initially, on the basis of one question per member; and
- (e) if the forty-five minutes allotted for oral questions is not fully utilised after that stage, any member wishing to ask a further question shall be permitted to do so.

43.5 Supplementary questions by the questioner shall be permitted, subject to the right of the Chairman to restrict supplementary questions as part of his or her managing the use of question time to enable as many members as possible to ask their questions.

43.6 Answers shall be given orally but where the questioner is seeking detailed information, the person answering may also provide the detail in writing.

43.7 A member may, without notice, ask the Chair of the Cabinet or a Committee or another member introducing a reserved paragraph any question upon the matter it covers during consideration of that paragraph.

43.8 A member of the Council may, without notice, ask the Nominated Spokesperson of the East Sussex Fire Authority or other member introducing a reserved paragraph any question upon the matter it covers during consideration of that paragraph.

#### **44. Written Questions by Members of the County Council**

44.1 A member may submit a written question to the Chairman, the Chair of any Committee, any Cabinet member, the member nominated by the East Sussex Fire Authority for the purpose, or a member who represents the Council on any statutory body, for answer at the Council meeting.

44.2 The provisions of Standing Order 41 shall apply to written questions.

44.3 The question must be received by the Deputy Chief Executive in writing at least five clear working days before the meeting at which it is to be answered (for a Council meeting on a Tuesday, the Monday of the preceding week). The Chairman may relax this provision, after consultation with the member to whom the question is addressed and the Deputy Chief Executive, if he or she considers this could facilitate the proper conduct of the Council's business.

44.4 Questions, together with, so far as it is practicable, the answer to be given, shall be circulated by the Deputy Chief Executive in the Council

Chamber to all members and the press before the meeting starts unless a motion to exclude the public and press is to be moved. The Chairman may agree to a request from a member submitting a question for the question to be answered orally.

44.5 The Chairman may at his or her discretion allow the questioner one supplementary question to clarify the answer given but there shall be no discussion of the answer.

44.6 Questions which have been asked, the names of the questioners and the answers given (but not any supplementaries), shall be attached to the Council minutes.

**(H) 45. DEBATE OF CABINET'S PRIORITIES FOR YEAR AHEAD**

45.1 At the July meeting of the Council up to 90 minutes shall be set aside for a debate of the Cabinet's priorities for the year ahead (and its past achievements) with the exception of a year of Full Council elections when the debate will be held at the annual meeting. The Leader of the Council and the Leaders of the Opposition Groups shall be entitled to speak first and shall each be permitted to speak for up to 10 minutes. Any extension must be agreed by the Council. Otherwise, the normal restrictions on the length of speeches shall apply. No motions may be moved during this debate. At the end of the 90 minute period (or sooner if the debate is concluded in less time) the Leader of the Council shall be entitled to reply to the debate.

**(I) IMPROPER CONDUCT OF MEMBERS AND PUBLIC**

**C 46. Disorderly conduct**

46.1 If a member persistently disregards the ruling of the Chairman, behaves in a disorderly manner or wilfully obstructs the business of the meeting or contravenes these Standing Orders:

- (a) the Chairman may adjourn or suspend the meeting for so long as seems fit; and
- (b) the Chairman or any other member may move "that the member named be not further heard" or "that the member named leave the meeting" and upon being seconded such motion shall be put without discussion and shall, if passed, be complied with forthwith. If the member named does not comply or otherwise persists in misconduct, the Chairman may order that the member be removed.

46.2 If a member of the public interrupts the meeting or behaves in a disorderly manner the Chairman shall give a warning. If the warning is disregarded, the Chairman may order that the member of the public be

removed and may adjourn or suspend the meeting for so long as seems fit.

46.3 In the case of a general disturbance by members of the public the Chairman may order that all or part of the Chamber be cleared and may order that members of the public be removed from all or any part of County Hall.

**C 47. Disclosure of Council business**

47.1 All documents marked "confidential", "exempt/confidential", all documents and matters which have been, or are intended to be, raised or discussed with the press and public excluded and all discussions on those occasions, shall be treated as confidential.

47.2 A member shall not disclose to any person not being a member or an officer of the Council any such business.

**PART 2 – COMMITTEES AND DELEGATIONS TO INDIVIDUAL MEMBERS**

**48. Appointment of Committees and Sub-Committees**

48.1 Unless otherwise provided by law or decided by the Council, the Council shall, at the annual meeting, appoint such Committees as it is required by statute to appoint or as it shall from time to time consider appropriate.

48.2 The Council may from time to time appoint any other Committees it thinks necessary and (subject to any relevant statutory provision) it may at any time dissolve a Committee or alter its membership with the exception of the Cabinet or individual cabinet members which will be the sole responsibility of the Leader.

48.3 Each Committee shall, subject to Standing Order 48.2 (right of the Council to dissolve a Committee), continue in being until the appointment of its successor.

48.4 All persons who are members of such Committees and are re-elected members of the Council shall be members of such Committees until the Council appoints new Committees.

48.5 (i) Subject to Standing Order 48.5 (ii) and (iii) below, when a member is unable to attend a meeting, he or she may resign temporarily and the Deputy Chief Executive may appoint a replacement on the nomination of the Leader or Deputy Leader of the appropriate political group. The permanent member shall resume his or her place on the Committee following the meeting(s) for which he or she is absent.

(ii) Standing Order 48.5(i) shall not apply to the Cabinet or the Regulatory Committee.

(iii) Only members of the Regulatory Committee may perform the functions of that Committee or its sub-committees or panels.

**49. The Cabinet**

49.1 (i) The individual portfolios to be allocated to Cabinet members will be determined by the Leader.

(ii) No Cabinet member shall be a member of the Regulatory Committee, Audit Committee or a Scrutiny Committee.

49.2 The Leader and Cabinet members will be expected to comply with a request to attend a meeting of a Scrutiny Committee to address issues relating to the Cabinet member's area of responsibility.

49.3 With the agreement of the Chair, a member may attend and speak at meetings of the Cabinet where a matter for decision affects that member's division or known special interest.

49.4 At meetings of the Cabinet, immediately after the agenda item "Notification of urgent items" has been dealt with the Chair of the Cabinet shall ask members to state agenda items on which they wish to speak.

49.5 The Chair of the Cabinet shall then move and put to the vote without discussion the adoption of the recommendations in the agenda items on which members have not indicated a wish to speak. A seconder shall not be required. Once such recommendations have been approved no discussion shall be permitted on any of the agenda items in question.

*[For procedure for calling in a decision of the Cabinet see the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution].*

## **50. Constitution and Functions of Committees, Sub Committees, Panels and other bodies**

50.1 With the exception of the Cabinet, the number of members and the quorum of Committees, Sub Committees, Panels and other bodies and the functions and powers to be delegated to those bodies shall be those from time to time determined by the Council.

(The current Committees, Sub Committees, Panels and other bodies, their constitution, terms of reference and the delegations to those bodies are shown in Part 3 of the Constitution. The quorum for a Committee, Sub Committee, Panel or other body with an even number of members shall be one half of the total membership and for a Committee, Sub Committee, Panel or other body with an odd number of members shall be the nearest whole number greater than half).

## **51. Committee Chairs and Vice-Chairs Appointed by the Council**

51.1 The Council shall at its annual meeting make appointments as specified in Standing Order 10.1.

51.2 The Council may, at any meeting, fill a vacancy in any office of Chair or Vice-Chair of any Committee which falls to be appointed by the Council.

51.3 The Chairs and Vice-Chairs of the Scrutiny Committees and Audit Committee shall be added together and the positions shall then be allocated to political groups in proportion to the number of seats they have on the Council. Within this allocation, the Chair of the Audit

Committee shall be appointed from amongst the members of the largest Opposition Group.

51.4 Members appointed under Standing Order 51.1 above, provided that they continue to be or are re-elected members of the Council, shall remain in office until the next annual meeting of the Council following their appointment unless they are removed by the Council under Standing Order 48.2.

## **52. Chairs of Panels and Other Groups of Members**

52.1 The Deputy Chief Executive or other officer appointed by him shall preside at the appointment of the Chair of any Panel or other group of members where the appointment is not made by the Council.

52.2 The Chair and any Vice-Chair of any Panel or other group of members, provided that he or she continues to be or is re-elected a member of the Council, and has not been removed by the Council under Standing Order 48.2, shall be Chair or Vice-Chair of such Panel or group of members until the first meeting following the annual meeting of the Council.

## **53. All Committees, Sub-Committees and Panels**

53.1 Subject to Standing Order 50, in the absence from a meeting of the Chair and, if one has been appointed, Vice-Chair, a Chair for that meeting shall be appointed by the meeting.

## **54. Summoning of meetings**

54.1 The Deputy Chief Executive shall, at any time, summon a meeting of a Committee, or the Cabinet, on the request of its Chair, provided the business for which the meeting has been requested is properly within the responsibilities of the Committee. In cases of urgency the Deputy Chief Executive may summon an additional meeting without request.

54.2 An additional meeting of a Scrutiny Committee to consider a decision of the Cabinet which has been called in shall be summoned in accordance with the arrangements set out in the Overview and Scrutiny Procedure Rules, elsewhere in Part 4 of the Constitution.

54.3 A summons to attend a meeting of a Committee shall, wherever practicable, be despatched by the Deputy Chief Executive five clear working days before the meeting and shall briefly specify the business to be transacted.

### **55. Voting in Cabinet, Committees and Sub-Committees**

55.1 Voting at meetings shall be by show of hands unless, by standing, two members demand a recorded vote, in which case the vote shall be by roll-call and shall be recorded in the minutes to show how each member present cast their vote or whether they abstained.

55.2 Where a member so requests immediately after a vote is taken, the way in which he or she voted (or whether he or she abstained) shall be included in the minutes.

55.3 In the case of an equality of votes the Chair or other person presiding at the meeting shall have a casting vote.

### **56. Delegations to Individual Members**

56.1 The powers delegated to individual members of the Cabinet to take decisions (within the terms of the Constitution) shall be as determined from time to time by the Leader.

*[The current delegations to individual members are set out in Part 3 of the Constitution.]*

### **57. Standing Orders to apply to Committees and Sub-Committees**

57.1 Standing Orders 1 (interpretation), 3 (no smoking), 7 (record of attendances), 8 (admission of the public and press), 9 (motions affecting employees), 17 (lack of quorum), 20 (respect for chairman), 21 (relevance of speeches), 22 (points of order or personal explanation), 34 (voting on appointments), 46 (disorderly conduct by members and public), 47 (disclosure of Council business), and 63 (Personal Interests) shall, with any necessary modification, apply to Committees and, where applicable, Sub-Committees, panels and groups of members set up by a Committee or Sub-Committee.

### **58. Remote Attendance at meetings**

58.1 Remote attendance at meetings is permitted as follows:

- Cabinet – all Members of the Cabinet must attend in person. Officers and other councillors (including opposition spokespersons and local Members), petitioners etc to be allowed to attend and speak (with the agreement of the Chair) remotely.
- Full Council – all County Council Members must attend in person. Members of the public to be allowed to ask supplementary questions remotely (subject to existing Standing Orders governing public questions).

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- Planning Committee – all members of the Committee must attend in person. Officers and members of the public or local Members making representations to be allowed to attend remotely.
- At the Council’s Panels and Committees (including Governance Committee, Pension Committee, Scrutiny Committees, Audit Committee and Health and Wellbeing Board) – Committee and Panel Members must be present in person (unless legally permitted to attend remotely). Other participants, including officers and advisors, may attend remotely.
- Pension Board – may be wholly remote or a hybrid meeting with some members present physically and others attending remotely at the Chair’s discretion.

58.2 Lead Member decisions can be made remotely, subject to the discretion of the Lead Member to hold a physical meeting if preferred. Other councillors are able to attend and speak (with the agreement of the Lead Member) at either a remote or a physical meeting (either in person or remotely). All Lead Member meetings held remotely will be webcast to facilitate public access and provision will be made at County Hall for members of the public to be able to view it.

58.3 For the purposes of this Standing Order 58, remote attendance means where people who are not present in the same physical location participate in a meeting through use of videoconference, audioconference, web conference or a combination of these or such other electronic method.

58.4 Remote attendance by committee members: On occasion, specific circumstances (such as weather conditions, health concerns or travel disruption) have prevented members of committees or panels attending a meeting in person, and the option to attend remotely has been requested, either in place of a substitution or as well as. Whilst it is clear that remote attendance by a committee member cannot be regarded as them being ‘present’ according to current legislation, there is a need to clarify the position in these circumstances. For the avoidance of doubt:

- Where a substitute member attends the meeting, the relevant substantive committee or panel member will be recorded in the minutes of the meeting as having given apologies. Should they choose to attend remotely they will be doing so on the same basis as a non-committee member;
- Where a substitute member is not appointed, a committee member may, at the discretion of the Chair, participate in the meeting remotely. However, the member may not vote on any matter on the agenda, will not count towards the quorum for the meeting, and will be recorded in the minutes as ‘in remote attendance’ rather than ‘present’. In reaching a view on whether remote attendance can be accommodated the Chair may consider factors including the format and content of the

meeting and the potential impact of remote participation by a committee member on the effectiveness of the meeting.

58.5 Format of non-statutory meetings: Whilst a range of non-statutory meetings such as scrutiny boards may be held entirely virtually and this often works well, there can be occasions where an in-person meeting is considered more appropriate. The Chair of relevant boards or informal meetings has the discretion to determine the appropriate format. Where the preferred format is in-person, any requests for remote attendance may be considered by the Chair by exception, taking account of the availability of necessary technology and the effectiveness of the meeting.

58.6 As remote attendance at meetings may not fulfil the attendance criteria under Section 85 of the Local Government Act 1972, the County Council has agreed the reason for absence of any member who does not attend a meeting of the authority in person over a period of six consecutive months, and shall grant a dispensation for such non-attendance, provided the member has attended one or more meetings of the authority remotely during that period.

### **PART 3 - GENERAL**

#### **59. Custody of common seal**

59.1 The common seal of the Council shall be kept in a safe place in the custody of the Deputy Chief Executive.

#### **60. Sealing of documents**

60.1 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, Cabinet or of a Committee or by an individual member or officer acting under delegated powers but a resolution of the Council or of such Committee which requires for its execution the sealing of any document shall be sufficient authority for the purpose.

60.2 The affixing of the common seal shall be attested by the Deputy Chief Executive or by an officer authorised by the Deputy Chief Executive in writing for the purpose.

60.3 An entry of the sealing of each document shall be made in a book provided for that purpose and, on each occasion of sealing, the book shall be signed by the Deputy Chief Executive or authorised officer present at the sealing.

60.4 Where it is not necessary in the opinion of the Deputy Chief Executive or their delegates to affix the common seal, the Deputy Chief Executive and another officer authorised in writing by them or two such officers authorised in writing by the Deputy Chief Executive shall sign on behalf of the Council any document necessary to give effect to a decision of the Council or of a Committee, or an individual member or officer acting under delegated powers. Any contract under the value of £100,000 which is not under seal or executed as a deed, may be signed by a Chief Officer, or an officer authorised in writing by them.

#### **61. Inspection of documents**

61.1 A member of the Council may, for the purposes of his or her duty as such member but not otherwise, on application to the Deputy Chief Executive inspect any document which has been considered by a Committee, by an individual member in exercising a power delegated to them in Part 3 of the Constitution or by the Council, and if copies are available shall on request be supplied for the like purposes with a copy of such a document.

61.2 A member shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which he or she is interested by reason of his or her profession, trade, business or calling or in which he

or she has a personal interest within the meaning of the Council's Code of Conduct.

61.3 This Standing Order shall not preclude the Deputy Chief Executive from declining to allow inspection of any document which is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.

61.4 All reports made or minutes recording decisions of any Committee or Sub-Committee or individual member exercising a delegated power under Part 3 of the Constitution shall be open for the inspection of any member of the Council and the Deputy Chief Executive shall send to any member of the Council who so requests all reports and papers submitted to any Committee, Sub-Committee or individual member. This will normally include exempt/ confidential reports and papers, although the Deputy Chief Executive shall have the discretion not to send to members not involved in making a decision such papers in exceptional circumstances, where members cannot demonstrate a "need to know" within the legislation.

(NOTE: See Standing Order 47 which relates to disclosure of Council business.)

## **62. Inspection of lands, premises, etc**

62.1 Unless specifically authorised to do so by the Council or a Committee, or an individual member exercising a delegated power under Part 3 of the Constitution, a member of the Council shall not claim, by virtue of membership of the Council, any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter. Nor shall a member issue any order on behalf of the Council.

## **C 63. Personal Interests**

63.1 If any member of the Council who has a personal interest in a matter attends a meeting where that matter is considered they must disclose to that meeting, under the appropriate item near the beginning of the agenda or as soon as the interest becomes apparent, the existence and nature of the interest.

*[For the definition of a personal interest see the Council's Code of Conduct for Members.]*

63.2 Where a member's personal interest is also a prejudicial interest or Disclosable Pecuniary Interest under the Council's Code of Conduct, the member must withdraw from the meeting room or Chamber (including the public gallery) where the meeting is being held for the duration of consideration of the matter in which they have an interest, unless they are permitted to remain as a result of a dispensation or

unless not required to withdraw by the Code of Conduct. If the personal interest is entered on the authority's register there is no requirement for you to disclose the interest to that meeting, but you should do so if you wish a disclosure to be recorded in the minutes of the meeting.

**64. Interest of officers in contracts**

64.1 The Deputy Chief Executive shall record in a book particulars of any notice given by an officer of the Council, under the Local Government Act 1972, of any pecuniary interest in a contract and the book shall be open during office hours for inspection by any member of the Council.

**65. Members intending to act in a professional capacity in a matter in which the Council has an interest**

65.1 Any member of the Council or of a Committee who whether, by himself or herself or with any partner or associate or whose employer or company is about to act in any professional or private capacity in any matter in which the Council has an interest, shall forthwith notify the fact to the Deputy Chief Executive and shall consider whether, in the light of the provisions relating to members' interests, they should not act in the matter.

65.2 The provisions of this Standing Order shall only apply to co-opted members of Committees in regard to functions with which such Committees are concerned.

**66. Standing Orders and Statement of the Role of Councillors**

66.1 A copy of the Constitution, including these Standing Orders and the statement of the "Role of Councillors" shall be made available to each member of the Council by the Deputy Chief Executive on first being elected.

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## **(2) Access to Information Procedure Rules**

### **1. SCOPE**

These rules apply to all meetings of the Council, overview and scrutiny committees, Audit Committee, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Leader, Cabinet and individual Cabinet Members (together called meetings).

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

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

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

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

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at County Hall, Lewes, East Sussex (the designated office).

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting, subject to any exceptions provided in the legislation. Where a meeting is convened at shorter notice, a copy of the agenda and associated reports shall be available for inspection from the time the meeting is convened. Where an item is added to the agenda later, the revised agenda, and any report shall be made available to the public when the item is added to the agenda. Save that there is no requirement for a copy of an agenda, item or report to be available for inspection by the public until a copy is available to members of the decision-making body.

### **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

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- (c) (if the proper officer thinks fit), any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

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

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

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

### 8. BACKGROUND PAPERS

#### 8.1 List of background papers

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

- (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) or in respect of Cabinet reports, the advice of a political adviser.

#### 8.2 Public inspection of background papers

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

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

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

## **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.

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

### **10.4 Meaning of exempt information**

Exempt information means information falling within the following categories as set out in Part 1 of Schedule 12A of the Local Government Act 1972 (subject to any condition):

Category	Condition
1. Information relating to any individual	
2. Information that is likely to reveal the identity of an individual	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information within category 3 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act as set out in paragraph 8 of Schedule 12A of

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	the Local Government Act 1972 (as amended). Financial or business affairs includes contemplated as well as past or current activities.
4. Information relating to any consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information within category 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 218 of the Trade Unions and Labour Relations Act 1992, i.e. matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes:  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or  (b) to make an order or direction under any enactment	Information within category 6 is exempt only while disclosure might give an opportunity to a person affected by the notice, order direction to defeat the purpose for which the notice, order or direction is to be given or made.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

10.5 Information falling within any of categories 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.

10.6 Information which falls within any of categories 1 to 7 above and which is not prevented from being exempt by either the condition to category 3 or Rule 10.5 is exempt information if and so long as in all the circumstances of the case

the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

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

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

Rules 13 - 24 apply to the Cabinet, its committees and individual Cabinet Members. If the Cabinet, its committees or individual Cabinet Members meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.02(b) of this Constitution.

This requirement does not include meetings, whose sole purpose is for officers to brief members.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

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

- (a) a notice (called here a forward plan item) has been published on the forward plan 28 days before a key decision is to be made in connection with the matter in question; and
- (b) where the decision is to be taken at a meeting of the Cabinet, its committees or individual Cabinet meetings, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of forward plan**

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

### **14.2 Contents of forward plan**

The forward plan will contain items which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a committee of the

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Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision is to be made;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter on which a key decision is to be made;
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (i) that other documents relevant to those matters may be submitted to the decision maker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

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

## 15. GENERAL EXCEPTION

15.1 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the proper officer has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing of the matter about which the decision is to be made;
- (c) the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c).

## 16. SPECIAL URGENCY

16.1 If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of the relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the agreement of the Vice Chairman of the Council is required.

16.2 As soon as reasonably practical after the decision maker has obtained agreement under 16(1) that the decision is urgent and cannot reasonably be deferred, the decision maker must publish a notice on the Council's website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

## 17. REPORT TO COUNCIL

### 17.1 When an overview and scrutiny committee can require a report

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the Chairman/Vice Chairman of the Council under Rule 16;

The committee may require the Cabinet or individual Cabinet Members to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and reason for the decision, the decision maker and, if the executive are of the opinion that the decision was not a key decision, the reasons for that opinion. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by (the chairman or any 3 members). Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

## **17.2 Cabinet's report to Council**

The Cabinet or individual Cabinet Members will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 10 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

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

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

## **18. RECORD OF DECISIONS**

After any meeting of the Cabinet, any of its committees or individual Cabinet members, whether held in public or private, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting and a record of any conflict of interest relating to the matter decided which is declared by a member of the decision making body.

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

The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private. In accordance with the Council's policy of openness there is a presumption that all meetings of the Cabinet or individual Cabinet Members will be held in public, except where considering exempt or confidential business.

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

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

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

- a) All members of the Cabinet will be served notice of all private meetings of committees of the Cabinet, whether or not they are members of that committee.
- b) All members of the Cabinet are entitled to attend a private meeting of any committees of the Cabinet.
- c) The head of the paid service, the chief financial officer and the monitoring officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.
- d) A private Cabinet meeting may only take place in the presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

The provisions of Rule 18 (Record of Decisions) will apply.

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

**22.1 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 4 clear working days after receipt of that report.

**22.2 Provision of copies of reports to overview and scrutiny committees**

On giving of such a report to an individual decision maker, the proper officer will give a copy of it to the chair of every relevant overview and scrutiny committee

as soon as reasonably practicable, and make it publicly available at the same time unless it is exempt or confidential.

### **22.3 Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected and a record of any conflict of interest declared by any executive member. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a member of an overview and scrutiny committee (including its sub-committees) is entitled to copies of any document which is in the possession or control of the Cabinet [or its committees] and which contains material relating to

- (a) any business transacted at a meeting of a decision making body of the Council, the Cabinet [or its committees]; or
- (b) any decision taken by an individual member of the Cabinet; or
- (c) any decision made by an officer of the authority in accordance with executive arrangements

Subject to Rule 23.2 below, where a member of a overview and scrutiny committee requests a document set out above, the executive must provide the document as soon as reasonably practicable and no later than 10 days after the request is received.

### **23.2 Limit on rights**

No member of an overview and scrutiny committee is entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise (any such exempt or confidential information to be treated as such); or
- (c) the advice of a political adviser.

23.3 Where the Executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document for a reason set out in 23.1 or 23.2 above it must provide a written statement setting out its reasons.

## 24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 24.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet [or its committees] and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser

Subject to the advice of the Proper Officer members may in certain circumstances be able to inspect a wider range of documents on a confidential basis if it is shown to be necessary to carry out their role as Councillors.

### 24.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet [or its committees] which relates to any key decision unless paragraph 24.1 (a) or (b) above applies.

### 24.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

## 25 PROCEDURES PRIOR TO PRIVATE MEETINGS

25.1 At least 28 clear days before a private decision-making meeting (a meeting where some or all of the report(s) contain exempt or confidential information) of the Cabinet, committee of the Cabinet or an individual member of the Cabinet, a notice of the intention to hold a meeting in private must be published on the Council's website.

25.2 The notice referred to in 25.1 must include a statement of the reasons for the meeting to be held in private.

25.3 At least five clear days before a private meeting, the decision-making body must publish a further notice of its intention to hold a meeting in private. This

notice must include a statement of the reasons for the meeting to be held in private; details of any representations received by the decision making body about why the meeting should be open to the public; and a statement of its response to any such representations, the statement of response in respect of Cabinet will be agreed by the Chair of the Cabinet, or in their absence, the Vice-Chair of the Cabinet.

25.4 Where the date by which the meeting must be held makes compliance with 25.1 impracticable the meeting may only be held in private where the decision maker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of the relevant overview and scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of the relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the agreement of the Vice Chairman of the Council is required.

25.5 As soon as reasonably practical after the decision maker has obtained agreement under 25.4 that the decision is urgent and cannot reasonably be deferred and that the meeting should be held in private, the decision maker must publish a notice on the Council's website setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

### **(3) 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 Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

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

- (a) The Cabinet will publicise by including in the forward plan and any other appropriate means depending upon the circumstances a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals.
- (b) Following consultation (including policy debates by full Council where relevant) the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant overview and scrutiny committee wishes to respond to the Cabinet in that consultation process, then it may do so. As the overview and scrutiny committees have responsibility for fixing their own work programme (subject to the approval of full Council), it is open to the overview and scrutiny committee to investigate, research or report in detail with policy recommendations before the end of any consultation period. The Cabinet will take any response from an overview and scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- (c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- (e) Any amendment relating to the Cabinet's proposals should:
  - i) be in writing or submitted via email;
  - ii) contain the name of two Councillors, one mover and the other as seconder; and
  - iii) be received by the Monitoring Officer and Section 151 Officer 3 clear working days ahead of the meeting at which it is to be considered in order that the officers may have

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sufficient time to consider and advise the Council of the financial implications of any such motion or amendment.

- (f) Any amendment which does not meet the criteria laid out at paragraph 2e will not be considered by Full Council, unless otherwise agreed by the Chief Finance Officer.
- (g) The criteria laid out in paragraph 2e only applies when Cabinet does not seek to make changes to its budget recommendations prior to Full Council consideration.
- (h) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- (i) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (j) An in-principle decision will automatically become effective 5 days from the date of the Council's decision, unless the Leader informs the proper officer in writing within 5 days that he/she objects to the decision becoming effective and provides reasons why.
- (k) In that case, the proper officer will call a Council meeting within a further 7 days. The Council will be required to re-consider its decision and the Leader's written submission within 14 days. The Council may:
  - (i) approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (l) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- (m) 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 policy and budgetary 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 shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

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

- (a) The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, or joint arrangements discharging Cabinet 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 a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chair of the relevant overview and scrutiny committees' 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 a relevant overview and scrutiny committee the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman, will be sufficient.

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

### 5. **Virement**

There are detailed provisions concerning virement across budget heads and these are set out in the Council's financial rules which are included in Part 4 of this Constitution.

### 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 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 fall within the limits agreed by the Council at the time of approving the policy within the policy framework;
- (e) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

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

- (a) Where an overview and 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 Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet

must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the Monitoring Officer or the chief finance officer conclude 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 Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to the 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 14 days of the request by the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
  - (i) endorse a decision or proposal of the Cabinet or individual 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 Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;
  - or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and /or the Chief Finance Officer.

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## **(4) Cabinet Procedure Rules**

### **1. How does the Cabinet operate?**

#### **1.1 Who may make executive decisions?**

The arrangements for the discharge of executive functions are set out in the arrangements adopted by the Council and explained in Part 3 of the Constitution. The arrangements may provide for executive functions to be discharged by:

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

1.2 The Council appoints the Leader. The Deputy Leader and other members of the Cabinet are appointed by the Leader. The Leader is also the Chair of Cabinet meetings. In his or her absence the Deputy Leader chairs meetings of the Cabinet. The Leader determines the individual portfolios to be allocated to the members of the Cabinet.

#### **1.3 The Council's scheme of delegation and Cabinet functions**

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution. Where any executive functions have not been allocated, the Leader may decide who is to discharge 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 Members in Part 5 of this Constitution.
- (b) If any 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 Members 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 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 (or in the case of an individual member, in accordance with provisions contained in the list of executive functions exercisable by Cabinet members maintained by the Leader of the Council and the protocol on decision making) and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.5 Cabinet meetings - when and where?**

The Cabinet will meet at least 6 times per year at times to be agreed by the Leader. The Cabinet shall meet at County Hall, Lewes or another location to be agreed by the Leader.

#### **1.6 Public or private meetings of the Cabinet?**

There is a presumption that Cabinet meetings will be held in public, in accordance with the Council's principles of openness in decision making set out in Article 13 of this Constitution. The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

#### **1.7 Quorum**

The quorum of a Cabinet with an even number of members shall be one half of the total membership and for a Cabinet with an odd number of members, the quorum shall be one more than half.

#### **1.8 How are decisions to be taken by the Cabinet?**

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

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

### **2. How are Cabinet Meetings Conducted?**

#### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader shall preside. In the absence of both the Leader and Deputy Leader a person appointed to do so by those present shall preside.

## 2.2 Who may attend?

These details are set out in the Access to Information Rules in Part 4 of this Constitution. Meetings are usually open to the public. With the agreement of the Chair, a councillor (who is not a member of the Cabinet) may speak at meetings of the Cabinet where a decision affects that member's division or known special interest. Petitioners also have an opportunity to address the Cabinet or an individual Cabinet member where the Chairman of the County Council has referred a petition to them.

## 2.3 What business?

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from overview and scrutiny committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Cabinet agenda?

- (a) Agenda items for meetings of the Cabinet will be agreed by members of the Cabinet, the Chief Executive and Chief Officers of the Council. The advice of the Council's Monitoring Officer and

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Chief Finance Officer will also be relevant in considering what items should be put on the agenda by the Proper Officer.

- (b) The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet.
- (c) 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 the proper officer to call such a meeting in pursuance of their statutory duties.

## **(5) Overview and Scrutiny Procedure Rules**

- 1. What will be the number and arrangements for overview and scrutiny committees?**
  - (a) The Council's existing overview and scrutiny committees are set out in Article 6 but the Council will vary the number and memberships of scrutiny committees as it considers appropriate from time to time. Such committees may appoint sub-committees or panels. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
  - (b) The terms of reference of the scrutiny committees are set out in Article 6 in Part 2 of this Constitution. At their discretion scrutiny committees are able to establish project boards to undertake service or policy reviews. These reviews are undertaken in accordance with established project management principles.
  - (c) The scrutiny committees have responsibilities which are aligned with the core County Council services, and they are assisted in carrying out their work by Member Services.
  - (d) The Council's priorities and arrangements for scrutinising those priorities will vary from time to time. These rules have been produced in order that a common approach is adopted in relation to the work of the scrutiny committees and to ensure that the roles and positions of scrutiny committees and the officers reporting to them on the one hand and the Cabinet and chief officers on the other are clearly understood.

## **2. Organisational Arrangements and Responsibilities**

### *Report to Scrutiny Committees and Project Boards*

- (a) Chief Officers, through the Lead Officers, will be responsible for the production of reports as requested by Scrutiny Committees. Relevant Chief Officers will be given an opportunity to comment on draft reports being considered by Project Boards as part of reviews being undertaken, in particular to ensure that factual information is accurate. The advice of the Deputy Chief Executive and the Chief Finance Officer, or their representatives, will be obtained as necessary.

### *Briefings*

- (b) Chairs' briefings will be arranged by the Deputy Chief Executive's staff and attended, as appropriate, by the relevant Chief Officer and Lead Scrutiny Officer, along with the Chief Finance Officer's and Deputy Chief Executive's representatives.

Attendance

- (c) Cabinet members and relevant Chief Officers shall attend Scrutiny Committees when requested to do so to give evidence (or introduce monitoring reports or reports on promotional activities).
- (d) As requested, Chief Officers should leave when the item for which they are invited has been dealt with.

Reports from Scrutiny Committees

- (e) Reports from Scrutiny Committees to the County Council will, in accordance with normal arrangements, be settled by the Deputy Chief Executive in consultation with the Chair of the Committee.
- (f) Individual Scrutiny Committee reports to the County Council will appear separately on the agenda. They are to go via the Cabinet for comment but the Cabinet may not alter them. This report and any report for the Cabinet will be considered together at the same meeting of the County Council.

**3. “Substitutes” on Scrutiny Committees**

- (a) There is a presumption against the appointment of “substitutes” on Scrutiny Committees and Project Boards. This is on the basis that it will be very difficult for a member attending a meeting on a one-off basis part way through an investigation to make a meaningful contribution. Given the strong desire on the part of all party groups to work together on these committees, Scrutiny Chairs feel that full representation from each party group is less important than in other situations.

**4. Press and media releases**

- (a) The basic rules and guidance set out in Part 5 of this Constitution apply. Any releases are to be issued through the office of the Head of Communications.
- (b) While it is important that the role of the Scrutiny Committees is understood by the public, it is also important to avoid misunderstandings and unnecessarily creating the impression of conflict between Scrutiny and the Cabinet (although conflict may sometimes be inevitable).
- (c) If a media release is to be made before or after a Scrutiny Committee, consideration must be given to whether an appropriate quote from the Lead Cabinet member for the priority area concerned should be included if the release is to contain a quote from the Chair of the Scrutiny Committee. As stated, the normal ground rules apply; the action to be taken is to be settled in the

dialogue between the Lead Scrutiny Officer (or their Chief Officer) and the office of the Head of Communications. It will not always be appropriate to include a quote from the Lead Cabinet member, but he/she should be kept informed. E-mail distribution to members of press releases before agenda papers are released to the media should ensure that this happens.

(d) Care also needs to be taken where a review is incomplete. The Cabinet has the opportunity to comment to the County Council on a completed report from a Scrutiny Committee. Lead members of the Cabinet should refrain from comment until the review is complete. That may be a reason for not including a quote from the Lead Cabinet member in any press release issued in relation to Scrutiny when the review is incomplete.

### 5. **Timetable for Reviews**

(a) The timetable for Scrutiny reviews must be carefully considered and, for example, include enough space for consultation with officers on draft reports of Project Boards, before reports are submitted to Boards for approval. Once reports have been approved by Project Boards they cannot be amended without reference back to the Board.

(b) The following approach will usually be necessary:

- (i) Project Board conduct interviews. (See 6 below) Notes taken by Project Officer.
- (ii) Project Officer agrees notes with interviewees.
- (iii) Project Officer drafts report and shares with interviewees and other key players (but not the Board) - if appropriate without, at this stage, incorporating conclusions and/or recommendations.
- (iv) Project Officer takes on board as appropriate, points made by consultees.
- (v) Project Officer prepares further draft and circulates to the Deputy Chief Executive plus any other officers who should be consulted in accordance with the Guide to Decision Making Procedures and who have not already had that opportunity.
- (vi) Project Officer prepares final draft and shares with Project Board.

- (vii) Project Board agrees report, amends it or refers it back on the basis that any or all of the above steps may then need to be revisited.
- (viii) Project Board report presented to Scrutiny Committee.
- (ix) Where time permits reports from Scrutiny Committees to the County Council will be circulated to all members of the Committee for comment before they are finalised by the Deputy Chief Executive with the Chair.

## 6. Interviews as Part of Review

- (a) The list of members/employees/stakeholders to be interviewed as part of a review exercise is to be agreed by the Project Board (or Scrutiny Committee if there is no Board). The relevant Chief Officer should normally be given an opportunity to appear before the Project Board and Project Boards may wish to consider meeting with the Corporate Management Team where that might be considered helpful. People to be interviewed are to be given advance notice by the Lead Officer or Project Manager of:
  - (i) the broad areas for discussion and the terms of reference of the review so that they have time to prepare – this should ensure that maximum benefit is gained from the interview. More junior officers required to give evidence will be offered the opportunity to be accompanied by a “friend” should they wish to do so;
  - (ii) who will be interviewing them and that this is to be agreed by the Project Board (or Scrutiny Committee). The normal Interviewing Panel will involve the Project Manager or other officer to take notes and at least one other person. (Individual councillors have no authority to interview staff and staff may decline to be interviewed in such circumstances);
  - (iii) the fact that a written note summarising the interview will be produced by the Project Manager or other officer following the event and the content agreed with the person interviewed. The person will be informed that the note or its contents may form part of the final report from the Scrutiny Committee to the County Council which will be a public document in which case the relevant part of the report will be agreed with them. If there are any confidential issues to be discussed a way forward will be agreed with the person interviewed. In the event of any disagreement under this section the advice of the Deputy Chief Executive will be sought;

- (iv) where it is necessary to agree a way forward with a person who has been interviewed because of the confidential nature of issues discussed, the member of the Project board involved in the interview will be involved in those deliberations;
- (v) there will be occasions when reports will need to be confidential, but the process will be kept as open as possible; reports will only be marked confidential where this is unavoidable and justified under the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (vi) these guidelines are designed to ensure that interviews as part of the scrutiny and best value reviews are undertaken in a structured way with a proper record being taken. They do not prevent Councillors approaching officers for information or to raise issues as part of performing their overall role as a Councillor; members are encouraged to go direct to the most appropriate officer.

(b) Where requested, it may be appropriate to pay the reasonable expenses of those interviewed.

7. **Meetings of the Chairs and Vice-Chairs of Scrutiny and Audit Committees**

- (a) The Chairs and Vice-Chairs of Scrutiny and Audit Committees meet periodically on an informal basis to plan and co-ordinate the process of scrutiny, including:
  - making recommendations or progress reports to the County Council on the work programmes of Scrutiny Committees;
  - where a review or series of reviews cross the responsibilities of more than one Committee, to avoid duplication on the one hand and no aspect being overlooked on the other, the Chairs and Vice-Chairs may agree special arrangements for managing that review or programme of reviews. [For example, they may agree that one of them should be appointed to oversee the project, assisted by a Lead Officer to be nominated];
  - taking an overview of Member training with a view to improving the effectiveness of Scrutiny and Audit Committees.
- (b) Reports from Chairs and Vice Chairs of Scrutiny and Audit Committees to the County Council go direct and not via the Cabinet.

**8. Who may sit on overview and scrutiny committees?**

All councillors [except members of the Cabinet] may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

**9. Co-opted Members**

Any Scrutiny Committee dealing with education matters (either for children or adults) shall include in its membership the following voting representatives:

- (a) 2 Denominational representatives;
- (b) 2 parent governor representatives.

A relevant overview and scrutiny committee in this paragraph is an overview and scrutiny committee of the County Council where the committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. These representatives shall not vote on other matters, though they may stay in the meeting and speak.

**10. Meetings of the overview and scrutiny committees**

There shall be at least 4 ordinary meetings of each overview and scrutiny committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate.

**11. Quorum**

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution (see Standing Order 50.1).

**12. Who chairs overview and scrutiny committee meetings?**

The Chairs and Vice-Chairs of the Scrutiny Committees and Audit Committee are appointed by the full Council, and are allocated to the political groups in proportion to the number of seats they have on the Council. Within this allocation, the Chair of the Audit Committee is appointed from the largest Opposition Group.

**13. Work programme**

The overview and scrutiny committees/sub-committees will, subject to decisions by full Council, be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

**14. Agenda items**

- (a) Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- (b) The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council [and if it considers it appropriate the Cabinet] to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the Cabinet and the Council.

**15. Policy review and development**

- (a) The role of the overview and 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 its policy and budget framework, overview and scrutiny committee or sub-committees may make proposals to the Cabinet and/or the County Council for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so within any budgets established by the County Council.

**16. Reports from overview and scrutiny committee**

Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet and the Council.

**17. Making sure that overview and scrutiny reports are considered by the Cabinet or policy committees**

- (a) Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will refer it to the Cabinet and the Council for consideration. Reports from Scrutiny Committees will normally be considered by the Cabinet before they are submitted to the Council in order that the Cabinet can comment to the County Council on Scrutiny reports. (See paragraph 2(g) above).
- (b) Overview and scrutiny committees will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and 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.

**18. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and 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 overview and scrutiny committee as appropriate depending on the particular matter under consideration.

**19. Guidance on Call-in**

- (a) Call-in should only be used in exceptional circumstances and those considering a call-in should consider the following issues before invoking the procedure:-
  - (i) if it is a Cabinet or other decision which may affect more than one portfolio, consult any other Scrutiny Committee chairs affected.
  - (ii) if it affects an electoral division consult the local member(s).
  - (iii) consider any representations made, whether by members of the Scrutiny Committee, other members of the Council or members of the public.
  - (iv) take practical, financial and propriety advice to clarify any matters of doubt affecting the decision to call-in,

including consultation with the relevant Cabinet member or officers as appropriate.

- (v) take political soundings from all political parties on the Scrutiny Committee.
- (vi) ascertain whether any other all-party Scrutiny Committee examination has already been given to the issue.
- (vii) consider if the decision is likely to cause significant concern or distress to the local community or prejudice to individuals within it.
- (viii) consider if the issue is one that has not been considered in open forum or at all, or otherwise the subject of consultation before the decision was made.
- (ix) consider the implications of any delay in implementing the decision which might be subject to call-in.
- (x) the level of representations against the decision from outside bodies.

(b) Those calling-in a decision shall set out the reasons justifying, in their view, the reason for the call-in. Reasons must be legitimate and not designed to impede the proper transaction of business for vexatious, repetitive or other improper reasons. The advice of the Scrutiny Manager and the Monitoring Officer will be set out in the request for call-in.

(c) A proposal should only be called in once. If, however, the Cabinet or individual Cabinet Members substantially amends the original proposal in a way which the Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Scrutiny Committee has the right to call it in again.

## 20. Call-in

(a) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 3

working days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the proper officer.

- (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 5 working days after the publication of the decision, unless the relevant overview and scrutiny committee objects to it and calls it in. Guidance on the relevant committee will be sought from the Proper Officer.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by three members of the committee provided that the reasons for the call-in are clearly set out and, in the view of the Monitoring Officer, comply with these procedures and meet the requirements of paragraph 19 (b) above. He/she shall then notify the decision-taker of the call-in. The Committee will consider the call-in at a meeting which shall take place within 10 working days of the decision to call the matter in.
- (d) If, having considered the decision, the overview and scrutiny 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. On receipt of the response from the scrutiny committee the decision making person or body may decide to proceed with the original decision or make an amended decision.
- (e) If following an objection to the decision, the overview and 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 overview and scrutiny meeting, or the expiry of that further 10 working day period, whichever is the earlier.
- (f) If the matter was 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 locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

- (g) 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.
- (h) Where an executive decision has been taken by an area committee then the right of call-in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to a relevant overview and scrutiny committee for consideration in accordance with these provisions. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant overview and scrutiny committee.

### **Call-in and urgency**

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 Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency, on advice from the Monitoring Officer. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive's or the Deputy Chief Executive'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.

### **21. The party whip**

A party whip may be imposed, but when considering any matter in respect of which a member of an overview and 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.

### **22. Procedure at overview and scrutiny committee meetings**

- (a) Overview and scrutiny committees and sub-committees shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest;
  - iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;

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- iv) responses of the Cabinet to reports of the overview and scrutiny committee; and
- v) the business otherwise set out on the agenda for the meeting.

(b) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**23. Matters within the remit of more than one overview and scrutiny committee**

Where a matter for consideration by an overview and scrutiny committee also falls within the remit of one or more other overview and scrutiny committees, the decision as to which overview and scrutiny committee will consider it will be resolved at a meeting of the Chairs and Vice Chairs of the Audit Committee and Scrutiny Committees (see paragraph 7 above).

## **(6) Speaking to the Planning Committee**

### **Planning Applications for Minerals, Waste and County Council Development**

#### **Traffic Regulation Orders**

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##### **What is Public Participation?**

Members of the public can ask to speak to East Sussex County Council's Planning Committee to stress the importance of points they have made and to satisfy themselves that Councillors have all the information they need to decide planning applications or whether objections to Traffic Regulation Orders should be upheld. Usually up to 6 people will be invited to speak on each proposal, (3 in support and 3 against, one of which can be the applicants or their agent). Typically, each speaker will be given up to 3 minutes. The total time allocated for presentations will be the same for both sides of the argument up to a maximum of 9 minutes per side.

##### **Who can speak to the Committee?**

As a member of the public or an organisation, if you wish to speak to the Planning Committee, you must have already sent in a written comment about the application or Traffic Regulation Order. The County Council must have received written representations from you on the planning application or proposed traffic order at least 7 days in advance of the meeting. Written representations in relation to a planning application must have been made to the relevant case officer in the Planning Policy and Development Management team.

If that pre-requisite has been met, then residents' associations, local businesses and other people who live in the County can ask the Member Services Team for the opportunity to speak to the Committee (\*). Contact that officer as soon as you know you wish to be considered to speak so that they can tell you when the application is likely to be considered. Only those residents or organisations that have submitted views will be allowed to speak and therefore you will not be allowed to be represented by solicitors or other professional agents. Your local County Councillor can always speak on your behalf. Generally, only one representative for the applicant will be invited to speak.

\* Planning applications will generally fall to be determined by the Planning Committee when 2 or more written representations are received which raise

objections to the proposal on planning grounds. If you wish to know whether any particular application will be determined by the Planning Committee, please contact the case officer. The Council's Scheme of Delegation, which details the delegation arrangements in full, is available on the Council's website.

### **How will I know when the item I am interested in is going to Committee?**

The Member Services Team – **01273 335089** – will have details of Committee dates and 5 clear working days before the Committee will know which items are on the agenda. Details of dates and agenda can also be found here: [Committee details - Planning Committee | East Sussex County Council](#). Applications can attract many letters; it is not possible for us to alert you individually to Committee dates.

Copies of the officer's report will usually be available on the website 5 clear working days prior to the meeting or can be obtained from the Member Services Team.

Please read the report carefully before deciding what you want to say. The Planning Committee members will have read the report. What you can add is information on points you have submitted or a particular emphasis you feel is not being made.

### **How do I register my interest in speaking?**

You will need to telephone the **Member Services Team** on **01273 335089** no later than 12 noon on the Friday before the meeting.

When you ring, please be prepared to give:

- Your name, address, daytime telephone number and email address if you are planning to join the meeting remotely
- The application number and proposed development to which it refers or details of the Traffic Regulation Order you wish to speak about.
- Confirmation that you have made a written representation to the Council on the planning application or Traffic Regulation Order (checks will be made as necessary).
- Whether you wish to speak in support of, or against and whether you also represent anyone else.
- Confirmation that you are prepared to have your details passed onto other callers with similar views so that you can also speak on their behalf.

- Details of any special access arrangements you may require.

### **What if I am unable to turn up on the day?**

You may nominate a substitute that fulfils all the necessary criteria for speaking at Planning Committee giving details to the Member Services Team by no later than 4.00 pm on the day before the meeting.

### **What happens on the day?**

If you are invited to speak to the Planning Committee then you should aim to arrive at County Hall, Lewes, at least 15 minutes before the meeting begins. A member of staff will meet you and explain the procedures. If joining the meeting remotely, you should join the call 15 minutes before the meeting begins

### **What will happen in the meeting?**

The Chair will ask the appropriate officer to introduce the report and explain the reason for any recommendations.

Each member of the public who has registered to speak will then be invited to speak.

It is, of course, up to you what you decide to say, but it might be useful to bear in mind the following:

- The Planning Committee will listen to what you say but will not debate the merit of your opinions with you.
- Your allotted time will be timed using a coloured lighting system. The Chair will invite you to start speaking when the green light comes on; the amber light comes on when you have one minute left, which you should use as a warning, and you should complete your speech before the red light comes on. If joining the meeting remotely, you may wish to time your speech in the event that you cannot see the lighting system.
- Concentrate on explaining the points that you (or the group you are representing) have already made in writing. You should not attempt to surprise the Planning Committee with new information, photographs or additional written material. Any such information should have already been given to the planning officers in time for them to evaluate it professionally.

The Planning Committee can only consider a planning application on planning grounds. You should not discuss the applicant's past behaviour nor speculate

about what you think their possible future intentions may be. You may not discuss boundary disputes, covenants, reduction in property values or matters dealt with by other laws (e.g. licensing). Consideration of the Traffic Regulation Orders is related to the representations received.

Proceedings of the Planning Committee are broadcast live by webcast and are available to watch on our website for a period of one year after the meeting.

### **Who are the people that may speak?**

They are:

- up to 3 individuals or group representatives, including any parish or town council representative, who are opposing the planning application or Traffic Regulation Order;
- up to 3 individuals or group representatives, including any parish or town council representative, and including the applicant who are supporting the planning application or Traffic Regulation Order;
- local County Councillors or in the event that the local County Councillor is not able to attend (for reasons such as, but not limited to, illness or the member considers they have a prejudicial interest), another County Councillor nominated by the local County Councillor (or Group Leader in their absence) can attend and speak in the local County Councillor's place to represent the local residents and businesses within the electoral division.

If more than 3 individuals or representatives wish to raise similar points, then the Member Services Team will ask them to agree amongst themselves who should speak for them. If necessary, the Chair of the Committee will decide which members of the public may speak on the issue.

### **What happens after I have spoken?**

After the speeches by the public, applicants and Local County Councillors, the Planning Committee will consider the application or Traffic Regulation Order. Although this will be done in public, there will be no further opportunities for non-committee members or public to speak.

**Useful telephone numbers and addresses**

Individual planning officers will normally ask you to write to them personally.

The address for general purposes is:

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Communities Economy and Transport  
County Hall, St. Anne's Crescent  
Lewes, East Sussex, BN7 1UE  
Tel: 01273 481846  
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For further information and advice about the public speaking arrangements, please contact the Member Services Team:

**Member Services  
County Hall, St. Anne's Crescent  
Lewes, East Sussex, BN7 1UE  
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Email: [democratic.services@eastsussex.gov.uk](mailto:democratic.services@eastsussex.gov.uk)**

Please check the East Sussex County Council Website at [\*\*Committee details - Planning Committee | East Sussex County Council\*\*](#) or telephone the **Member Services Team** on **01273 335089** for information regarding committees.

**Link to Webcast Live and Recordings of recent meetings:  
[Webcasts | East Sussex County Council](#)**

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## **(7) Financial Procedure Rules**

The rules, more commonly referred as the Council's Financial Regulations and Standard Financial Procedures, provide a framework of control, responsibility and accountability for the administration of the Council's financial affairs.

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- A.1 Introduction
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**A.1. INTRODUCTION**

A.1.1 The purpose of Financial Regulations is to provide a framework of control, responsibility and accountability for the proper administration of the Council's financial affairs, to enable the Chief Executive and Head of Paid Service, the Chief Finance Officer and all Chief Officers to carry out their statutory duties.

A.1.2 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Local Government Act 2003;
- The Accounts and Audit Regulations 2015
- Local Government Pension Scheme Regulations 2013

A.1.3 Under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988, the Chief Finance Officer is responsible for the proper administration of the Council's financial affairs and is required to report to the County Council, Cabinet and external auditor if the Council or an officer is likely to make a decision or take a course of action which:

- (i) Would lead to unlawful expenditure, or
- (ii) Is likely to cause a loss or deficiency to the authority, or where
- (iii) The Council's expenditure is likely to exceed significantly the available resources.

A.1.4 In addition, Financial Regulations have an important role in establishing a sound system of corporate governance for the County Council and also in supporting the County Council's Anti-Fraud and Corruption Strategy. Chief Officers have individual and collective responsibility to ensure that the fundamental principles as established by the Cadbury Report on "the financial aspects of corporate governance", namely openness, integrity, and accountability, are established through compliance with Financial Regulations.

A.1.5 Financial Regulations are deemed to be part of the Constitution and Standing Orders in so far as they relate to the conduct of business in Council, Cabinet, Lead Member, Scrutiny, Committees, Panels, Boards and Forums. A full list of Committees and Meetings can be found [here](https://democracy.eastsussex.gov.uk/mgListCommittees.aspx?bcr=1).  
[<https://democracy.eastsussex.gov.uk/mgListCommittees.aspx?bcr=1>]  
Cabinet means a formal meeting of the Cabinet, meeting as a committee, convened in accordance with the access to information provisions of the Local Government Act 1972.

A.1.6 Financial Regulations endorse the Chartered Institute of Public Finance and Accountancy statement "The Role of the Chief Financial Officer in Financial

Administration in Local Government" issued in April 2016 in respect of the role of the Chief Finance Officer.

- A.1.7 Financial Regulations outline the system of financial administration to be operated within the Council, and it shall be the responsibility of the Council and Chief Officers to ensure that they are observed. Where the Council has allocated powers to Members and Chief Officers, these shall be exercised in accordance with Financial Regulations.
- A.1.8 Local management schemes have been approved for Schools. These shall have effect subject to the overall authority of these Financial Regulations. The Chief Finance Officer may approve changes to any more detailed financial regulations within approved local management schemes, again subject to their compliance with these Financial Regulations.
- A.1.9 These Financial Regulations are subject to the Accounts and Audit Regulations 2015 issued by Government under ss.32, 43 and 46 of the Local Audit and Accountability Act 2014. The Accounts and Audit Regulations 2015 establish statutory provisions for accounting arrangements, for audit arrangements and for financial control within the County Council.

## A.2 **GENERAL FINANCIAL MANAGEMENT**

- A.2.1 To enable the Chief Finance Officer to carry out his/her statutory duties, each Chief Officer must provide such information as requested within any reasonable timescale set.
- A.2.2 Copies of notifications from Government Departments including consents, approvals, regulations, circulars, letters, etc. in any way relating to finance shall be forwarded by Chief Officers immediately to the Chief Finance Officer.
- A.2.3 Notices of all meetings and copies of all agenda, reports and minutes of Cabinet, Committees, Sub-Committees and Panels shall be sent to the Chief Finance Officer as soon as they are available.
- A.2.4 The Chief Finance Officer shall be the chief financial adviser to the Council and shall keep the Council informed of the financial implications of all new policies and changes of policy.
- A.2.5 Each Chief Officer shall consult with the Chief Finance Officer in respect of any matter within his or her responsibilities which contains financial implications for either the revenue budget or capital programme or affects the finances of the Council before any provisional or other commitment is made and before reporting thereon to a Cabinet, Lead Member, Scrutiny, Committee, Panel, Board or Forum. Any report must, where the Chief Finance Officer considers appropriate include their views as well as those of the appropriate Chief Officer. The Chief Finance Officer engages with Heads of Finance to ensure an appropriate financial view is reflected in relevant Cabinet reports.

A.2.6 The Chief Finance Officer, with his/her statutory responsibilities and also with his/her Head of Profession role for Finance, issues a set of Standard Financial Procedures to establish sound practice and to assist him/her and other Chief Officers in their responsibilities. Standard Financial Procedures have the same authority as Financial Regulations. In particular:

- All payments shall be made in accordance with Standard Financial Procedures or other arrangements formally approved by the Chief Finance Officer.
- The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees shall be made in accordance with Standard Financial Procedures or other arrangements formally approved by the Chief Finance Officer.
- The collection of all income due to the Council shall be in accordance with Standard Financial Procedures or other arrangements formally approved by the Chief Finance Officer.

A.2.9 Chief Officers are responsible for the operation of sound financial procedures within their Department and in order to fulfil this duty they shall ensure that adequate controls are in place.

A.2.10 For this purpose, Chief Officers may issue Work Procedures in accordance with Standard Financial Procedures. The Chief Finance Officer may vary Standard Financial Procedures in accordance with the needs of individual departments. Provided he/she is satisfied that all necessary controls are met, the Chief Finance Officer may agree to variations proposed by Chief Officers. Agreed variations must be properly recorded.

A.2.11 The general regulatory hierarchy of the Council's Constitution may therefore be described as follows:

Procurement Standing Orders	Approved by County Council
Financial Regulations	Approved by County Council
Standard Financial Procedures	Approved by Chief Finance Officer
Work Procedures	Approved by Chief Officers

A.2.12 Where a Chief Officer delegates his/her powers to staff in accordance with a scheme of delegation, a record including appropriate authorisation of such delegation shall be maintained by the Chief Officer concerned.

A.2.13 Heads of Finance and designated financial managers shall be accountable to the Chief Finance Officer as Head of Profession on financial matters and shall act in support of his/her Section 151 role.

A.2.14 The Deputy S151 Officer shall perform the statutory and Head of Profession functions in the absence of the Chief Finance Officer.

### A.3 ACCOUNTING ARRANGEMENTS

- A.3.1 Chief Officers are responsible for the operation of financial processes within their Department and in consultation with the Chief Finance Officer shall ensure that adequate controls are in place.
- A.3.2 Central accounting systems, financial accounts and supporting records shall be determined by the Chief Finance Officer in accordance with the Accounts and Audit Regulations and other Accounting Codes and Standards. It shall be the responsibility of the Chief Finance Officer to ensure that such accounts and systems are kept up to date either through the staff under his/her control or other appointed agents.
- A.3.3 Financial systems, as determined by the Chief Finance Officer that record, monitor or control financial transactions, and that are developed locally within departments, shall be developed in consultation with the Chief Finance Officer and managed in accordance with principles of reconciliation and other guidelines issued by the Chief Finance Officer.
- A.3.4 Chief Officers shall maintain full and accurate records in order to supply the Chief Finance Officer with such financial and statistical information as he/she shall require to enable him/her to report fully and accurately on the finances of the Council.
- A.3.5 The Chief Officers shall ensure that the principles of internal control within all operations are maintained at least to a standard required by the Chief Finance Officer, from whom advice may be sought. In particular, the following principles shall be observed in connection with accounting systems:
  - (a) the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording those sums shall be separated as completely as possible from the duty of collecting or disbursing them;
  - (b) officers charged with the duty of examining and checking the accounts of financial transactions shall not themselves be engaged in any of these transactions.
- A.3.6 Where it is a requirement of the awarding body, or where the Chief Finance Officer requires it, before claims for grant or reimbursement are submitted to any government department or other body they shall be sent to the Chief Finance Officer for examination and certification.
- A.3.7 With the exception of Community Infrastructure Levy (CIL) bids for external funding shall be prepared in accordance with guidelines issued by, or in consultation with, the Chief Finance Officer and the External Funding Protocol. Where required, before applications are submitted to any government or other body, they shall be sent to the Chief Finance Officer for examination and to confirm that financial implications have been fully assessed. Bids for CIL shall be prepared in accordance with Section 106 (s106) and CIL Working Group Governance and Prioritisation arrangements.

A.3.8 Chief Officers shall consult the Chief Finance Officer to the County Council entering any formal or legally binding Partnership arrangement. Chief Officers shall ensure that an adequate technical and financial appraisal of all partners is undertaken. Financial appraisals shall be undertaken in consultation with the Chief Finance Officer.

**A.4 AUDIT ARRANGEMENTS**

A.4.1 In accordance with delegated powers and The Accounts and Audit Regulations, the Chief Finance Officer shall ensure that the Council maintains adequate and effective arrangements for the internal audit of the Council's accounting records and system of internal control.

A.4.2 Internal auditors appointed by the Chief Finance Officer shall, in pursuance of their duties, have the authority under Accounts and Audit Regulations to:

(a) enter any Council premises or land at any reasonable time, without prior notice;

(b) have access at all times to all records and documents (including email and correspondence) relevant to the business of the council as maintained by the council or third parties on its behalf including (but not limited to) external contractors and consultants;

(c) require and receive any information and explanations considered necessary to the audit;

(d) require any employee or agent of the Council to account for assets under his / her control.

A.4.3 Should an officer suspect an irregularity affecting income, expenditure, cash, stores or any other resources of the Council, it is the officer's duty to immediately report the matter to a Head of Finance, or if not appropriate, to the Chief Officer of the department who shall promptly inform the Chief Finance Officer. The Chief Finance Officer shall take such steps as are necessary by way of investigation and report the findings to the relevant Chief Officer(s).

A.4.4 Chief Officers are responsible for ensuring that all employees are informed of the County Council's Anti-Fraud and Corruption Strategy and that copies of the Policy Statement and Code of Conduct for Employees documents are provided to all new employees.

**A.5 CONTROL OF FINANCIAL BUDGETS**

- Budget Process – Reconciling Policy, Performance and Resources (RPPR)
- The Medium Term Financial Plan
- Revenue Budget Management
- Capital Programme Management

### **A.5.1 Budget Process**

A.5.1.1 Chief Officers and the Chief Finance Officer shall jointly prepare departmental annual estimates for both revenue and capital expenditure for the coming financial year for presentation to the Cabinet during the December/January cycle of meetings. The estimates shall be in a form agreed and notified by the Chief Finance Officer and be in accordance with any criteria set by the Council. Where a scheme of delegated financial management has been developed and approved by the Council, detailed estimates shall be prepared in accordance with the scheme.

A.5.1.2 A Medium Term Financial Plan shall be produced setting out the Council's government and local funding, the service budgets and any other known funding, commitments or pressures for a three year rolling period.

Estimates presented to the Cabinet shall include a report on the effects on the finances of the Council. The Cabinet shall consider the estimates presented and the report, and make such amendments as it deems necessary to the estimates, and recommend the level of the precept for the Council's approval.

A.5.1.3 For additional income, e.g. one-off grants, the Chief Finance Officer, with reference to the relevant grant determination, and in consultation with the Corporate Management Team, will determine whether the grant should be held corporately or passed to the relevant department within the MTFP. Additional income received in year from grants and other sources will be stated in subsequent reports, and, following determination by the Chief Finance Officer, treated as an underspend.

A.5.1.4 During each financial year, Chief Officers shall submit revenue budget and capital programme monitoring information to the Chief Finance Officer in a format and at such intervals as may be agreed.

A.5.1.5 The Chief Finance Officer will report on the outturn of expenditure and income to the Cabinet as soon as practicable after the end of the financial year.

A.5.1.6 The Chief Finance Officer will certify that the Statement of Accounts has been prepared in accordance with Accounts and Audit Regulations 2015 and that the Statement represents fairly the financial position of the County Council. The Chief Finance Officer will submit the Statement of Accounts to the Cabinet for approval not later than four months after the end of the financial year.

A.5.1.7 Where forms of service delivery other than those directly provided by the Council are to be used e.g. a trading organisation or a direct service organisation, these Financial Regulations would need to be reviewed and updated to ensure the adequacy and robustness of this service delivery.

### **A.5.2 Revenue Budget Management**

- A.5.2.1 Chief Officers shall be responsible for managing and directing resources to achieve the objectives of the budget. This will involve monitoring expenditure and income and the regular review of performance. Where budgets are delegated to local financial managers ("budget managers"), the budget managers are charged with the same responsibility.
- A.5.2.2 No expenditure shall be incurred which is not covered by an approved budget. If a Chief Officer is of the opinion that a budget will be or is likely to be overspent he/she must inform the Chief Finance Officer. The Chief Officer, in consultation with the Chief Finance Officer, will seek any necessary supplementary estimate or approval to commit additional expenditure in future years from the Cabinet.
- A.5.2.3 Earmarked revenue budget income, received for a specific purpose, may be spent for the purpose it was received so long as the Chief Finance Officer confirms that the purpose for which it is proposed it will be spent is in accordance with the purpose for which it was earmarked, and expenditure will not cause additional commitments for future years. Where commitments do arise, the approval of the Cabinet must be obtained.
- A.5.2.4 As part of the approved budget, a contingency provision may be approved each year by the Council. Once approved, allocations will only be made from the contingency provision under the direction of the Chief Finance Officer and in accordance with the approved purposes of the contingency.
- A.5.2.5 Revenue Budget transfers and under/overspending carry forwards shall be in accordance with the procedures set out in Regulation A.13 (Financial Limits).
- A.5.2.6 Surpluses earned by direct service organisations of the Council shall only be used for purposes approved by the Cabinet.

### **A5.3 Capital Programme Management**

- A.5.3.1 Capital expenditure, as defined in the Local Authorities (Capital Finance) Regulations 1990, or in such subsequent Regulations as may succeed these, will be considered for inclusion within the approved Capital Programme. The Chief Finance Officer will periodically review and issue a minimum threshold value below which projects cannot be charged to capital.
- A.5.3.2 The Government places controls on the financing capacity of the Council. This means that capital expenditure should: form part of a programme; be carefully prioritised in order to comply with the Council Plan; maximise the benefit of scarce resources and comply with CIPFA's Prudential Code for Capital Finance in Local Authorities (2013).
- A.5.3.3 A Capital Strategic Asset Board (CSAB) is in place to review and scrutinise the Capital Programme and to recommend business cases for inclusion in the Capital Programme. The membership of the CSAB includes senior officers from each service department, as well as Property, Finance and Procurement. The Chair of the CSAB is the Chief Operating Officer.

A.5.3.4 Capital projects shall be incorporated in a Capital Programme for consideration by Full Council, in conjunction with the annual revenue budget process detailing the phasing of expenditure on such projects and the full year revenue cost associated with each project, and having regard to the level of available resources.

A.5.3.5 The programme will be managed through governance processes agreed annually, and the need to prioritise projects for inclusion in the Capital Programme, should resources allow. Prior to the approval by the Council of a Capital Programme each year, Chief Officers, jointly with the Chief Finance Officer, shall prepare financial appraisals of all projects to be put forward for inclusion in the Capital Programme, supported by justification and including appropriate documents. This will be based on recommendations from the CSAB.

A.5.3.6 The Chief Finance Officer, will determine the resources available for the Capital Programme, taking into consideration the availability of reserves and balances, funding from other bodies and the affordability of borrowing.

A.5.3.7 Subject to paragraphs A.5.3.8, A.5.3.10 and A.5.3.11 below, no expenditure shall be incurred on capital projects which is not included in the approved Capital Programme and no contracts entered into or tender accepted unless any necessary government approvals and borrowing powers have been received, and resources approved in accordance with these Regulations.

A.5.3.8 The Capital Programme may be varied with the agreement of the Chief Finance Officer, if no additional commitments for future years are incurred, in the following circumstances:

- (a) where budget provision is transferred to capital expenditure financed from revenue account (CERA) in accordance with Regulation A.13 (Financial Limits) below or the recommended use of the capital risk provision by CSAB.
- (b) where earmarked capital receipts and grants or other specific funding are spent for the purpose they were received, provided that capital resources are enhanced by the amount received and that the capital receipts are received either before the payments are made, or within the same financial year.

For all other proposals that vary the Capital Programme, the approval of the Cabinet must be obtained subject to A.5.3.11 below.

A.5.3.9 The scope of capital schemes shall not be changed without the approval of the Cabinet unless under 10% variation to cost. Any significant alteration to the size, content or specification of a scheme which increases the cost by 10% or more, must be reported in a timely manner to the Cabinet. Variations within 10% of a project's total current budget can be agreed by the Chief Finance Officer, where funding has been identified (as outlined in A.5.3.8 above). This should be done in line with CSAB working processes and with current variation policy and guidance.

A.5.3.10 A capital risk provision is held to mitigate the risks associated with having a Capital Programme. These include inflationary pressures on construction costs, uncertainty regarding delivery of projects, still unknown requirements, the

uncertainty regarding the level of Government grants and risks associated with Brexit. The level of the capital risk provision is to be determined annually by the Chief Finance Officer after considering financial risk. The Chief Finance Officer, in consultation with the CSAB, can approve use of this provision on individual projects, the use of which will be reported to Cabinet as part of the RPPR process.

- A.5.3.11 Capital payments must be contained within the individual provisions in the approved Capital Programme. Where there is a variation prior to CSAB, the Chief Finance Officer should review and agree the proposal for dealing with the variation with the relevant CSAB representative.
- A.5.3.12 Where slippage into future years occurs on a project and there is no effect on the availability of capital resources, these should be reported to CSAB at the earliest available opportunity as part of quarterly monitoring and equivalent adjustments will be made to the following year's programme as part of the wider RPPR process.
- A.5.3.13 Where overspends compared to the annual provisions in the Capital Programme arise, departments must report the figures to the CSAB, together with proposals for funding the overspend in line with A.5.3.11.
- A.5.3.14 Where underspends occur these must be reported to the CSAB who again will make recommendations on the use of the underspend to the Chief Finance Officer for approval.
- A.5.3.15 If a tender price exceeds the Capital Programme provision, then this should be raised at CSAB in line with A.5.3.11.
- A.5.3.16 The final cost of each capital scheme chargeable against the Capital Programme shall be reported by the appropriate Chief Officer to the Cabinet if the cost exceeds the provision in the Capital Programme by 10% or more, as soon as possible after completion together with explanations for variances from the estimated cost.
- A.5.3.17 The Chief Finance Officer will report on the outturn of capital expenditure to the Cabinet as soon as practicable after the end of the financial year.

## A.6     **CONTROL OF STAFFING BUDGET**

- A.6.1    Within the total financial estimate provision approved by the Council, Chief Officers shall be entitled to vary the numbers and composition of their workforce in order to meet service requirements provided such variations do not commit the Council to increased expenditure in future years.
- A.6.2    Chief Officers must adhere to the mandatory aspects of the Council's HR Policies, Procedures and Practices, as well as the Scheme of Personnel Delegations. This includes the proper use of appointment procedures; the proper use of job evaluation or other agreed systems for determining remuneration; and the method used to make payments to staff and employees including those falling within locally determined and local management schemes.

- A.6.3 Chief Officers shall ensure that staffing-related information is maintained in a form required by the Chief Executive and a form necessary to comply with the Council's HR Policies, Procedures and Practices.
- A.6.4 Chief Officers shall also ensure that any systems used to process staffing/workforce data or remuneration are properly maintained in accordance with these Financial Regulations, the Data Protection Act 2018 and the UK General Data Protection Regulation.
- A.6.5 Arrangements for the payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees shall be made in accordance with Standard Financial Procedures issued by the Chief Finance Officer.

#### **A.7 CONTROL OF FINANCIAL INFORMATION AND COMMUNICATION SYSTEMS**

- A.7.1 All Chief Officers will conform with and follow the Council's IT and Digital Strategy and will seek the advice of the Chief Finance Officer on the introduction of information and communications systems. In particular, Chief Officers ensure that sufficient standards and procedures are in place and will also ensure the achievement of value for money in the introduction of new systems and equipment.
- A.7.2 Chief Officers shall consult with the Chief Finance Officer on the development of any financial or other systems whether computerised or manual at the earliest practicable stage and obtain the consent of the Chief Finance Officer in implementing those systems.
- A.7.3 Minimum standards of control for any new system or development of an existing system which involves a financial operation or produces output that may influence such an operation, must be agreed in advance with the Chief Finance Officer.
- A.7.4 Chief Officers shall conform to the County Council's security and control of systems' standards within their Departments. They shall also be responsible for the security and privacy of data necessary to accord with the Data Protection Act 2018 and UK GDPR. When accessing central or other systems, Chief Officers will be responsible for ensuring that agreed procedures are followed.
- A.7.5 Any proposal to purchase or develop a computer system (IT hardware, software or communications equipment) shall be the subject of a business case in an approved form and in accordance with the Council's IT and Digital Strategy. In the same manner, such proposals will also be subject to post implementation review.
- A.7.6 Chief Officers shall make sound and sufficient contingency arrangements to ensure the security and continuity of services in the event of a disaster e.g. fire, flood etc. and to enable the restitution of systems and data.

## A.8 CONTROL OF CONTRACTS

A.8.1 All contracts and agreements entered into shall conform to the Council's Procurement Standing Orders for contracts and tenders and must be covered by an approved budget. When contracts have a duration of more than one financial year, Chief Officers must ensure that the charges stemming from such arrangements can be accommodated within the estimates for the current and future years.

A.8.2 Chief Officers shall comply with United Kingdom legislation and any retained European Union law relating to public procurement. Where appropriate, contracts and agreements shall be on one of the Council's standard form of contracts.

A.8.3 Chief Officers shall ensure, in consultation with the Chief Finance Officer, that they comply with the Procurement Standing Orders for all contracts and procurement below the threshold of competition required by the Council's Procurement Standing Orders.

A.8.4 Chief Officers shall have proper regard for any Code of Conduct and Conflict of Interest Policy for Employees issued from time to time by the Chief Finance Officer. Prior to the letting of a contract above the threshold of competition required by the Council's Procurement Standing Orders, Chief Officers shall ensure that an adequate technical and financial appraisal of tenderers is undertaken. Financial appraisal of tenderers shall be undertaken in consultation with the Chief Finance Officer.

A.8.5 The Chief Finance Officer will advise on matters relating to the maintenance of buildings, the need for repairs etc. and other such works for which he/she has budget responsibility. Also, through the Chief Property Officer, a general responsibility for advising sound procedures will be maintained.

A.8.6 A register of formal contracts entered into and a record of payments made thereunder shall be kept by each Chief Officer in a form approved by the Chief Finance Officer for all contracts involving stage payments. Where appropriate, the record of payments will be supported by details of the final account and a certificate of completion.

A.8.7 Where the contract requires that interim and final payments shall be made on certificate, that certificate shall be:-

- in a form approved by the Chief Finance Officer;
- signed personally by an officer authorised by the Chief Officer;
- authorised and issued in sufficient time to enable payment to be made within the time specified.

A.8.8 Such documents as may be necessary shall be made available to the Chief Finance Officer to enable him/her, or his/her appointed agents, to audit a contract. If contracts are supervised and managed by persons other than officers of the Council, the agreement with that person (or persons) shall

provide that all documents relating to a contract shall be available for inspection by officers of the Council if required.

- A.8.9 Any variation to a contract for building or civil engineering work will be authorised in line with Procurement Standing Orders.
- A.8.10 When the final certificate of completion of any contract is issued by the appropriate officer, private architect, engineer or consultant a copy shall be produced to the relevant Chief Officer together, if required, with a detailed statement of account and other relevant documents.
- A.8.11 Where expenditure on a contract exceeds the contract value, the Chief Officer will report if Regulation A.13 (Financial Limits) is exceeded. Where a contract period is likely to be exceeded, so as to significantly affect service provision, a report shall be submitted to the Cabinet by the Chief Officer giving reasons for the delay, and making any recommendations as to claims after consultation with the Deputy Chief Executive.
- A.8.12 Operational leasing or contract hire arrangements for vehicles, plant or equipment may be undertaken by Chief Officers provided the Chief Finance Officer is satisfied that the method of finance is appropriate for the asset concerned and that the best terms available have been secured.

#### **A.9 BANKING ARRANGEMENTS**

- A.9.1 The Cabinet shall approve all banking contract terms and conditions. All other arrangements with the Council's bankers shall be made by or approved by the Chief Finance Officer who shall be authorised to operate such accounts, including National Giro accounts, as he/she deems necessary. Bank accounts for imprest holders, procurement card holders and delegated financial management schemes and shall be subject to the same arrangements.
- A.9.2 With the exception of imprest accounts all cheques, including National Giro payment forms, shall be ordered on the authority of the Chief Finance Officer who shall make proper arrangements for their safe custody. Credit cards may only be issued to Chief Officers or other officers with delegated authority with the consent of the Chief Finance Officer and only on terms approved by the Chief Finance Officer.
- A.9.3 Cheques drawn on the Council's main banking accounts, including National Giro accounts, shall bear the facsimile signature of the Chief Finance Officer or be signed by him/her or officers authorised by the Cabinet. The manual pre-signing of cheques is not permitted on any cheque drawn on a County Council bank account.
- A.9.4 Where payments are to be transmitted either electronically or automatically, the Chief Finance Officer shall approve the necessary arrangements made to safeguard the interests of the Council.

A.9.5 All County Council funds shall be banked to the corporate accounts of the County Council, appropriate subsidiary accounts or other accounts in the name of the County Council and approved by the Chief Finance Officer. No other account shall be used for transacting or transferring County Council funds.

#### **A.10 TREASURY MANAGEMENT, INVESTMENTS AND TRUST FUNDS**

A.10.1 All monies in the hands of the Council shall be aggregated for the purposes of Treasury Management and shall be under control of the Chief Finance Officer as delegated by the County Council.

A.10.2 The County Council has adopted the key recommendations of CIPFA's *Treasury Management in the Public Services: Code of Practice*.

Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:

- a Treasury Management Policy and Strategy Statement, stating the policies and objectives of its treasury management activities;
- suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

The content of the Policy and Strategy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key recommendations.

The County Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and responsibility for the execution and administration of treasury management decisions to the Chief Finance Officer who will act in accordance with the Policy and Strategy statement and TMPs and CIPFA's *Standard of Professional Practice on Treasury Management*.

A.10.3 The Chief Finance Officer shall report to the County Council at the beginning of the financial year and make recommendations on the following:-

- a) the overall borrowing limit;
- b) the short term borrowing limit;
- c) the maximum proportion of borrowing which may be at variable interest rates.

Once approved by the County Council, these limits may only be varied by the County Council itself.

- A.10.4 The Chief Finance Officer is authorised to borrow all monies and to arrange the temporary investment of funds within the approved borrowing limit and in accordance with the County Council's Treasury Management Policy and Strategy Statement. Borrowing or lending or investing of monies not within the Chief Finance Officer delegated powers will not be permitted without the approval of the County Council.
- A.10.5 Subject to Financial Regulation A.10.3, the Chief Finance Officer shall be authorised to borrow in respect of projects provided the necessary Government Credit Approvals have been received or provided financing is contained within the County Council's "aggregate credit ceiling" (as statutorily defined) and in accordance with the approved Capital Programme.
- A10.6 All loans and investments, other than those belonging to the East Sussex Pension Fund and bearer securities, shall be made in the name of the Council. Investments in the East Sussex Pension Fund, other than bearer securities, shall be held in the name of the Council or the Council's nominees.
- A.10.7 All securities the property of or in the name of the Council or its nominees, and the title deeds of all property in its ownership shall be held in the custody of the Deputy Chief Executive, the Chief Finance Officer, or the Council's bankers as appropriate or under such other arrangements as are approved by the Chief Finance Officer.
- A.10.8 The Chief Finance Officer or the Council's bankers shall be the Council's registrar of stocks, bonds and mortgages as appropriate. The Chief Finance Officer shall maintain records of all borrowing of money by the Council. Stocks, bonds and mortgages held by the East Sussex Pension Fund may be registered in the name of the Fund's nominees.
- A.10.9 All trust funds shall, wherever possible, be in the name of the Council or approved nominees. All officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the Deputy Chief Executive unless the deed otherwise provides.

**A.11   ESTATES**

- A.11.1 The Chief Finance Officer shall, in consultation with the Deputy Chief Executive, maintain a terrier of all properties owned by the Council, recording the holding department, location, extent, plan reference, purchase details, nature of the interest, tenancies granted, rents payable, and purpose for which the property is held.
- A.11.2 The Chief Finance Officer shall maintain an asset register in such a form to record sufficient details to meet the requirements of the Code of Practice on Local Authority Accounting in respect of capital accounting.
- A.11.3 The Deputy Chief Executive shall have custody of all title deeds under secure arrangements agreed with the Chief Finance Officer.

## **A.12 INSURANCE**

A.12.1 The Chief Finance Officer shall effect all necessary insurance cover and negotiate all claims, in consultation with other officers where necessary. In respect of direct service organisations, adequate insurance cover shall be maintained by each organisation for employers and third party liability, buildings and contents and such other risks as are deemed necessary.

A.12.2 Chief Officers shall notify the Chief Finance Officer immediately of:-

- (a) all new risks and liabilities which may require to be insured;
- (b) any alteration which may affect existing insurance;
- (c) any loss, damage, claim or event which might give rise to a claim by or against the Council;
- (d) any acquisition or disposal of interests in property which involves an amendment to insurance cover.

A.12.3 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.

A.12.4 The Chief Finance Officer shall, at least annually, review all insurance in consultation with other Chief Officers.

A.12.5 Chief Officers shall consult with the Chief Finance Officer and the Deputy Chief Executive in respect of the terms of any indemnity which the Council is requested to give.

## **A.13 FINANCIAL LIMITS**

- Budget Limits
- Control of Contracts
- Ex-Gratia Payments
- Write Off of Debts
- Write Off of Stocks and Stores
- Payment of Accounts

### **A.13.1 Budget Limits**

#### **- Revenue Budget Transfers**

A.13.1.1 The following levels of approval apply to budget transfers and journals:

Action	Approval required
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<i>General Budget Transfers (across departmental budgets)</i>	<i>Up to £1m between departments should be agreed by the Head of Finance). Between £1m and £5m between departments should be authorised by the Chief Finance Officer and relevant Chief Officer(s). Over £5m should be authorised by Cabinet.</i>
<i>General Budget Transfers (within departmental budgets)</i>	<i>With agreement of the budget manager(s)</i>
<i>Technical Budget Transfers (e.g. budget transfers to comply with proper accounting practices)</i>	<i>Chief Finance Officer.</i>
<i>Administrative budget transfers (e.g. already approved by Full Council or Schools Forum)</i>	<i>Chief Finance Officer.</i>
<i>Journals</i>	<i>Journals over £1m must be authorised by a Finance Manager or above.</i>  <i>Exceptions: Pension Management, Capital Finance and Treasury Management where the regular reconciliation of borrowing and investment codes indicate that there is adequate control over the detailed transactions.</i>
<i>Capital Expenditure financed from Revenue Account (CERA)</i>	<i>In line with the capital variation process (see A.5.3.8 and A.5.3.9 above).</i>

A.13.1.2 If the Council is committed to additional expenditure in future years, no budget transfer over £5m will be permitted unless approved by the Cabinet. All other transfers should be in line with the table above.

A.13.1.3 If there is a significant change to an existing policy, or the development of a new policy the approval of Cabinet/ County Council will be required.

A.13.1.4 Where the budget is delegated to budget managers, transfers may be made from one head to another as approved by the appropriate scheme of delegation.

#### **- Revenue Budget Under/ Overspends**

A.13.1.5 Unless ring-fenced for a specific purpose, requests for underspends to be used for a particular purpose will be considered by the Chief Executive in consultation with the Chief Finance Officer and Chief Officers as part of the Pressures Protocol during the RPPR process.

A.13.1.6 Where overspends occur, these must first be offset against underspends unless another course of action has been approved by the Cabinet.

#### **A.13.2 Control of Contracts**

A.13.2.1 Where during the currency of a contract valued at £500,000 or more, it becomes apparent that expenditure against the contract will exceed the contract value by 10% or more, other than as a result of a price fluctuation clause, the Chief Officer, in consultation with the Chief Finance Officer, shall present a full report to the next practicable meeting of Cabinet.

#### **A.13.3 Ex-Gratia Payments**

A.13.3.1 Chief Officers may authorise ex-gratia payments up to £1,000. Ex-gratia payments in excess of £10,000 shall only be authorised by Lead Member Resources.

A.13.3.2 Ex-gratia payments falling between these limits may only be authorised by the Chief Officer after consultation with the Chief Finance Officer and Deputy Chief Executive.

A.13.3.3 A complete record of ex-gratia payments made by Chief Officers shall be maintained and shall be available to the Chief Finance Officer on request and retained in accordance with Standard Financial Procedures.

#### **A.13.4 Write Off of Debts**

A.13.4.1 The write-off of debts below £5,000 may be authorised by the Chief Officer. The write-off of debts in excess of £10,000 shall only be authorised by the Lead Member for Resources.

A.13.4.2 All other debts falling between these limits may only be written off by a Chief Officer after consultation with the Chief Finance Officer and Deputy Chief Executive.

A.13.4.3 A complete record of debts written off shall be maintained by the appropriate Chief Officer and retained in accordance with Standard Financial Procedures.

A.13.4.4 Where the debt is owed to the East Sussex Pension Fund, the write off of any value debt may be actioned by the Chief Finance Officer, in consultation with the Chair of the Pension Committee, and reported to the Pension Committee.

#### **A.13.5 Write Off of Stocks and Stores**

A.13.5.1 No deficiency which occurs in excess of £10,000 shall be written off by a Chief Officer without the prior approval of the Lead Member Resources.

A.13.5.2 Variations below this figure may be written off by the Chief Officer following consultation with the Chief Finance Officer and Deputy Chief Executive.

A.13.5.3 A complete record of stocks and stores written off shall be maintained by the appropriate Chief Officer and retained in accordance with Standard Financial Procedures.

#### **A.13.6 Payment of Accounts**

A.13.6.1 For non Schools: All payments in advance over £25,000 can only be made with prior approval of the Chief Finance Officer.

Payments in advance between £15,000 and £24,999 shall be authorised by a Head of Finance or above.

Payments in advance of between £500 and £14,999 shall be authorised by Finance Manager or above.

Payments in advance less than £500 do not require finance approval where booking of training courses, accommodation, conferences and similar can only be secured with payment.

A.13.6.2 For Schools:

Payments in advance under £500 shall be authorised by the Chair of Governors and a record kept at the school.

Payments in advance between £500 and £4,999 shall be authorised by a Schools Finance Principal Finance Officer.

Payments in advance between £5,000 and £14,999 shall be authorised by the Schools Accountant.

Payments in advance greater than £15,000 shall be authorised by the Head of Finance for Children's Services and Schools Finance or above.

#### **A.14 FEES AND CHARGES**

A.14.1 The Chief Finance Officer has delegated authority to set all fees and charges and to report on those set at a level above inflation as part of the quarterly monitoring to Cabinet and as part of Reconciling Policy, Performance and Resources.

#### **A.15 RESERVES**

A.15.1 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the Council on prudent levels of reserves for the Authority, having regard to assessment of the financial risks facing the Authority. This duty is set out in Section 25 of the Local Government Act 2003.

A.15.2 As stated in the Council's Reserves Policy, in reviewing medium-term financial plans and preparing annual budgets, the Council will consider the establishment

and maintenance of reserves for the general fund. The nature and level of reserves will be determined formally by the Council, informed by the judgement and advice of the Chief Finance Officer (CFO).

A.15.3 The Council's Reserves Policy will be reviewed annually and reported and approved.

#### **A.16 VALUE ADDED TAX (VAT) AND INCOME TAX**

A.16.1 Chief Officers are responsible ensuring the correct financial management of VAT and Income Tax, in respect of both income and expenditure, following guidance issued by the Chief Finance Officer. The Chief Finance Officer is responsible for providing advice to Chief Officers on the potential tax implications of any new initiatives for the delivery of Council activity and Services, including those that could impact on the partial exemption position.

A.16.2 The Chief Finance Officer is responsible for the Council's VAT returns and Income Tax to HM Revenue and Customs. All communication with HM Revenue and Customs for the Council shall be co-ordinated through the Chief Finance Officer or delegated officer.

A.16.3 Chief Officers should seek financial advice from the Chief Finance Officer on any VAT or Income Tax issues. If, following this advice, there is misdirection, or other penalty, this will be the responsibility of the relevant Chief Officer and [it](#) will be charged to the relevant budget, unless it results from incorrect guidance from the Chief Finance Officer. Chief Officers are responsible for obtaining necessary VAT receipts.

## **Procurement and Contract Standing Orders**

Rules to be followed when buying on behalf of

East Sussex County Council

Version 2

### **Version History**

- V0.1 - 4.4.13
- V0.2 - 22.5.13
- V0.3 - 12.6.13
- V0.4 - 18.6.13
- V0.5 - 20.6.13
- V0.10 - 10.9.13
- V0.12 - 07.10.13
- V0.14 - 21.10.13
- V0.15 - 22.10.13
- V0.16 - 24.10.13
- V0.17 - 07.11.13
- V0.18 - 11.11.13
- V0.19 - 18.12.13
- V0.20 - 20.01.14
- V0.21 - 02.05.14
- V0.22 - 19.01.2016
- V0.23 - 04.02.2016
- V0.24 - 04.03.2016
- V0.25 - 10.03.2016
- V0.26 - 21.03.2016
- V0.27 - 17.12.2017
- V0.28 - 09.07.2019
- V0.29 - 28.01.2020
- V1 - 20.03.2025
- V2 - 01.01.2026

## **1. Introduction**

These Procurement and Contract Standing Orders (“the Orders”) set out how the Council authorises and manages expenditure and resulting commercial contracts with other organisations. The purpose of these Orders is to ensure that prior to any significant expenditure there is proper consideration of whether there is a need to buy or if the need could be serviced internally and that when external expenditure is required, that it is done in a fair, open and transparent way, whilst delivering value and maximising public benefit. Anyone who buys on behalf of the Council, including staff, suppliers and consultants, is responsible for following these Orders and all relevant policies and Statutory Guidance (see Appendix 1) as well as guidance provided by Procurement. Senior Officers (Heads of Service and above) are accountable for all procurement in their respective area of responsibility. Functions delegated to particular officers under these Orders may be carried out by other officers specifically authorised by them for that purpose.

All definitions and interpretations used in these Orders, are set out in the Definitions table at Appendix 2.

### **1.1. Legal status of these Procurement and Contract Standing Orders (PCSOs)**

The Council is required by section 135 of the Local Government Act 1972 to maintain these Orders as part of our Constitution. The Director of Procurement is the custodian of these Orders and is responsible for keeping them under review. If the law is changed in a way that significantly affects these Orders, then the Director of Procurement will recommend an update to the Governance Committee.

The Chief Operating Officer, in consultation with the Deputy Chief Executive and Chief Financial Officer, shall have delegated authority to make the following incidental amendments from time to time to these Orders:

- a. changes to the thresholds set out in the applicable Procurement Legislation to reflect changes made by central government;
- b. changes to job titles, departments and roles of staff;

- c. Links or references to or contained within Appendix 1; and
- d. Changes required to clarify, add or remove definitions.

## 1.2. Governing Legislation

Procurement Legislation has been updated significantly since the publication of the Public Contracts Regulations 2015 (“PCR”). New procurements undertaken by the Council, apart from those for certain health care services, are regulated by the Procurement Act 2023 (“PA 23”) and the Procurement Regulations 2024.

Procurement of certain health care services is regulated by the Health Care Services (Provider Selection Regime) Regulations 2023 (“PSR”). Schedule 1 of the PSR set out those services that are subject to this regime.

Other legislation may also be applicable, such as the Public Service (Social Value) Act 2012 and the Transparency Code 2015, which also impacts on procurement. It is important that Officers are aware of the wider legislative landscape.

Where a procurement has commenced (i.e. a contract notice has been issued) prior to 24 February 2025, the procurement and management of that contract shall continue to be governed by the PCR rather than the PA 23.

## 1.3. Key Principles

These Orders are based on the following key principles:

- a. To ensure that the Council meets its statutory duty to deliver **best value** and supports healthy competition and markets for the Goods, Services and Works purchased.
- b. To share information and be **transparent** to our residents and supply chain about the Council’s procurement policies and decisions and how it spends its money.
- c. To ensure that public money is spent **legally and fairly**.
- d. To act and be seen to act with **integrity**.

- e. To treat suppliers the same unless a difference between the suppliers justifies different treatment and not put any supplier at an unfair advantage or disadvantage.
- f. To address the environmental impacts of our supply chain in accordance with the Council's Climate and Biodiversity Emergency declaration.
- g. To support **social value** objectives, and our public sector **equality** duty, encouraging local small businesses and maximise public benefit.
- h. To consider how to remove or reduce any barriers to participation for small and medium sized enterprises.

### **1.4. Compliance**

Any breaches of these Orders will be reported to the Statutory Officers Group and may result in disciplinary action in line with the Council's Disciplinary Policy.

Every contract made by, or on behalf of, the Council must comply with Procurement Legislation, all other applicable legislation, these Orders and the Council's Financial Regulations and Standard Financial Procedures. Where there is a difference between Procurement Legislation and these Orders, the Procurement Legislation prevails. Where these Orders appear to conflict with other Council determined rules, the Deputy Chief Executive shall determine which takes precedence.

### **1.5. Roles and Responsibilities**

The Director of Procurement is responsible for all stages of procurement up to and including contract award across all Services and local systems. This responsibility is managed on a day-to-day basis by Procurement, who advise and assist Services in undertaking their procurement activities.

#### **All Officers are responsible for:**

- a. Complying with these Orders, all relevant policies and statutory guidance (see Appendix 1).
- b. Complying with Procurement Legislation.

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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- c. Adopting the Key Principles set out in paragraph 1.3 throughout all procurement activities.

### **Procurement is responsible for:**

- a. Working closely with Commissioners and Chief Officers to agree and deliver the Procurement Forward Plan.
- b. Providing expert procurement advice to secure the right suppliers for the Council.
- c. Maintaining the Contract Management Framework for how contracts are managed. See Appendix 1.
- d. Ensuring transparency of contract spend, contracts and contract opportunities.
- e. Maintaining accurate procurement records as required by internal and external governance.
- f. Ensuring agreed social value and environmental sustainability requirements are embedded in relevant procurement activities.

### **All Commissioners and those who buy on behalf of the Council are responsible for:**

- a. Purchasing from existing compliant contracts (for example a Framework arrangement) where they are available and appropriate.
- b. Ensuring there is adequate budget available for any purchase.
- c. Ensuring that the requirement and specification takes into account and addresses environmental impacts, wherever possible.
- d. Considering how the Council's social value priorities should be supported by the requirements and the supplier.
- e. Ensuring suppliers act ethically and responsibly in accordance with legislation and Council policies.
- f. Raising a properly completed purchase order and ensuring it is approved *before* the requirements are delivered to the Council, regardless of which system is used.
- g. Ensuring specifications meet a defined need and requirements and properly take into account wider local and national priorities where applicable.

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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- h. Ensuring that HR is consulted, and the appropriate approval obtained for requirements of temporary workers or consultants outside any agreed corporate contract.
- i. Following the guidance and procedures set out in the Contract Management Framework, according to the value, risk and complexity of the contract.

**All Contract Managers and those who manage contracts on behalf of the Council are responsible for:**

- a. Following the guidance and procedures set out in the Contract Management Framework, according to the value, risk and complexity of the contract.
- b. Ensuring Contracts are monitored and managed in accordance with procurement legislation requirements as well as individual contractual requirements, including applicable transparency notifications (See Appendix 1).
- c. Ensuring Social Value and, where applicable, Environmental commitments are tracked and delivered.

### **1.6. Procurement Type**

Prior to commencing any procurement activity, you are required to identify which of the below procurement types the activity falls into as this will determine which Procurement Legislation, and subsequently which thresholds, will be applicable.

- a. Goods and Services;
- b. Works;
- c. Light Touch (certain social, health, education, and other public services);
- d. Provider Selection Regime (some Healthcare services); or
- e. Concessions.

There is no flexibility in the application of the Procurement Legislation, so it is crucial the correct provisions are applied.

The Procurement Legislation contains a list of Common Procurement Vocabulary (CPV) codes which can be used to identify the types of services where the Light Touch and Provider Selection Regime can be applied. Similarly, CPV Codes can be

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used to determine where a requirement will be regarded as 'Works' for the purposes of the Procurement Legislation. A link to the CPV code lists is provided in Appendix 1.

Table 1 below shows the definitions for the types of procurement, the Relevant Thresholds for them and the Procurement Legislation that could apply.

To determine which Relevant Threshold applies, it is necessary to estimate the value of the Contract. Further guidance on how to do this is included in paragraph 1.8.

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

**Table 1:**

<b>Procurement Type</b>	<b>Definition</b>	<b>Thresholds (inc. VAT where applicable)</b>
<b>A: Goods or Services</b> Procurement Act 2023	Goods or Services* (Excluding Light-Touch and Healthcare services – see <b>Type C/D</b> below as applicable)	<b>£207,720</b>
<b>B: Works</b> Procurement Act 2023	<b>Works</b> - A contract is a “works contract” if its main purpose is— (a) the carrying out of works under the contract (whether or not resulting in a complete work), or (b) to facilitate the carrying out of works otherwise than under the contract, where those works are intended to result in a complete work that complies with specifications set out in, or determined under, the contract.  “Works” means the activities which fall within the CPV codes listed in Schedule 3 to the Procurement Regulations 2024.	<b>£5,193,000</b>
<b>C: Light Touch</b> Procurement Act 2023	Contracts wholly or mainly for the supply of services of a kind specified in regulations. These “light touch services” are set out in Schedule 1 of the Procurement Regulations 2024 using CPV codes These services include adult and children’s social care, community services and legal services	<b>£663,540</b>
<b>D: Provider Selection Regime (PSR 2023)</b> Health Care Services Regulations 2023	PSR 2023 covers procurement of certain healthcare services in England. The services in scope of PSR 2023 are set out in Schedule 1 of those regulations and describe services delivered to patients and service users, contracted by local authorities and NHS Trusts. Examples include some Public Health services which are aimed at providing healthcare interventions for individuals.	<b>No threshold</b> Purchases of any value
<b>E: Concessions</b> Procurement Act 2023	A contract for the supply, for pecuniary interest, of works or services to a contracting authority where— (a) at least part of the consideration for that supply is a right for the supplier to exploit the works or services, and (b) under the contract the supplier is exposed to a real operating risk.  NB. For the purposes of this section of the Orders, Concession contracts also include Light Touch Services Concession Contracts.	<b>£5,193,000</b>

**\*World Trade Organisation (WTO) General Procurement Thresholds change every 2 years. The Thresholds listed here are applicable between 1 January 2026 and 31 December 2028.**

### **1.7. Exempted Contracts**

Apart from the exceptions listed below, these Orders cover all spend with external suppliers, regardless of how they are funded, or which systems are used to place orders with suppliers.

The exceptions listed below are managed by separate legislation, policies and / or procedures as well as the applicable Constitutional requirements and Internal Schemes of Delegation (all of which may be amended, repealed and superseded, from time to time):

<b>Exclusion</b>	<b>Notes</b>
Services exempt under Schedule 2 of Procurement Act 2023	
Contracts for the acquisition or lease of land and/or real estate	Managed via Property Services
Contracts for permanent or fixed term employment	HR/Recruitment Policies
Direct payments to customers following care assessment (for example, payments under Self-Directed Support or Individual Budgets)	Governed under The Care Act 2014
Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies	
A declared emergency authorised by the Emergency Planning Officer / Emergency Planning and Resilience Team	The Civil Contingencies Act 2004 / Council's emergency planning or business continuity procedures

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Awarding of Grants	Managed according to locally agreed Grant process and Corporate Funding Protocol, in consultation with Legal Services
Any contract relating to the engagement of Counsel or other legal specialists	Legal Services are either exempt from Regulations or are subject to the light touch regime, depending on the nature of the advice or representation sought. All instructions of this nature shall need to be referred to and managed by Legal Services
Placement of a child with Special Educational Needs where already directed following statutory assessment including but not limited to, overarching contracts with independent schools	Children and Families Act 2014, Education Act 1996, SEND Code of Practice: 0 to 25 years and/or any guidance issued by the Education and Skills Funding Agency

### **1.8. Valuation of Contracts**

Procurement Legislation defines how Contract values should be estimated, and this must be complied with at all times. Guidance on the financial valuation of Contracts and principles to be applied is included in Appendix 1. Accurately estimating the value of the contract is important because it determines whether the contract is above or below the Relevant Threshold and therefore the legal obligations that must be complied with (and the relevant procedure (as set out in paragraph 1.10)).

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or Procurement Legislation. Requirements that can reasonably be aggregated for the purposes of their estimation should be included, unless there are good reasons for not doing so.

‘Contract value’ means the estimated total aggregate value payable in pounds sterling **inclusive of Value Added Tax (VAT)** over the entire contract period and must include all of the facts which are material to the estimate and available at the time, including for example any permitted extensions of the contract, any additional options to procure, or fees, commissions, or interest payments.

In the case of Framework Agreements and Dynamic Markets, the contract value must be calculated to include the total estimated value, inclusive of VAT, of all the call-off contracts that could be awarded during the term of the Framework or Dynamic Market (as applicable).

If you are unable to estimate the value of the Contract (or Framework / Dynamic Market), it must be treated as above threshold and the relevant Procurement Legislation applied.

### **1.9. Procurement Method**

Procurement must maintain a proper audit trail of all decisions and record all savings and benefits committed by the successful provider(s).

The Procurement Type Summary tables below detail who is authorised to carry out each of the procurement types, the procurement methods available and the Relevant Thresholds.

If the value of the procurement is below the Relevant Threshold, please follow the guidance set out in paragraph 1.11.

The person responsible for carrying out the procurement (as determined by the Procurement Type Summary Tables in paragraph 1.10) must ensure that all requirements are met, including publishing the required procurement notices within legislative timescales.

Any procurement, including extensions to contracts, set out in Part A of the Procurement Forward Plan (Approval to Procure) and approved by Chief Officers, is

regarded as authorised irrespective of the contract value, and must be awarded and signed/sealed in line with the Procurement Type Summary Tables below (see paragraph 2.1 for further information about the Procurement Forward Plan).

**1.10. Procurement Type Summary Tables:**

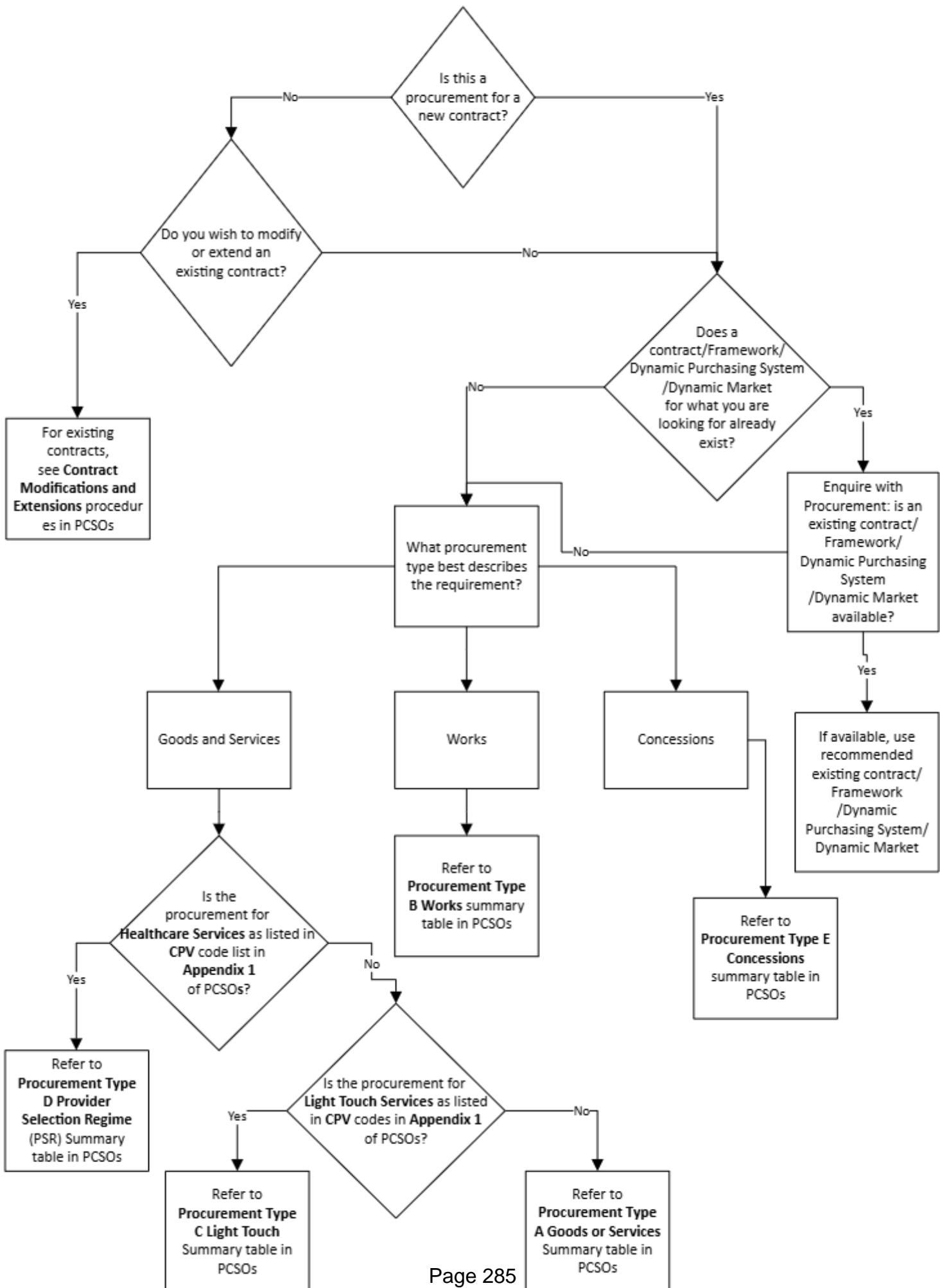
**Step 1** Identify which Procurement Type applies to your procurement using **Table 1** located in paragraph 1.6.

**Step 2** Identify which Procurement Legislation applies (this will depend on when the procurement commenced and the Procurement type).

**Step 3 Once you have identified the Procurement Type and Procurement Legislation that applies**, undertake the procurement accordingly.

The decision tree below can be used to help you identify which Summary table applies– if you are unsure, contact Procurement for support/advice.

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**Procurement Type A: Goods or Services**

Procurements Below the Relevant Threshold must also meet specific Procurement Legislation obligations, and you should familiarise yourself with the requirements of Below the Relevant Threshold procurements set out in Appendix 1.

Estimated Contract Value Inc VAT (see paragraph 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	Use available Frameworks or Dynamic Purchasing Systems where they offer best value; or One written quote or commercial negotiation with supplier.	All Council Officers	Council's Standard Terms & Conditions (see the Council's Website) or the established Framework or DPS Terms	Budget Holder	Not Required if Council's standard terms apply – Budget Holder's approval of the Purchase Order is sufficient. If Framework or DPS: Budget holder to sign both Access Agreements and subsequent Call-Off Contracts.
<b>£30,000 – £207,719 Below Regulatory Threshold</b>	Use available Frameworks or Dynamic Purchasing Systems where they offer best value. Alternatively, seek a minimum of 3 quotes.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions (see the Council's website) or the established Framework or DPS Terms	Assistant Director for the Service or delegated manager	Under £100k: Assistant Director or delegated manager Over £100k: 2 Authorised Signatories via Legal Services

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<b>£207,720 and above</b> (Equal to or above regulatory threshold)	This may be through a new procurement process in accordance with PA 2023 or via existing compliant Frameworks, DPS's or Dynamic Markets.	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms	Chief Officer for the Service  Lead Member for the Service at Chief Officer's discretion	Under £500k: 2 Authorised Signatories in Legal Services  Over £500k: Sealed as a Deed via Legal Services
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**Procurement Type B: Works**

Procurements Below the Relevant Threshold must also meet specific Procurement Legislation obligations, and you should familiarise yourself with the requirements for Below the Relevant Threshold procurements set out in Appendix 1.

Estimated Contract Value Inc VAT (see paragraph 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
<b>£0 - £29,999</b>	Use available frameworks, or DPS's where they offer best value; or One written quote or commercial negotiation with supplier.	All Council Officers	Industry standard form of contract with Council amendments	Budget Holder	Not Required if Council's standard terms apply – (Approval of Purchase Order) If Framework or DPS: Budget holder to sign
<b>£30,000 – £207,719</b>	Use available Frameworks, or DPS's where they offer best value. Alternatively, seek a minimum of 3 quotes.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Industry standard form of contract with Council amendments, bespoke Contract terms agreed by Legal Services or established Framework Terms, DPS Terms or JCT / NEC Model Forms.	Assistant Director for the Service or delegated manager	Under £100k: Assistant Director or delegated manager  Over £100k: 2 Authorised Signatories via Legal Services  JCT and NEC works contracts must be sealed as a Deed via Legal Services for contracts of any value.

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<b>£207,720 - £999,999</b>	<p>Use available Frameworks, DPS's or Dynamic Markets where they offer best value; Alternatively, seek a minimum of 3 quotes.</p>	<p>Procurement, unless agreed otherwise by Head of Procurement (or delegate)</p>	<p>Industry standard form of contract with Council amendments, bespoke Contract terms agreed by Legal Services or established Framework Terms, DPS Terms, Dynamic Market Terms or JCT / NEC Model Forms.</p>	<p>Chief Officer for the Service Lead Member for the Service at Chief Officer's discretion</p>	<p>Under £500k: 2 Authorised Signatories in Legal Services Over £500k: Sealed as a Deed via Legal Services. JCT and NEC works contracts, must be sealed as a Deed via Legal Services for contracts of any value.</p>
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CONSTITUTION – PART 4 – RULES OF PROCEDURE

<b>£1m and over</b>	<p><b>If below £5,193,000 (inc VAT):</b>            Use available Frameworks, Dynamic Purchasing System's or Dynamic Markets where they offer best value.            Alternatively, seek a minimum of 3 quotes.</p> <p><b>If equal to or over £5,193,000 (inc VAT):</b>            This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Markets.</p>	Procurement	Industry standard form of contract with Council amendments, bespoke Contract terms agreed by Legal Services or established Framework Terms, DPS Terms, Dynamic Market Terms or JCT / NEC Model Forms.	Chief Officer for the Service  Lead Member for the Service at Chief Officer's discretion	Sealed as a deed via Legal Services
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**Procurement Type C: Light Touch**

Procurements Below the Relevant Threshold must also meet specific Procurement Legislation obligations, and you should familiarise yourself with the requirements for Below the Relevant Threshold procurements set out in Appendix 1.

Estimated Contract Value Inc VAT (see paragraph 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award (prior to commencement)	Who signs the contract on the Council's behalf
£0 - £29,999	Use available Frameworks, existing Approved Lists or DPS's where they offer best value; or One written quote or commercial negotiation with supplier	All Council Officers	Council's Standard Terms & Conditions (see the Council's Website)	Budget Holder	Not Required if Council's standard terms apply. Budget Holder's approval of the Purchase Order is sufficient.  If Framework, Existing Approved Lists or DPS: Budget holder to sign subsequent Call-Off Contracts.

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<b>£30,000 – £663,539</b> Below Light Touch regulatory threshold	In consultation with Procurement, determine the best and most proportionate route to market for below threshold. This may include use of available Frameworks, existing Approved Lists or DPS's where they offer best value.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework or DPS Terms.	Assistant Director for the Service or delegated manager	Under £100k: Assistant Director or delegated manager  Over £100k: 2 Authorised Signatories via Legal Services  Over £500k: Sealed as a Deed via Legal Services
<b>£663,540 and over</b> Above Light Touch regulatory threshold	This may be through a new procurement process in accordance with the PA 23, or via existing compliant Frameworks, DPS's or Dynamic Market	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services or established Framework, DPS or Dynamic Market Terms.	Chief Officer for the Service  Lead Member for the Service at Chief Officer's discretion	Sealed as a Deed via Legal Services

**Procurement Type D: Provider Selection Regime (PSR)**

Healthcare and Public Health Services that are in-scope of PSR have no minimum threshold.

Estimated Contract Value *inc VAT (see paragraph 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
<b>£0 - £663,539</b> Below Light Touch regulatory threshold	One of the following PSR procedures: <ul style="list-style-type: none"> <li>• Direct Award A</li> <li>• Direct Award B</li> <li>• Direct Award C</li> <li>• Most Suitable Provider</li> <li>• Competitive Process</li> </ul>	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions or bespoke Contract terms agreed by Legal Services	Assistant Director for the Service or delegated manager	Under £100k: Assistant Director or delegated manager Over £100k: 2 Authorised Signatories via Legal Services Over £500k: Sealed as a Deed via Legal Services
<b>£663,540 and over</b> Above Light Touch regulatory threshold	One of the following PSR procedures: <ul style="list-style-type: none"> <li>• Direct Award A</li> <li>• Direct Award B</li> <li>• Direct Award C</li> <li>• Most Suitable Provider</li> <li>• Competitive Process</li> </ul>	Procurement	Council's Standard Terms & Conditions or bespoke Contract terms agreed by Legal Services	Chief Officer for the Service Lead Member for the Service at Chief Officer's discretion	Sealed as a deed via Legal Services

### Procurement Type E: Concessions

Procurements below regulatory threshold must also meet specific procurement legislation obligations, and you should familiarise yourself with the requirements of below threshold requirements in Appendix 1.

Estimated Contract Value *Inc VAT (see paragraph 1.8)	Procurement Method	Teams authorised to undertake the Procurement	Type of Contract Required	Who must approve Contract Award prior to commencement	Who signs the contract on the Council's behalf
£0 - £207,719	Seek a minimum of 3 quotes.	Procurement, unless agreed otherwise by Head of Procurement (or delegate)	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services.	Assistant Director for the Service or delegated manager	Under £100k: Assistant Director or delegated manager Over £100k: 2 Authorised Signatories via Legal Services
£207,720 - £1m	Seek a minimum of 3 quotes.	Procurement	Council's Standard Terms & Conditions, bespoke Contract terms agreed by Legal Services.	Chief Officer for the Service Lead Member for the Service at Chief Officer's discretion	Under £500k: Authorised Signatories in Legal Services Over £500k: Sealed as a deed via Legal Services

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<b>£1m and over</b> <p><b>If below £5,193,000 (*inc VAT):</b> Seek a minimum of 3 quotes.</p> <p><b>If equal to or over £5,193,000 (*inc VAT):</b> Procure in compliance with the relevant Procurement Legislation.</p>	<p>Procurement</p>	<p>Council's Standard Terms &amp; Conditions, bespoke Contract terms agreed by Legal Services.</p>	<p>Chief Officer for the Service Lead Member for the Service at Chief Officer's discretion</p>	<p>Sealed as a deed via Legal Services</p>
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\*For details on which goods and services attract VAT and the current VAT rates, please speak to your Finance Business Partner.

### **1.11. Below Threshold Procurements**

Below threshold procurements must also meet Procurement Legislation obligations and you should familiarise yourself with the requirements of the Below Relevant Threshold requirements in Appendix 1.

Any existing below threshold contracts which, when modified, exceed the Relevant Threshold should be brought to Procurement for review and consideration if it can become a Convertible Contract (see paragraphs 2.2 and 2.3.)

### **1.12. Direct award**

Contracts below and above the Regulatory Threshold may be awarded directly as long as at least one direct award justification in the Procurement Legislation can be applied (See Appendix 1).

You must contact Procurement prior to undertaking a direct award to ensure one or more of the direct award criteria are met.

### **1.13. Evaluation**

Tenders over Regulatory Thresholds are evaluated in accordance with Procurement Legislation.

### **1.14. Collaboration with other public bodies and Private Entities**

The Council may enter into collaborative agreements for the procurement of goods and services with other public bodies or Central Purchasing Bodies and / or partnership agreements with private entities where this offers value for money for residents. Where this is proposed, you must seek advice from Procurement in the first instance.

### **1.15. Framework agreements, Dynamic Purchasing Systems (DPS) and Dynamic Markets**

All proposals to establish or use existing Frameworks, DPS' or Dynamic Markets, must be referred to Procurement, who will make appropriate arrangements in consultation with Legal Services as required. There are strict legislative requirements for the use of Frameworks, DPS' and Dynamic Markets, and additional guidance for their appropriate use can be found in Appendix 1.

### **1.16. Access Agreements**

Where a contracting authority requires the Council to sign an Access Agreement relating to a Framework, Dynamic Purchasing System, or Dynamic Market, and there is no commitment to call-off, the signing of the Access Agreement must be authorised by the Head of Procurement. Access Agreements that are executed as a simple contract may be signed by the Head of Procurement and those executed as a deed shall be referred to Legal Services for sealing.

### **1.17. Concession Contracts**

Concession Contracts are contracts under which the Council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. The key feature is that the contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. Concession Contracts must meet certain requirements, and advice must be sought from Procurement in the first instance if a concession contract is required.

### **1.18. Procurement Notices**

All procurement processes must follow publication requirements as set out in the Procurement Legislation. (Guidance in Appendix 1).

## **2. Approvals**

### **2.1. Procurement Forward Plan**

Chief Officers have a general delegation to manage the services for which they are responsible. This includes authorising the procurement of goods, works and services, where they deem this appropriate, provided they do so in accordance with these Orders and the Council's Financial Procedure Regulations and Financial Procedure Rules.

To enable the Council to maintain an accurate oversight of procurement activity across the full range of its Council services, the Director of Procurement is responsible for the development of a Procurement Forward Plan (PFP). This PFP will be in two parts, as follows:

#### **PART A: Approval to Procure**

A 12-month detailed forward plan shall be developed to identify, for each directorate, all contracts over the Goods/Services Regulatory Threshold which are due for extension, renewal, replacement or is a new requirement in the coming financial year.

The PFP: Part A must be developed and agreed with the Directors of the relevant services and submitted to the Corporate Management Team for information and monitoring purposes during the business planning cycle each year.

If a need arises during the year for procurement activity on contracts over the Regulatory Thresholds which have not been reported through the PFP: Part A, then an Approval to Procure form must be raised by the service and approved by the Head of Procurement and the relevant Chief Officer before resource can be assigned to this procurement. Where the procurement includes IT & Digital, the Approval to Procure requires additional approval from the Chief Digital Information Officer.

Planned procurements for the financial year ahead with a value of £1m or more will be set out in the Portfolio Plans for transparency purposes.

## **PART B: Procurement Pipeline**

Under Procurement Legislation, the Council is required to publish a ‘Pipeline Notice’, which consists of a list of procurement activity proposed to take place in the forthcoming 24 month period. In addition to Part A, the PFP will include (as Part B) procurements proposed to take place in the financial year which follows on from PFP Part A: Approval to Procure. For the avoidance of doubt, appearance on Part B alone does not constitute an approval to procure.

The Procurement Pipeline will be published on the Central Digital Platform (and/or any related platform as required by Procurement Legislation from time to time).

### **2.2. Contract Modifications and Extensions**

Procurement Legislation sets out that above threshold contracts that have been advertised with extension and / or modification options already set out in the contract can be extended and / or modified (as applicable) in accordance with the terms set out in the contract.

Where the option for an extension and / or modification has not been included in the original public notice or the contract itself, an extension and / or modification may still be permissible without triggering a requirement for a new Procurement exercise, provided one of the grounds set out in the Procurement Legislation are satisfied.

In all cases you must contact Procurement for advice to determine if any of the circumstances under which contract modifications or extensions are permitted apply to your extension and / or modification.

The approvals required for an Extension or Modification are as follows:

Total Value of Original Contract	Approvals where contract has been advertised with extension and/or modification options (permitted)	Approvals where extensions and/or modification options were not included in the contract or notice
<b>Below relevant Regulatory Threshold (see Procurement type summary tables)</b>	Assistant Director for relevant service in consultation with the Head of Procurement (or delegate).	Chief Officer for relevant service in consultation with the Head of Procurement (or delegate).
<b>Above relevant Regulatory Threshold including Convertible Contracts (see Procurement type summary tables and section 2.3)</b>	Chief Officer for relevant Service in Consultation with Head of Procurement.	Chief Officer for relevant service in consultation with the Head of Procurement and the Deputy Chief Executive

### 2.3. Convertible Contracts

S.74 of the Procurement Act 2023 introduces the concept of a “convertible contract”.

This is a contract which, at the point of being awarded, is below the Regulatory Threshold (and therefore not a public contact) but which, if modified, would then exceed the Regulatory Threshold and become a public contract.

Where a modification or extension of a below Regulatory Threshold may cause the total value of the contract to increase above the Regulatory Threshold, these should be referred to Procurement for review to determine if it should be regarded as a Convertible Contract.

If Procurement determine that a below Regulatory Threshold contract has become a convertible contract, the modification and / or extension of the contract must be approved by the Chief Officer for the relevant Service in consultation with the Head of Procurement.

## **2.4. Key Decisions**

Any procurement/contract decision that:

- a. involves expenditure/savings of £500,000 or more per year; or
- b. will be significant in its effects on communities in 2 or more electoral divisions,

is a **key decision** and will require a formal Officer or Member decision.

This includes the advertising/award of contracts as well as contract extensions and modifications (whether or not provided for in the original contract documents).

Any such decision must be included on the Council's Forward Plan (which is different from the Procurement Forward Plan) at least 28 days before the decision is taken. It is the responsibility of the Service Lead to ensure their procurement/contract decisions are on the Council's Forward Plan in the timescales required.

For decisions taken by Cabinet or Lead Member, and key decisions taken by Officers, a record of the decision must be published, and the decision shall not be implemented until four working days after publication, to allow for call-in.

Officers should contact Member Services for further information regarding key decisions. See Appendix 1 for link to Member Services intranet page.

## **2.5. Technology, Digital Services and Software**

Procurement works closely with IT & Digital to manage the Council's technology and digital needs and the security of the Council's data and network. This applies to any provision of technology, digital services and software that is used by the Council. No technology, digital services or software, including Software as a Service (SaaS), may be procured by the Council without prior approval from Chief Digital Information Officer.

## **2.6. Temporary Staff, Consultants and Professional Services**

No temporary worker, agency or consultant may be procured or engaged outside of existing contract or framework arrangements without prior approval from HR. See Appendix 1 for link to HR guidance.

A consultant is a person (not an employee), agency or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support and/or experience to the Council either because the Council does not possess the skills or resources in-house, or because an independent evaluation/assessment is required.

This definition excludes:

- a. Agency staff, interim or role specific duties which should be sourced through the Council's Corporate Contract;
- b. Routine services e.g. maintenance, cleaning and security; and
- c. Professional services e.g. Architects, structural engineers, forensic archaeologists, specialist social care support, training etc.

Refer to the guidance available on the Intranet for agency workers and consultants. Temporary and agency staff, and other consultants or suppliers, must abide by the terms of their contract with the Council and follow all applicable Council Policies (see Appendix 1 for link to guidance).

### **3. Waivers and Emergencies**

#### **3.1. Waivers**

A waiver is required for any proposed procurement or contractual action which is not compliant with these Orders. A waiver cannot be given if it would contravene Procurement Legislation or any other applicable legislation. You must obtain approval for a waiver in writing specifically identifying the Order that is being waived and the reason why the waiver is sought, including justification and risk. When a waiver is required, advice from Procurement should be sought at the earliest opportunity. A waiver should not be granted retrospectively; undertaking a procurement exercise or any other action that is contrary to or not in accordance with the requirements of these Orders without a waiver constitutes non-compliance with these Orders.

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Procurement must maintain a log of all waivers, and store documentation to provide an audit trail of how the Council has ensured value for money and accountability and, where appropriate, to facilitate ‘lessons learned’.

The approval required for a waiver is as follows:

<b>Contract Value (for waivers in relation to existing contracts this refers to the value of the original contract)</b>	<b>Approval</b>
Up to Regulatory Thresholds	Chief Officer in consultation with Head of Procurement (ESCC) and review by Legal Services.
Over Regulatory Thresholds	Chief Officer in consultation with the Head of Procurement (ESCC) and the Deputy Chief Executive.

### **3.2. Emergency Purchases**

An emergency purchase is only allowed for purchasing outside the hours 9am to 5pm on Monday to Friday (excluding public holidays) where there is an imminent risk to life or property.

An emergency purchase can also apply in situations within these hours where there is a need to arrange for emergency care where an adult or child is at risk of physical harm, or to secure Council property or assets e.g. when there has been a break in or equipment failure, such as flood.

You can use a Purchasing Card, within your allocated limits, to pay for an emergency purchase. If the supplier does not accept Purchasing Cards, then you may give a verbal order and raise a formal Purchase Order the following working day.

You must inform Business Operations of any emergency purchases on the following working day.

Issues arising with contracts leading to a requirement for urgent mitigation action are not necessarily considered emergency purchases. This will be dealt with as part of business continuity within the contract management process.

### **4. Contracting with suppliers**

#### **4.1. Purchase Orders**

Once you have identified the right supplier in compliance with these Orders, you must not make verbal commitments but must raise a Purchase Order (via the Council's ERP System). This must be approved in accordance with the Council's Financial Regulations and Financial Procedure Rules before it is sent to the supplier, and before any goods or services have been ordered. Details of financial approval levels are included in the summary tables in paragraph 1.10.

#### **4.2. Using Purchasing Cards**

The Council makes use of general Purchasing Cards (P Cards) to make small purchases in a wide range of situations. You must use purchasing cards only as set out in the 'ESCC Purchasing Card Policy' and in the guidance available on the Intranet (see Appendix 1 for link to guidance) unless otherwise agreed in writing by Procurement, or in emergency circumstances (see also paragraph 3.2).

#### **4.3. Bribery, Corruption, Canvassing and Collusion**

##### **Bribery and Corruption**

You must comply with the Council's Code of Conduct and the Anti-Fraud and Corruption Strategy and Framework (see Appendix 1 for link). You must not invite or accept any gift or reward in respect of the award or management of any contract. It will be for you, the Officer, to prove that anything received was not received corruptly. Gifts and Hospitality must be declared (See Appendix 1 for link).

##### **Canvassing and Collusion**

All Invitations to Tender must include a requirement for bidders to complete fully and sign a 'form of tender' including certificates relating to canvassing and non-collusion.

Every contract must contain a clause entitling the Council to cancel the contract and to recover from the supplier the amount of any loss resulting from such cancellation if the supplier or his representative has practiced collusion in tendering for the contract or any other contract with the Council. See the Anti-Fraud and Corruption Strategy and Framework.

### **Conflict of Interest**

All officers with influence or involvement in a procurement should comply with Procurement Legislation and must declare any actual, potential or perceived conflict of interest related to a specific procurement/contract and comply with any mitigating actions agreed. This may include the requirement to complete a Conflict of Interest Assessment at the start of the procurement process that is proportionate to the procurement being undertaken. This must be updated at key points during the procurement, or when new information becomes available. Guidance on the Conflict of Interest Assessment and how to comply can be found in Appendix 1. All Officers must also comply with the Council's Declarations of Interest Policy and any declarations required as part of a specific procurement.

### **4.4. Audit Requirements**

The procurement process must be documented throughout and a record of all material decisions must be kept.

## **5. Council Requirements / Obligations**

### **5.1. Social Value**

The Public Services (Social Value) Act 2012 places an obligation on the Council to consider the economic, social and environmental well-being of our County when we award contracts. All Officers should review the requirements and procurement strategies prior to carrying out procurement activity to ensure that opportunities for maximising public benefit in relation to the use of Social Value are utilised. The factors to consider include but are not limited to:

- a. Requirements and specifications should be designed to enable suppliers to contribute to wider local and national social outcomes, such as local business, skills and employment, community needs, when performing the requirement;
- b. Bidders should be provided with relevant and targeted information in order to enable more effective Social Value commitments;
- c. As part of the tendering process, an assessment of relevant Social Value must be carried out and procurement record the results in the statutory procurement reports and relevant systems as identified;
- d. Appropriate weighting, criteria or other mechanisms should be included in the procurement strategy to secure Social Value; and
- e. Appropriate measures should be included to ensure that Social Value requirements and commitments are monitored, delivered and, where required, reported on during performance of the requirement.

Contract Managers are responsible for tracking and reporting Social Value delivery in line with the Contract Management Framework and applicable legislation.

### **5.2. Environmental Sustainability**

The Council is committed to ensuring their operations (including the goods, works and services purchased) are environmentally sustainable and resilient to future climate change, promote a circular economy and protect and enhance the natural environment.

Officers are required to support the implementation of the Council's environmental priorities and policies through inclusion of considerations into market engagement, specifications, questions and contract management.

If undertaking a procurement, Officers must ensure that environmental sustainability requirements are included in any procurement and contract management activity, including but not limited to:

- a. Ensuring the minimum agreed award criteria weighting for environmental sustainability is included for relevant contracts;
- b. Ensuring all relevant procurements and contracts include the requirement for a supplier Carbon Reduction Plan;
- c. Ensuring specifications and requirements are reviewed in line with current local procedures and objectives, using any relevant systems, and appropriate measures which address environmental impacts; and
- d. Having regard to current related environmental policies and measures adopted by the Council and act to address these in the requirement and procurement activity.

Contract Managers are responsible for tracking and reporting any environmental measures in line with the Contract Management Framework and applicable legislation.

### **5.3. Modern Slavery**

The Council has pledged to tackle modern slavery to support global and national efforts to eradicate slavery and exploitation. This includes a commitment to mitigating risks in our procurement activity and associated supply chains. Officers have a responsibility to have due regard to the risk of modern slavery and unethical labour practices in the supply chains of the goods, services and works that are being procured. Officers should implement appropriate due diligence measures in procurement and contract management activity to ensure that suppliers and their supply chain partners are conducting their business dealings fairly and ethically to mitigate the risk of exploitative practices. This includes, but is not limited to:

- a. Ensuring adherence to Section 54 (transparency in supply chains) of the Modern Slavery Act 2015;
- b. Building modern slavery considerations into specification requirements;
- c. Including modern slavery considerations in conditions of participation and tender stage to assess supplier capability to manage risks; and

- d. Embedding due diligence requirements in contractual terms and conditions.

The Council may also introduce from time to time particular local and national policies which support ethical, environmental and sustainable procurement and support social value priorities, and Officers should include these in relevant procurement documentation and procedures. See Appendix 1.

## **6. Liability and Security**

### **6.1. Insurance**

To protect the Council, insurance is required where we use goods, works or services provided by a supplier (including consultancy).

The standard recommended levels of cover for Public Liability Insurance, Employers' Liability Insurance and Professional Indemnity Insurance are set out below:

- a. Public Liability - £10m
- b. Employers' Liability - £5m depending on the contract used
- c. Professional Indemnity - £1m-5m (undertake a risk assessment and take advice from the Insurance Team)
- d. Product Liability (as appropriate)

In some instances where the contract value, risk or scope may be particularly high, additional cover may be required. Equally some contracts may be suitable for lower levels of insurance. For further information on what level of insurance is appropriate, see guidance in Appendix 1 and / or for advice contact the relevant officer within the Insurance Team. The agreed level of insurance must be recorded in the contract.

During the procurement, bidders do not need to have the required level of insurance in place, but must confirm that such insurance(s) will be in place for the commencement of the contract, and evidence of this should be seen prior to the contract being agreed.

## **6.2. Supplier Exclusion**

Procurement Legislation requires that suppliers are assessed to determine if they are excluded or excludable from the procurement. Refer to guidance in Appendix 1 on how to assess a supplier.

## **6.3. Financial Security**

Procurement and Finance must confirm that suppliers are financially robust through the completion of a financial appraisal, both prior to contract award and during the life of the contract as appropriate. Details of the requirements or potential guarantees a supplier may need to provide must be set out in the procurement documents.

If either the value of the contract exceeds £2m within twelve months, or there is doubt as to the financial credibility of a supplier but the Service has proposed to accept the level of risk, then additional forms of security to a level determined between the Deputy Chief Executive and the Chief Finance Officer are required, for example:

- a. A Parent Company, Ultimate Company or Holding Company guarantee where their financial standing proves acceptable;
- b. A Director's Guarantee or Personal Guarantee where finances prove acceptable;
- c. A Performance Bond, retained funds or cash deposit;
- d. Any other security (such as escrow arrangements) as determined by the Deputy Chief Executive and the Chief Finance Officer.

All documents inviting tenders must contain a statement that the Supplier may be required to provide security for performance as well as the level of security that will be required, any financial checks that will be applied to the tender and how financial suitability will be assessed. In addition, any checks that will be required during the life of the contract should also be set out in the tender documents.

Documentation relating to financial security, where required, should be stored on the relevant systems.

#### **6.4. Document Retention periods**

The retention of tenders and contractual documentation is prescribed in the Limitation Act 1980 and the Procurement Legislation and must be followed. In summary:

- a. All received tenders and supporting documentation must be retained for a minimum of eighteen months following the issue of the Contract Award Notice;
- b. All signed contracts (including all tender documentation) must be retained for a minimum of twelve years following contract expiry; and
- c. Records that are significant to explain material decisions throughout the procurement must be kept (including communications with suppliers). Appendix 1 provides guidance on how to record and keep appropriate records, including after contract award.

Procurement must maintain an online record confirming the location of the contract/tender and scheduled date of destruction.

### **7. Managing Contracts**

All purchases must be delivered under a form of contract approved by Legal Services and Procurement. The Council manages the process of awarding contracts via its e-tendering and contract management systems, to ensure that contracts are properly filed and documented.

Heads of Service are responsible for the performance of contracts in their area in line with the Contract Management Framework.

All Contracts must have a designated Contract Manager named on the relevant systems throughout the life of the contract. Contract Management activities are to be delivered either by a dedicated Contract Manager or by someone with that responsibility as part of a wider role.

If the Contract Manager changes, this should be declared to Procurement so that the contract records can be updated.

Contracts should be proportionately managed in line with the Contract Management Framework. See Appendix 1. All Level 1 and 2 contracts must have a written business continuity plan, and a contract management plan.

Where contract funding is received by the Council from a third party (for example, an incoming grant), the contract terms must include a provision for dealing with liabilities under the contract should that funding cease to be available.

### **7.1. Notices required during the life of the Contract**

All contracts must follow publication requirements as set out in the Procurement Legislation, which includes notices relating to contract management during the life of some contracts. See Guidance in Appendix 1.

### **7.2. Contracts Register**

All contracts over £30,000 (inclusive of VAT), including any variations or amendments, must be registered and maintained in the appropriate Contract Management System (CMS). The Council is required by law to publish transparency data. Data regarding contracts may additionally be maintained in other systems for local use.

### **7.3. Contract Novation**

Where a contractor sells, merges or transfers their business to another organisation, the existing contract(s) the Council has with that contractor should be novated if this is acceptable to the Council and permitted by law. A Chief Officer may approve the novation of a contract to a new supplier if they are satisfied as to the financial standing and the technical competence of the proposed supplier. The agreement of the Chief Finance Officer is required and if a novation is agreed, then a formal agreement to record the novation must be completed in collaboration with Procurement who will update the contract register and ensure that the master data is updated on the relevant purchase to pay system.

## Appendix 1 – policies and guidance relevant to these Orders

All Officers must follow the Council's policies, in particular those relevant to these Orders, which are listed below.

Other useful links to guidance and related material are provided below.

Guidance Docs / Policies - Appendix 1	Notes/Links	Description and/or section/s of PCSOs
Procurement Act 2023	<a href="https://www.legislation.gov.uk/2023/10/1/procurement-act-2023/legislation.html">Procurement Act 2023 (legislation.gov.uk)</a>	External link to Procurement Act 2023 Legislation  In PCSOs: 1.2. Governing Legislation 1.6. Procurement Type 1.7. Exempted Contracts 2.3. Convertible Contracts
Procurement Regulations 2024	<a href="https://www.legislation.gov.uk/2024/1/1/procurement-regulations-2024/legislation.html">The Procurement Regulations 2024 (legislation.gov.uk)</a>	External link to Procurement Regulations 2024  In PCSOs: 1.2. Governing Legislation 1.6. Procurement Type
The Public Contract Regulations 2015	<a href="https://www.legislation.gov.uk/2015/1/1/public-contracts-regulations-2015/legislation.html">The Public Contracts Regulations 2015</a>	External link to Public Contracts Regulations 2015  In PCSOs: 1.2. Governing Legislation 1.6. Procurement Type
The Concession Contracts Regulations 2016	<a href="https://www.legislation.gov.uk/2016/1/1/concession-contracts-regulations-2016/legislation.html">The Concession Contracts Regulations 2016</a>	External link to The Concession Contracts Regulations 2016  In PCSOs: 1.6. Procurement Type
The Public Services (Social Value) Act 2012	<a href="https://www.legislation.gov.uk/2012/1/1/public-services-social-value-act-2012/legislation.html">The Public Services (Social Value) Act 2012</a>	External link to The Public Services (Social Value) Act 2012  In PCSOs: 1.2. Governing Legislation 5. Council Requirements / Obligations – 5.1. Social Value

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Financial Procedure Rules (part 4 of the Constitution)	<u>Financial Procedure Rules</u>	External link to ESCC Constitution  In PCSOs: 1.4 Compliance 2. Approvals – 2.1. Procurement Forward Plan 4. Contracting with Suppliers – 4.1. Purchase Orders
Scheme of Delegation (see part 3 Table 6 of the Constitution)	<u>Scheme of Delegation</u>	External link to ESCC Constitution  In PCSOs: 1.7. Exempted Contracts
Code of Conduct (see part 5 of the Constitution)	<u>Code of Conduct</u>	External link to ESCC Constitution  In PCSOs: 4. Contracting with Suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion
East Sussex County Council Social Value Policy	<u>ESCC Social Value Policy</u>	External link to ESCC Social Value Policy  In PCSOs: 5. Council Requirements / Obligations – 5.4
Orbis Environmentally Sustainable Procurement Policy, East Sussex County Council	<u>Orbis Environmentally Sustainable Procurement Policy   East Sussex County Council</u>	External link to referenced Policy  In PCSOs (not explicitly referenced): 5. Council Requirements / Obligations - 5.2. Environmental Sustainability
Supplier Code of Conduct	<u>Supplier Code of Conduct 4.0   East Sussex County Council</u>	External link to referenced Policy  In PCSOs (not explicitly referenced): 5. Council Requirements / Obligations
The Co-operative Party Charter Against Slavery	<u>Co-operative Party Charter Against Modern Slavery – Co-operative Party</u>	External link  In PCSOs (not explicitly referenced): 5. Council Requirements / Obligations

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Modern Slavery and Exploitation	<a href="#"><u>Council leaders commit to eradicating slavery and exploitation   The Newsroom (eastsussex.gov.uk)</u></a>	External link  In PCSOs (not explicitly referenced): 5. Council Requirements / Obligations
Environmental Policy	<a href="#"><u>Environmental policy   East Sussex County Council</u></a>	External link to referenced Policy  In PCSOs: 5. Council Requirements / Obligations – 5.2. Environmental Sustainability
Guidance for Agency workers and consultants	<a href="#"><u>Guidance for Agency workers and consultants</u></a>	Link to ESCC intranet  In PCSOs: 2.6. Temporary Staff, Consultants and Professional Services
Guidance for Grants and External Funding	<a href="#"><u>Guidance for Grants and External Funding</u></a>	Link to ESCC intranet  In PCSOs: 1.7. Exempted Contracts
Consultants and IR35 assessment requirements	<a href="#"><u>Consultants and personal service providers – ESCC Intranet</u></a>	Link to ESCC intranet  In PCSOs: 2.6. Temporary Staff, Consultants and Professional Services
HR guidance - temporary workers	<a href="#"><u>HR guidance temporary workers</u></a>  <a href="#"><u>Orders and assignments – ESCC Intranet</u></a>  <a href="#"><u>Off-contract agencies – ESCC Intranet</u></a>	Link to ESCC intranet  In PCSOs: 2.6. Temporary Staff, Consultants and Professional Services
Code of Conduct and Conflict of Interest Policy for Employees	<a href="#"><u>Section 2 - Code of Conduct and Conflict of Interest Policy for Employees.pdf</u></a>	External link to ESCC Constitution  In PCSOs: 4. Contracting with Suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion – Conflict of Interest

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Conflict of interest and offers of gifts and hospitality	<u><a href="#">Conflict of interest and offers of gifts and hospitality – ESCC Intranet</a></u>	Link to ESCC intranet  In PCSOs: 3. Contracting with Suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion – Conflict of Interest
Which Summary table decision tree	Cabinet Office decision tree can be found on the DMS here: <u><a href="#">Document Management System - 16 - 20240215 Which procurement regime should I be following decision tree.pdf - All Documents</a></u>  <u><a href="#">Transforming Public Procurement Learning Manual - Summary Documents and Learning Aids</a></u>	1.10. Procurement Type Summary Tables
Thresholds	Link to existing thresholds - <u><a href="#">PPN 023: 2026 Threshold Amounts (HTML) - GOV.UK</a></u>	External link to current thresholds  In PCSOs thresholds are referenced in the following sections: 1.6. Procurement Type 1.9. Procurement Method 1.13 Evaluation 2. Approvals – 2.1. Procurement Forward Plan
Below Threshold Procurement Guidance	<u><a href="#">Guidance - Below Threshold FINAL.pdf (publishing.service.gov.uk)</a></u>  Below Threshold Contract Checklist Regulated Below Threshold Process Flow saved on the DMS here: <u><a href="#">Document Management System - Below threshold - All Documents</a></u>	In PCSOs: 1.10. Procurement Type Summary Tables 1.11. Below Threshold Procurements 1.12. Direct Award 2.2. Contract Extensions, Novations and Modifications 2.3. Convertible Contracts
Contract management	<u><a href="#">Contract Management Framework</a></u>	In PCSOs: 1.5. Roles and Responsibilities 5. Council Requirements / Obligations - 5.1. Social Value, 5.2. Environmental Sustainability, 5.3. Modern Slavery 7. Managing Contracts

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Preliminary Market Engagement	<p><a href="https://assets.publishing.service.gov.uk/media/664dc112993111924d9d3980/Guidance - Preliminary Market Engagement.pdf">https://assets.publishing.service.gov.uk/media/664dc112993111924d9d3980/Guidance - Preliminary Market Engagement.pdf</a></p> <p>Checklist can be found on the DMS here: <a href="#">Document Management System - Preliminary market engagement checklist.pdf - All Documents</a></p> <p>*</p>	In PCOS: 5. Council Requirements / Obligations, 5.2. Environmental Sustainability
NPPS (National Procurement Policy Statement)	<p>*Central Government currently re-drafting – will include link once published*</p>	Will include external link to NPPS once published by the Government  In PCSOs: Not explicitly referenced as NPPS – mentioned more generically as national policies in the following sections: 1.5. Roles and Responsibilities 5. Council Requirements / Obligations, 5.1. Social Value, 5.3. Modern Slavery
Valuation of Contracts	<p>Use Cabinet Office guidance.  <a href="#">Guidance - Valuation of Contracts.pdf (publishing.service.gov.uk)</a></p>	External link to Cabinet Office guidance  In PCSOs: 1.8. Valuation of Contracts
Counter Fraud Strategy/Whistleblowing	<p>ESCC: <a href="#">ESCC Counter Fraud Strategy and Framework 2021 to 2024.pdf</a></p> <p><a href="#">Whistleblowing, fraud and corruption – strategy and policy documents   East Sussex County Council</a></p>	Internal and external links to referenced strategy/policy  In PCSOs: 4. Contracting with suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion
Conflict of Interest Guidance	<p>Use Cabinet Office guidance - <a href="https://assets.publishing.service.gov.uk/media/6698dc04fc8e12ac3edaff11/Guidance - Conflicts of Interest FINAL.pdf">https://assets.publishing.service.gov.uk/media/6698dc04fc8e12ac3edaff11/Guidance - Conflicts of Interest FINAL.pdf</a></p>	External link to requirements under the 2023 Act (and associated regulations)  In PCSOs: 4. Contracting with suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion – Conflict of Interest

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Conflict of Interest declaration	Internal COI Declaration template	In PCSOs: 4. Contracting with suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion – Conflict of Interest
Conflicts assessment template		In PCSOs: 4. Contracting with suppliers – 4.3. Bribery, Corruption, Canvassing and Collusion – Conflict of Interest
CPV Codes - PSR	<a href="https://www.legislation.gov.uk/ukdsi/2023/9780348252613/schedule/1">https://www.legislation.gov.uk/ukdsi/2023/9780348252613/schedule/1</a>	External link to PSR CPV Codes  In PCSOs: 1.6. Procurement Type
CPV Codes - Light Touch	<a href="#">The Procurement Regulations 2024 (legislation.gov.uk)</a>	External link to Light Touch CPV Codes  In PCSOs: 1.6. Procurement Type
CPV codes - Works	<a href="#">The Procurement Regulations 2024</a>	External link to Works CPV Codes  In PCSOs: 1.6. Procurement Type
PSR - choosing the right procedure flow chart	<a href="#">NHS England » Provider Selection Regime: getting to the right decision</a>	External link to PSR guidance  In PCSOs: This flow chart is not explicitly referenced but PSR in general is referenced in the following sections: 1.2. Governing Legislation 1.6. Procurement Type 1.10. Procurement Type Summary Tables
Direct Award	Cabinet Office decision tree and guidance. <a href="#">Guidance - Direct Award FINAL.pdf (publishing.service.gov.uk)</a>  Decision tree can be found here: <a href="#">Document Management System - 26 - 20231208 Direct award decision tree (section 41).pdf - All Documents</a>	External and internal links to Cabinet Office guidance these are also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)  In PCSOs: 1.12 Direct Award

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Light Touch	<p>See Cabinet Office exemptions cheat sheet in training manual and guidance stored here:</p> <p><a href="#"><u>Document Management System - Exemptions cheat sheet - light touch contracts .pdf - All Documents</u></a></p> <p><b>Guidance -</b></p> <p><a href="#"><u>Light Touch Contracts FINAL.pdf (publishing.service.gov.uk)</u></a></p>	<p>External and internal links to Cabinet Office guidance these are also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>Light Touch is referenced in the following sections:</p> <p>1.6. Procurement Type 1.7. Exempted Contracts 1.10. Procurement Type Summary Tables</p>
Publishing Notices (procedure)	<p>*FTS / Proactis / Intend - instructions / guidance on this to be created*</p>	<p>Internal guidance to be created on how to publish notices.</p>
Publishing Notices (legislative requirements)	<p>Cabinet Office summary/cheat sheet which can be found here:</p> <p><a href="#"><u>Document Management System - 18 - 20240209 Table of transparency notices - fact sheet.pdf - All Documents</u></a></p>	<p>Internal link to Cabinet Office guidance these are also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>1.9. Procurement Method 1.18 Procurement Notices 7.1. Notices required during the life of the Contract</p>

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Assessment & Award	<p>Use Cabinet Office guidance</p> <p><u><a href="#">Guidance - Conditions of Participation FINAL 1 .pdf</a></u></p> <p><u><a href="#">Guidance-Assessing-Competitive-Tenders-FINAL.pdf (publishing.service.gov.uk)</a></u></p> <p><u><a href="https://assets.publishing.service.gov.uk/media/66aa2b50ce1fd0da7b5930c9/Guidance - Assessment Summaries FINAL.pdf">https://assets.publishing.service.gov.uk/media/66aa2b50ce1fd0da7b5930c9/Guidance - Assessment Summaries FINAL.pdf</a></u></p> <p><u><a href="https://assets.publishing.service.gov.uk/media/66aa2d7efc8e12ac3edb0875/Guidance - Contract Award Notices and Standstill .pdf">https://assets.publishing.service.gov.uk/media/66aa2d7efc8e12ac3edb0875/Guidance - Contract Award Notices and Standstill .pdf</a></u></p> <p><u><a href="#">Guidance on Contract Details Notices FINAL v2.0.pdf (publishing.service.gov.uk)</a></u></p>	<p>External links to Cabinet Office guidance</p> <p>In PCSOs:</p> <p>1.13 Evaluation 1.9. Procurement Method 1.18 Procurement Notices 6.4. Document Retention periods 7.1. Notices required during the life of the Contract</p>
Specifications	<p>Use Cabinet Office guidance linked to this</p> <p><u><a href="#">Procurement Act 2023 guidance documents - Define phase - GOV.UK (www.gov.uk)</a></u></p>	<p>External link to Cabinet Office Guidance</p> <p>In PCSOs:</p> <p>Specifications are referenced in the following sections:</p> <p>1.5. Roles and Responsibilities 1.6. Procurement Type 5. Council Requirements / Obligations - 5.1. Social Value, 5.2. Environmental Sustainability, 5.3. Modern Slavery</p>
Selecting a Procedure	<p>Cabinet Office Selecting a procedure cheat sheet can be found here:</p> <p><u><a href="#">Document Management System - 25 - 20231205 Choosing a procedure.pdf - All Documents</a></u></p>	<p>Internal link to Cabinet Office guidance this is also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>1.6. Procurement Type 1.9. Procurement Method 1.10. Procurement Type Summary Tables</p>

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Timescales	<p>Cabinet Office decision tree/Tendering time limits cheat sheet can be found here: <a href="#"><u>Document Management System - 22 - 20231212 Tendering time limits cheat sheet decision tree.pdf - All Documents</u></a></p>	<p>Internal link to Cabinet Office guidance this is also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>Timescales are referenced in the following section:</p> <p>1.9. Procurement Method</p>
PA2023 - choosing the right procedure	<p>Cabinet Office decision tree on Choosing a procedure can be found here: <a href="#"><u>Document Management System - 25 - 20231205 Choosing a procedure.pdf - All Documents</u></a></p>	<p>Internal link to Cabinet Office guidance this is also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>1.6. Procurement Type 1.9. Procurement Method 1.10. Procurement Type Summary Tables</p>
Frameworks	<p>See Cabinet Office guidance - <a href="#"><u>Guidance - Frameworks FINAL.pdf (publishing.service.gov.uk)</u></a></p> <p>Framework Cabinet Office cheat sheets can be found here: <a href="#"><u>Document Management System - Frameworks and Dynamic Markets - All Documents</u></a></p>	<p>Internal and external links to Cabinet Office guidance these are also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <p>1.10. Procurement Type Summary Tables 1.15. Framework agreements, Dynamic Purchasing Systems (DPS) and Dynamic Markets</p>

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Dynamic Markets	<p>See Cabinet Office guidance - <a href="#"><u>Guidance - Dynamic markets FINAL.pdf (publishing.service.gov.uk)</u></a></p> <p>Various Cabinet Office cheat sheets can be found here: <a href="#"><u>Document Management System - Frameworks and Dynamic Markets - All Documents</u></a></p>	<p>Internal and external links to Cabinet Office guidance these are also available on the gov.uk website (Transforming Public Procurement pages and E-learning manual)</p> <p>In PCSOs:</p> <ul style="list-style-type: none"> <li>1.10. Procurement Type Summary Tables</li> <li>1.15. Framework agreements, Dynamic Purchasing Systems (DPS) and Dynamic Markets</li> </ul>
Record Keeping of key decisions	<p>*Template currently in draft* - Cabinet office template can be found on the DMS here: <a href="#"><u>Document Management System - Record keeping.pdf - All Documents</u></a></p>	<p>Once document is created it will be available on internal Procurement SharePoint site.</p> <p>In PCSOs, record keeping is referenced in the following sections:</p> <ul style="list-style-type: none"> <li>1.5. Roles and Responsibilities</li> <li>1.9. Procurement Method</li> <li>2.4 Key Decisions</li> <li>4.4. Audit Requirements</li> <li>5. Council Requirements / Obligations - 5.1. Social Value</li> <li>6.4. Document Retention periods</li> <li>7. Managing Contracts</li> </ul>
Supplier exclusion and debarment	<p>Use Cabinet Office guidance <a href="#"><u>Guidance - Exclusions FINAL v.2.pdf</u></a></p> <p><a href="#"><u>Guidance - Debarment FINAL.pdf</u></a></p> <p><a href="#"><u>Guidance - Conditions of Participation FINAL 1 .pdf</u></a></p>	<p>External Cabinet Office Guidance.</p> <p>In PCSOs this is referenced in the following section:</p> <ul style="list-style-type: none"> <li>6.2. Supplier Exclusion</li> </ul>
Member Services	<p><a href="#"><u>Member Services</u></a></p>	<p>Internal link to ESCC intranet Member Services page. Contains information and templates.</p> <p>In PCSOs:</p> <ul style="list-style-type: none"> <li>2.4 Key Decisions</li> </ul>

**Annex A – Definitions**

**ESCC PCSO definitions**

“Below Threshold”	Contracts below the Regulatory Thresholds specified in applicable Procurement Legislation. E.g. for Goods and Services, currently procurements below £207,720 and for Light Touch Services, currently procurements below £663,540.
“Breach”	Failure to comply with the Procurement Legislation or failure to fulfil contractual obligations.
“Budget Holder”	A Council Employee who is accountable for a defined budget, and is responsible for committing expenditure against that budget in accordance with the Council’s Financial Standing Orders and Regulations
“Chief Officers”	The Chief Executive, the Deputy Chief Executive, Chief Operating Officer, Director of Adult Social Care and Health, Director of Communities, Economy and Transport and / or the Director of Children’s Services (as the same may be renamed from time to time). A list of Chief Officers and information on their responsibilities can be found on the East Sussex website. <a href="#">Chief officers   East Sussex County Council</a>
“Commissioners”	Council employees that are involved in designing, securing, and monitoring services in response to identified local needs.
“Conflict of Interest”	An actual or potential conflict between the interests of a person acting in relation to a procurement and those of the procurement itself.
“Contract Management Framework”	The guidance set out by the Council to enable Contract Managers to apply an effective, proportionate and consistent approach to contract management.
“Contract Manager”	Any Officer with contract management responsibilities including contract administration, performance management or delivery of any activities necessary to ensure a supplier delivers the goods, works and / or services as defined in the contract.
“Convertible Contract”	A contract which when modified moves from a Below Threshold contract to one which is over the applicable Regulatory Threshold.
“Council’s Corporate Contract”	The Council’s contract with a managed service for temporary agency workers. Dependent on the current model procured, this contract will either: provide temporary agency workers from their own pool of workers and a supply chain of specialist and local agencies OR manage a supply chain, or tiers of agencies to provide temporary agency workers.

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“Council”	East Sussex County Council of County Hall, St Anne’s Crescent, Lewes, East Sussex, BN7 1UE
“CPV Codes”	Common Procurement Vocabulary codes - a classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe procurement contracts.
“ERP system”	Enterprise Resource Planning system
“Grant”	A sum of money awarded to an individual or organisation in anticipation of it being applied for an agreed purpose. Conditions may apply to the award of the grant but generally the only remedy in the event it is not applied for the agreed purpose is claw-back of the monies provided.
“Level 1 Contract”	A strategic contract that is typically high value, high complexity and high risk as defined by the Contract Management Framework.
“Level 2 Contract”	A contract that is critical to the delivery of statutory service, typically high in value, risk and complexity as defined by the Contract Management Framework.
“Material Decisions”	A decision is “material” if, under the Procurement Act 2023, a contracting authority is required to: <ul style="list-style-type: none"> <li>(a) to publish or provide a notice, document or other information in relation to the decision, or</li> <li>(b) to make the decision.</li> </ul>
“Mixed Procurement”	Tendering of contracts that involve elements of a different nature (works, services or supplies) or contracts covered by different sets of rules, and where one or more elements of the requirement could be supplied under a special regime contract.
“National Procurement Policy Statement (NPPS)”	The National Procurement Policy Statement, as provided for at Section 12 of the PA23. The NPPS sets out a statutory statement which allows the Government to set and communicate the wider policy objectives to which it expects public procurement to contribute.
“Officers”	Anyone who works for the Council (including permanent, temporary and seconded employees as well as external contractors and consultants) who is responsible for buying goods works and / or services on behalf of the Council.
“Orders”	Procurement and Contract Standing Orders.
“PA23”	The Procurement Act 2023.
“PCSO Thresholds”	The PCSO Thresholds defined in the Procurement Type Tables (a-e) in paragraph 1.10.
“Pipeline Notice”	A notice setting out specified information about any public contract with an estimated value of more than £2 million in respect of which the contracting authority intends to publish a tender notice or transparency notice during the reporting period.

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“Procurement Forward Plan”	A plan (up to 24 months) of contracts over the Goods/Services/Works Regulatory Thresholds which are due for renewal, replacement or is a new requirement during the plan term.
“Procurement Legislation”	Means: <ul style="list-style-type: none"> <li>- The Public Contracts Regulations 2015;</li> <li>- the PA23;</li> <li>- the Procurement Regulations 2024 and / or</li> <li>- the Provider Selection Regime,</li> </ul> as the context so requires.
“Provider Selection Regime”	The set of rules for procuring health care services in England set out in the Health Care Services (Provider Selection Regime) Regulations 2023, which are accompanied by Statutory Guidance, to which relevant authorities must have regard.
“Purchase Order”	The purchase order generated (where applicable) by the Council for the goods, works or services.
“Regulatory Threshold”	The statutory threshold above which a procurement must comply with Procurement Legislation (as determined by reference to the relevant Procurement Legislation).
“Senior Officers”	Heads of Service and above.
“Service Lead”	The lead Officer in the service that will work with Procurement to procure a contract for Goods / Works / Services.
“Statutory Officers Group”	<p>The Council’s Statutory Officers Group (SOG), which is made up as follows:</p> <ul style="list-style-type: none"> <li>- the Head of Paid Service (Chief Executive);</li> <li>- the Monitoring Officer (Deputy Chief Executive);</li> <li>- the Section 151 Officer (Chief Finance Officer);</li> <li>- the Chief Operating Officer;</li> <li>- the Assistant Director, Head of Human Resources &amp; Organisational Development;</li> <li>- the Chief Internal Auditor and/or the Audit Manager.</li> </ul> <p>The primary role of the SOG is to provide a dynamic and real time forum for considering current strategic risks and issues facing the organisation and ensuring appropriate actions are taken in response.</p>
“Supplier”	A person, company, or organisation that supplies goods, services or works.

## **(9) Officer Employment Procedure Rules**

### **1. 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, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii) Every member and Chief Officer or Deputy Chief Officer of the Council shall disclose to the Deputy Chief Executive any relationship known to him or her to exist between himself or herself and any person known to be a candidate for an appointment under the Council. The Deputy Chief Executive shall report to the members or Chief Officer responsible for making the appointment details of the disclosure.
- iii) No candidate so related to a councillor or an officer will be appointed without the authority of the Deputy Chief Executive and relevant chief officer and another chief officer or officers nominated by them.

#### **(b) Seeking support for appointment**

- i) Subject to paragraph (iii), 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) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- iii) Nothing in paragraphs i) and ii) above will preclude a councillor from giving a reference for a candidate for submission with an application for appointment.

### **2. 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:

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- (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 (1) to be sent to any person on request.

### **3. Appointment of head of paid service**

(a) The full council will approve the 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.

### **4. Appointment of chief officers and deputy chief officers**

(a) A committee or sub-committee of the Council will appoint chief officers and deputy chief officers. That committee or sub-committee must include at least one member of the Cabinet.

(b) An offer of employment as a chief officer or deputy chief officer shall not be made if an objection is received from a member of the Cabinet which is well founded in the opinion of the Chief Executive or the Monitoring Officer.

(c) A deputy chief officer means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to a chief officer.

*(Note: Authority has been delegated to the Chief Executive to: (1) appoint to Assistant Director posts where there is no competitive process; and (2) in consultation with Group Leaders, to make temporary appointments to Chief Officer and Assistant Director roles)*

### **5. Other appointments**

(a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility

of the head of paid service or his/her nominee and may not be made by councillors.

(b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group if such an appointment is made.

## 6. Disciplinary action

- (i) Disciplinary procedures should be handled as quickly as possible, subject to the need to investigate thoroughly. Informal conciliation is preferred to formal procedures if it can bring about a mutually agreed solution.
- (ii) Where an allegation is made against the Monitoring Officer or the Chief Finance Officer, the Head of Paid Service, or in the case of the Head of Paid Service, the Chair of the Governance Committee, will decide whether to:
  - a) take no action; or
  - b) agree an informal course of action; or
  - c) take formal action with the consent of the employee; or
  - d) refer the matter to the Investigating and Disciplinary Committee (IDC).

The Governance Committee will, as a term of reference of the Governance Committee, act as the IDC. The IDC must be politically balanced and must include at least one member of Cabinet.

If the statutory officer does not agree any proposed informal course of action and/or if it is decided to refer the matter to the IDC, the Head of Paid Service, or the Chair of the Governance Committee, as appropriate, will decide whether to suspend and will have authority to suspend if it is considered appropriate. This may be necessary, for example, if an allegation is such that if proven it would amount to gross misconduct or if the Statutory Officer's continuing presence at work might compromise the investigation or impair the efficient exercise of the Council's functions. If it is decided that the Statutory Officer should be suspended, the Statutory Officer will be informed in writing of this and of the reason for the suspension without delay and shall have the right to present information before such a decision is made.

- (iii) Where an allegation is made, the Head of Human Resources and Organisational Development will write to the Statutory Officer to invite the Statutory Officer to an IDC investigative meeting within 10 working days of the meeting. The invitation should set out the allegation(s)/issues, and provide any evidence to be considered. The invitation will also invite the Statutory Officer to submit a written response to the IDC not less than 5 working days before the meeting.
- (iv) Following the investigative meeting, the IDC will determine the course of action to be either:

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- a) no further action required; or
- b) informal, un-recorded warning given; or
- c) an Independent Investigator to be appointed to investigate the allegations and report to the IDC with their findings and recommendations.

(v) The Chair of the IDC will confirm the outcome of the investigative meeting in writing to the Statutory Officer without delay.

(vi) If the IDC decides to appoint an Independent Investigator, a list of suitably qualified individuals is provided by the Joint Negotiating Committee for Chief Officers (JNC) Joint Secretaries and the Statutory Officer may choose from the list provided. If genuine conflicts of interest are raised these will be considered by the IDC but if the Statutory Officer does not agree within 14 days, the IDC should be free to appoint their choice from the list.

(vii) The Independent Investigator will conduct an investigation and produce a written report to the IDC:

- a. Stating in his/her opinion whether (and if so, the extent to which) the evidence he/she has obtained supports the allegation of misconduct or other issue under investigation; and
- b. Recommending any disciplinary action or range of actions (if any) which appear to him/her to be appropriate for the authority to take against the Statutory Officer.

(viii) Where the Statutory Officer is suspended, the suspension should be reviewed by the Chair of the IDC after two months, and only continued following consultation with the Independent Investigator. The Chair of the IDC should confirm the outcome of the review in writing to the Statutory Officer without delay and after taking into account any representations made by the Statutory Officer.

(ix) If the Independent Investigator considers that there is a case to answer, the Head of Human Resources and Organisational Development will arrange a hearing in accordance with the Code of Practice on Disciplinary and Grievance Procedures and invite the Statutory Officer to attend, giving at least 10 working days' notice including any associated paperwork from the Independent Investigator. The Statutory Officer has a right to be accompanied in the normal way. Any written response to the documents provided by the Independent Investigator should be received from the Statutory Officer at least 5 working days in advance of the hearing.

(x) At the hearing, the Independent Investigator should present their findings, including calling any witnesses they may wish to. After this presentation, the Statutory Officer may ask questions. The Statutory Officer will then have the opportunity to present their case and call any witnesses.

(xi) The IDC will then consider which of the following outcomes is appropriate:

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- a) no further action; or
- b) refer back to the Independent Investigator for further investigation and report; or
- c) disciplinary action short of dismissal or other appropriate procedure; or
- d) recommend dismissal.

If the IDC decide on disciplinary action short of dismissal, then the Statutory Officer will have the right of appeal. Appeals should be heard by an Appeals Committee, drawn from Full Council, and which will be a politically balanced committee of normally 5 members who were not part of the IDC. The appeal must be submitted in writing within 10 working days of the hearing. Full details setting out the grounds of appeal must be provided.

- (xii) Where the IDC propose dismissal, the IDC will inform the Proper Officer that it is proposing to the Council that the Statutory Officer be dismissed. In the case of any proposal to dismiss the Head of Paid Service, the Proper Officer will be the Monitoring Officer and in all other cases, the Proper Officer will be the Head of Paid Service. The Proper Officer should then notify all members of the Council of:
  - a. The fact that the IDC is proposing to the Council that it dismisses the Statutory Officer;
  - b. Any other particulars relevant to the dismissal; and
  - c. The period by which any objection to the dismissal is to be made by the Leader to the Proper Officer.
- (xiii) At the end of this period, the Proper Officer will inform the IDC either:
  - a. That the Leader has notified him/her that neither he/she nor any member of the Cabinet has any objection to the dismissal;
  - b. That no objections have been received from the Leader; or
  - c. That an objection or objections have been received and provide details of the objections.
- (xiv) The IDC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If there are any material and/or well-founded objections to the proposal to dismiss, the IDC will consider the impact of any objections on the decision and commission further investigation by the Independent Investigator and report if required. If there is no material and/or well-founded objections to the proposal to dismiss, the IDC will inform the Statutory Officer of this decision. Thereafter, the IDC will put the proposal to recommend dismissal to an Independent Panel (IP) that should be convened, giving at least 5 working days' notice to all concerned. The IP members must be appointed to the IP at least 20 working days before the Full Council meeting at which it considers whether to approve a proposal to dismiss.
- (xv) The IP should comprise two or more relevant Independent Persons who accept the invitation in the following priority order:

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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- a) an Independent Person who has been appointed by the council and who is a local government elector in the authorities area;
- b) any other Independent Person who has been appointed by the council; and
- c) an Independent Person who has been appointed by another council or councils.

The IP members will be appropriately supported on matters of process and compliance with employment law.

- (xvi) The role of the IP is to offer any advice, views or recommendations it may have to the Council on the proposal for dismissal. The IP will receive the IDC proposal and reasons in support of the proposal, the report of the Independent Investigator and representations (oral and/or written) from the Statutory Officer and their representative. Any written response to the proposal to dismiss, including the Independent Investigator's report should be received by the IP from the Statutory Officer at least 5 working days before the IP meeting. The IDC should be represented by its Chair or other nominated person at the IP meeting. The Independent Investigator may also be invited to attend the IP meeting to provide clarification if required. Members of the IP may ask questions of either party who have been given reasonable opportunity to be present or represented. While representations may be made, the IP will not conduct a rehearing of the evidence.
- (xvii) The IP should then formulate any advice, views or recommendations it wishes to present to the Council. If the IP is recommending any course of action other than that the Council should approve the dismissal, then it should give clear reasons for its point of view.
- (xviii) Where dismissal is recommended, Full Council must consider the proposal and reach a decision before notice of dismissal is issued. The Statutory Officer will be provided with all relevant papers or documents in advance of the meeting and will be allowed to attend (and be accompanied by their representative) and put forward his/her case before a decision is reached. Written representations may also be given by the Statutory Officer in advance of the meeting. The Independent Investigator may also be invited to attend.
- (xix) Full Council will consider which of the following outcomes is appropriate:
  - a) Approve dismissal; or
  - b) Reject the proposal to dismiss; or
  - c) Substitute a lesser sanction; or
  - d) Refer the matter back to the IDC to determine such appropriate lesser sanction.
- (xx) No notice of dismissal shall be given until the decision has been approved by Full Council..

## CONSTITUTION – PART 4 – RULES OF PROCEDURE

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- (xxi) Where the IDC has made a proposal to dismiss, the hearing by Full Council will also fulfil the appeal function.
- (xxii) Any discussion at the Full Council or the Governance Committee under these rules regarding an individual officer would be conducted under the exempt part of the meeting.

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## **Code of Conduct for Members**

On their election or co-option to the East Sussex County Council, members are required to sign an undertaking to comply with the authority's Code of Conduct.

This Code of Conduct, adopted by the authority on 20 July 2012, is set out below. It is made under Chapter 7 of the Localism Act 2011 and includes, as standing orders made under Chapter 7 of that Act and Schedule 12 of the Local Government Act 1972, provisions which require members to leave meetings in appropriate circumstances, while matters in which they have a personal interest are being considered.

### **Part 1 – General provisions**

#### **Introduction and interpretation**

- 1. (1)** This Code applies to **you** as a member of the authority, when acting in that capacity.
- (2)** This Code is based upon seven principles fundamental to public service, which are set out in **Appendix 1**. You should have regard to these principles as they will help you to comply with the Code.
- (3)** If you need guidance on any matter under this Code you should seek it from the authority's monitoring officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (4)** It is a criminal offence to fail to notify the authority's monitoring officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's monitoring officer.
- (5)** Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding -
  - (a)** whether to take action in relation to you and
  - (b)** what action to take.
- (6)** Councillors are required to comply with any request regarding the provision of information in relation to a complaint alleging a breach of the Code of Conduct and must comply with any formal standards investigation.

(7) Councillors should not seek to misuse the standards process, for example, by making trivial or malicious allegations against another councillor for the purposes of political gain.

(8) In this Code—

“authority” means East Sussex County Council

“Code” means this Code of Conduct

“co-opted member” means 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.

“meeting” means any meeting of—

(a) the authority;

(b) the executive of the authority

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

“member” includes a co-opted member.

“register of members' interests” means the authority's register of members' pecuniary and other interests established and maintained by the authority's monitoring officer under section 29 of the Localism Act 2011.

## **Scope**

**2. (1)** Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **General obligations**

**3.** (1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of its equality duties (in particular as set out in the Equality Act 2010);

(b) bully or harass any person; Note: Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

(c) intimidate or improperly influence or attempt to intimidate or improperly influence any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

**4.** You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

## CONSTITUTION – PART 5 – CODES AND PROTOCOLS

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- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is—
  - (a) reasonable and in the public interest; and
  - (b) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

**5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

**6. You—**

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) must, when using or authorising the use by others of the resources of your authority—
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—**

- (a) your authority's chief finance officer; or
- (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

**(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.**

## **Part 2 – Interests**

### **Personal interests**

8. (1) The interests described in paragraphs 8(3) and 8(5) are your personal interests and the interests in paragraph 8(5) are your pecuniary interests which are disclosable pecuniary interests as defined by section 30 of the Localism Act 2011.

(2) If you fail to observe Parts 2 and 3 of the Code in relation to your personal interests—

(a) the authority may deal with the matter as mentioned in paragraph 1(5) and

(b) if the failure relates to a disclosable pecuniary interest, you may also become subject to criminal proceedings as mentioned in paragraph 1(4).

(3) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(a) exercising functions of a public nature;

(b) directed to charitable purposes; or

(c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(4) In sub-paragraph (3)(b), a relevant person is—

- (a) a member of your family or a close friend; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (3)(a)(i) or (ii).

(5) Subject to sub-paragraphs (6) and (7), you have a personal interest which is also a disclosable pecuniary interest as defined by section 30 of the Localism Act 2011 in any business of your authority where (i) you or (ii) your partner have an interest within the following descriptions:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and

Securities	<p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p> <p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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These descriptions on interests are subject to the following definitions;

‘body in which the relevant person has a beneficial interest’ means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

‘director’ includes a member of the committee of management of an industrial and provident society;

‘land’ includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

‘M’ means the person M referred to in section 30 of the Localism Act 2011;

‘member’ includes a co-opted member;

‘relevant authority’ means the authority of which M is a member;

‘relevant period’ means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Localism Act 2011;

‘relevant person’ means M or any other person referred to in section 30(3)(b) of the Localism Act 2011;

‘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.

(6) In sub-paragraph (5), your partner means—

- (a) your spouse or civil partner,
- (b) a person with whom you are living as husband and wife, or
- (c) a person with whom you are living as if you were civil partners,

(7) In sub-paragraph (5), any interest which your partner may have is only treated as your interest if you are aware that that your partner has the interest.

### **Disclosure of personal interests (See also Part 3)**

**9.** (1) Subject to sub-paragraphs (2) to (6), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) If the personal interest is entered on the authority's register there is no requirement for you to disclose the interest to that meeting, but you should do so if you wish a disclosure to be recorded in the minutes of the meeting.

(3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(4) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest and, if also applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting.

(5) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(6) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

### **Prejudicial interest generally**

**10.** (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where either—

(a) the interest is a disclosable pecuniary interest as described in paragraph 8(5), or

(b) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) For the purposes of sub-paragraph (1)(b), you do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Interests arising in relation to overview and scrutiny committees**

**11.** You also have a personal interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

**12. (1)** Subject to sub-paragraph (2) and (3), where you have a prejudicial interest in any matter in relation to the business of your authority—

(a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held—

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
- (ii) in any other case, whenever it becomes apparent that the matter is being considered at that meeting;

unless you have obtained a dispensation from your authority's monitoring officer or standards committee;

(b) you must not exercise executive functions in relation to that matter; and

(c) you must not seek improperly to influence a decision about that matter.

(2) Where you have a prejudicial interest in any business of your authority which is not a disclosable pecuniary interest as described in paragraph 8(5), you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(3) Where you have a prejudicial interest which is not a disclosable pecuniary interest as described in paragraph 8(5), arising solely from membership of any body described 8(3)(a)(i) or 8(3)(a)(ii)(a) then you do not have to withdraw from the room or chamber and may make representations to the committee but may not participate in the vote.

## **Part 3 – Registration of Interests**

### **Registration of members' interests**

**13.** (1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by the authority; or
- (b) your election or appointment to office (where that is later), register in the register of members' interests details of—

- (i) your personal interests where they fall within a category mentioned in paragraph 8(3)(a) and
- (ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph 8(5)

by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest falling within sub-paragraphs (1)(b)(i) or (1)(b)(ii) or any change to any personal interest registered under sub-paragraphs (1)(b)(i) or (1)(b)(ii), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

### **Sensitive information**

**14.** (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, the monitoring officer shall not include details of the interest on any copies of the register of members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in the register of members' interests.

(3) In this Code, "sensitive information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## **Dispensations**

**15** (1) The standards committee, or any sub-committee of the standards committee or the monitoring officer may, on a written request made to the monitoring officer of the authority by a member, grant a dispensation relieving the member from either or both of the restrictions in paragraph 12(1)(a) (restrictions on participating in discussions and in voting), in cases described in the dispensation.

(2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the standards committee, its sub-committee or the monitoring officer—

(a) considers that without the dispensation the number of persons prohibited by paragraph 12 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by paragraph 12 from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Paragraph 12 does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

## **APPENDIX 1**

### **The Seven Principles of Public Life**

The Principles of public life apply to anyone who works as a public office holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

#### *Selflessness*

**1.** Holders of public office should act solely in terms of the public interest.

#### *Integrity*

**2.** 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.

#### *Objectivity*

**3.** Holder of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### *Accountability*

**4.** 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*

**5.** 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 doing so.

#### *Honesty*

**6.** Holders of public office should be truthful.

#### *Leadership*

**7.** 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.

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# **Code of Conduct and Conflict of Interest Policy**

## **Key Points:**

- This policy applies to all County Council employees, including schools based employees where the Governing Body has adopted the policy (subject to such other changes which may have been adopted by the Governing Body of the school). Throughout this policy, reference to the 'County Council' includes County Council-maintained schools.
- The Code aims to ensure that confidence in the integrity of employees is maintained at all times.
- The Code forms part of your contract of employment and must be followed – breach of this code may be viewed as a serious disciplinary matter depending on the severity of the breach.
- The Code, where appropriate, must be read in conjunction with the Anti-Fraud and Corruption Strategy, Whistleblowing Policy, Financial Regulations, Procurement and Contract Standing Orders, the Scheme of Delegations, and with any other more detailed County Council/Departmental operational instructions/guidelines.
- All potential conflicts of interest must be declared before the activity commences or the issue arises. If your circumstances change, it is your responsibility to immediately inform your manager and make a new declaration.
- All staff will be reminded of the need to declare potential conflicts of interest and required to complete an annual form.
- A separate Members' Code of Conduct applies to Councillors.

## **1. Introduction**

- 1.1. This Code should be considered alongside relevant guidance from professional bodies, such as the Health and Care Professions Council. In Schools, this includes the 'Code of Conduct for Employees Whose Work Brings Them into Contact with Young People'.
- 1.2. Please take time to read this Code, and make sure that you understand it. Although this Code cannot be exhaustive, its intention is to provide sufficient information to make you aware of what is required of you. Therefore, if you are unclear, or want to know something specific, please talk to your manager.
- 1.3. It is important that you understand that a breach of the Code could lead to disciplinary action, and even dismissal, depending on the severity of the breach (please refer to the Disciplinary Policy). Ignorance of the guidelines in the Code will not be seen as a valid excuse.
- 1.4. It is the individual responsibility of each employee to make a conflict of interest declaration when they join the County Council and to ensure that their declarations are kept up to date. Employees should update their declaration either annually, even if this is to make a 'nil return', or when there is a significant change in circumstances.. If there is a change in your circumstances and a potential conflict arises, it is your responsibility to inform your manager as soon as possible so the conflict of interest can be considered.

1.5.

1. Staff in corporate departments who have access to the intranet should use the electronic form available via the intranet.
2. Staff in corporate departments who do not have access to the intranet should send their written declaration to their departmental coordinator.
3. Staff in schools should use the form available on the Webshop.

1.6. Throughout this policy, where it is stated that Assistant Directors will determine whether a conflict of interest exists or whether a gift or offer of hospitality may be accepted, when the employee in question is an Assistant Director the determination will be made by the relevant Chief Officer and/or the Deputy Chief Executive. For Headteachers, the school's Governing Body should decide and a recommendation may be sought from the Director of Children's Services.

## **2. Standards**

- 2.1. You are expected to give the highest possible standard of service to members of the public, observing the standards of conduct which the law, the Council's Standing Orders and Financial Regulations, Conditions of Service, this Code and any School /Departmental rules require together with any relevant guidance from professional bodies.
- 2.2. The Council has adopted the Nolan Committee's seven principles, which set the standards in public life. In performing your duties, you must act in accordance with the seven Nolan principles, which are:
  - Selflessness – You must act solely in terms of the public interest and not in order to gain financial or other material benefits for yourself, family or friends.
  - Integrity – You should not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
  - Objectivity – You must make choices on merit when making decisions on appointments, contracts, or recommending rewards and benefits for individuals.
  - Accountability – You are accountable for your decisions and actions to the public and you must submit yourself to whatever scrutiny is appropriate.
  - Openness – You should be as open as possible about all the decisions and actions that you take. You should give reasons for your decisions and restrict information only when the wider public interest clearly demands.
  - Honesty – You have a duty to declare any private interests relating to your work and you need to take steps to resolve any conflicts arising in a way that protects the public interest.
  - Leadership – You should promote and support these principles by leadership and example.
- 2.3. You are encouraged and expected, through agreed procedures and without fear of recrimination, to raise workplace concerns about risk, malpractice or wrongdoing in accordance with the County Council's Whistleblowing Policy.
- 2.4. You must ensure that you use public funds entrusted to you in a responsible and lawful manner and in accordance with the County Council's Financial Regulations.
- 2.5. If requested to do so, you are expected to co-operate in any investigation being carried out by or on behalf of the County Council.

### **3. Political neutrality**

- 3.1. Please note that Section 3 'Political Neutrality' is not applicable to employees on teachers' terms and conditions of employment.
- 3.2. You serve the County Council as a whole. It therefore, follows that you must serve all County Councillors and not just those of the majority group and you must ensure that the individual rights of all County Councillors are respected.
- 3.3. You must not be involved in advising any political group of the County Council or attend any of their meetings in an official capacity without the express consent of your Chief Officer. You must follow every lawful expressed policy of the County Council and must not allow your own personal or political opinions to interfere with your work. Political Assistants appointed on fixed term contracts in accordance with the Local Government & Housing Act 1989 are exempt from these conditions.
- 3.4. As an employee of the County Council you are not eligible to stand for office as an elected member of the County Council. For County Council staff (with the exception of staff on Teachers' Terms and Conditions of Employment), some posts are politically restricted and employees are prohibited from political activity as defined in the Local Government and Housing Act 1989 (as amended), either:
  - (i) where the post holder gives advice on a regular basis to the Authority (meaning the County Council, the Cabinet, Lead Cabinet Member, any committee or sub-committee of the Authority, or to any committee on which the Authority is represented); and/or
  - (ii) the post holder speaks on behalf of the Authority on a regular basis to journalists or broadcasters.

Further information is available in the Politically Restricted Posts guidance available on the Intranet and Webshop.

- 3.5. If your duties bring you into contact with County Councillors, you should be aware that guidance on relationships with Councillors is contained within the Code on Member/Employee Relationships.

### **4. Using County Council equipment, materials and property**

- 4.1. You must ensure that you use public funds entrusted to you in a responsible and lawful manner, and in accordance with the County Council's Financial Regulations, and all other relevant County Council policies.
- 4.2. The facilities and equipment provided as part of your work belong to the County Council and should only be used for legitimate County Council business purposes. Please ensure that you:
  - Comply with health and safety regulations and use personal protective equipment as required;
  - Take care of County Council property or equipment, keeping it secure and reporting any breakages or breaches of security;
  - Use equipment and facilities for authorised purposes only;
  - Do not use County Council equipment or property, including vehicles, for your own private benefit or gain or in fraudulent activity or for any unauthorised purposes.

4.3. Facilities and equipment is taken to mean, but is not limited to; computers, software, telephones, vehicles and intellectual property. The County Council reserves the right to access all IT systems (including telephone voice recordings), in the event of a policy or security breach. Please also refer to the Personal Use of Council Equipment Policy, Internet Access and Usage Policy, Email Use Policy and Information Security and Data Protection Policy.

## 5. Gifts, bequests and legacies

5.1. It is a serious criminal offence for you to corruptly receive or give any bribe, gift, loan, fee, reward, or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. If an allegation is made, it is for you to demonstrate that any such rewards have not been corruptly obtained. Please also refer to the Anti-Fraud and Corruption Strategy.

5.2. As a representative of the County Council it is important that you treat any offer of a personal gift, loans, fees, rewards or other financial or in kind advantage (collectively referred to here as 'gifts') with care. You must not accept gifts from contractors or potential contractors, including those who have previously worked for the County Council, service users, clients or suppliers.

5.3. You should handle the refusal of gifts with tact and courtesy. The intentions of those offering gifts may not have been corrupt but simply inappropriate to professional relationships in the public sector. It is therefore important, that where organisations make offers of gifts or hospitality, they are clearly made aware that such practice is unacceptable and should not be repeated.

5.4. If you receive any unexpected gifts they must be returned with a polite refusal letter to the sender, which makes it clear that County Council employees are not permitted to accept any gifts, other than those set out in sections 5.6 and 5.7.

5.5. All gifts offered including, but not limited to, inducements such as air miles, trading discounts, vouchers, or offers of hospitality, must be declared

1. Staff in corporate departments who have an intranet access should use the electronic form available via the intranet.
2. Staff in corporate departments who do not have an intranet access should send their written declaration to their departmental coordinator.
3. Staff in schools should use the form available on the Webshop.

5.6. Minor articles such as diaries, calendars, mugs, office items and the like will not be regarded as a gift. If you have any doubt as to whether an item falls within the definition of a gift and / or is acceptable, you are expected to raise this with your manager at the earliest opportunity.

5.7. In the case of schools, low value items are frequently offered as a gesture of appreciation from pupils, parents or carers, at the end of term for example. These may be accepted if they are not in any way connected with the performance of duties. Discretion should be exercised where the items offered are in excess of £10 in value and then can only be accepted with the Headteacher's approval and must be declared.

5.8. The same rules as above apply to bequests, which must be refused, unless there are special circumstances approved in writing by your Assistant Director in consultation with the Deputy Chief Executive. In schools, this should be approved by your Headteacher and Chair of Governors.

5.9. In summary:

- You should not accept gifts.
- Declare the offer of any gifts (including bequests or legacies).
- You should handle the refusal of gifts with tact and courtesy and make those offering them aware that such practice is not acceptable and should not be repeated.
- Unexpected gifts must be returned with a polite refusal letter to the sender.
- All gifts offered for any amount must be declared.
- Minor articles of a promotional nature such as diaries, calendars, and mugs will not be regarded as a gift.
- If you have any doubt, as to what is acceptable, speak to your manager beforehand or at the earliest opportunity following receipt of the article or gift.
- In the case of schools, articles from pupils/parents/carers of less than £10 in value need not necessarily be refused.

## **6. Hospitality**

6.1. You should exercise caution in offering and accepting accommodation, tickets or passes for an event, food or drink, or entertainment which is provided free of charge or at a discounted rate ('hospitality'). You should bear in mind how it might affect your relations with the party offering it or receiving it and how it might be viewed by a range of stakeholders, including:

- County Councillors;
- School Governors;
- other potential suppliers/contractors;
- the public;
- the media;
- your colleagues.

6.2. When considering any offer of hospitality, the following should be considered when determining whether it can be accepted:

- the invitation comes from an organisation or individual likely to benefit from the County Council;
- the organisation or individual is seeking a contract with the County Council, or one has already been awarded;
- in the case of a visit, it is genuinely instructive and does not constitute, or could be perceived as being, more of a social function;
- the scale and location of the hospitality is proportionate and relative to the event;
- the event takes place outside of normal working hours;
- it is being offered on a frequent basis;
- it is being offered just to you or others as well;
- the hospitality is purely a social or sporting event as opposed to an event which you are attending in an official capacity.

6.3. Examples of Hospitality which should not normally be accepted include:

- events that are purely social occasions;
- attendance at events that, if they had been funded by the County Council, would be perceived as a poor or inappropriate use of public funds;
- events where current or potential contractors pay for the meals or the table at the event; and /or
- attendance at corporate events, including sporting or cultural events.

6.4. Examples of events which may be accepted (subject to consideration of the factors listed in 6.2):

- events that are clearly of a training or development nature; and / or
- events where you are invited to attend as a formal representative of the County Council and attendance relates directly to the performance of your duties.

6.5. In all instances where you wish to accept hospitality, including site visits as part of procurement or similar activities, you must seek the approval in advance in writing from your Assistant Director/Headteacher and wherever possible the County Council should meet the cost of your attendance in full.

6.6. Particular care should be taken in the case of attendance at conferences, seminars or other training and development events, where current or potential contractors or suppliers offer to pay the associated costs. Whilst these may be business related events, it may be inappropriate hospitality to be funded by others. In such cases, advice should be sought from your Assistant Director/ Headteacher but as a general rule, if the event is genuinely business related then it should be funded by the County Council and the expense subject to the normal authorisation process.

6.7. All offers of hospitality, whether accepted or not, should be declared. You are also reminded that, where organisations make inappropriate offers of gifts or hospitality, they should be made aware that such practice is unacceptable and should not be repeated.

## **7. Outside commitments**

7.1. Regardless of grade, whether whole or part-time, permanent, temporary, relief or seasonal, you must seek the written permission of, and make a written declaration (an oral declaration is not sufficient) to, your Assistant Director/Headteacher before engaging in any other work or business (\*) which might relate or in any way impact on your duties for the County Council. This includes paid or unpaid work, and will include one off pieces of work as well as regular employment.

1. Staff in corporate departments who have an ESCC email account should use the electronic form available via the intranet.
2. Staff in corporate departments who do not have an ESCC email account should send their written declaration to their departmental coordinator.
3. Staff in schools should use the form available on the Webshop.

- 7.2. If you are paid at or above Single Status Grade 9 (spinal point 23 and above) or equivalent, you are specifically required to declare to, and obtain consent from, your Assistant Director/ Headteacher, if you wish to engage in any other business (\*), or take up any additional appointment regardless of whether there is any conflict of interest anticipated. Such consent will not be unreasonably withheld. If your request is approved, the County Council must be mindful of its responsibility under the Working Time Regulations 1998, the Health and Safety at Work Act 1974 and its general responsibilities towards the health of its employees.
- 7.3. You must declare in writing to your Assistant Director any relatives, partners or friends who are engaged in a business, including roles such as company directorships, company secretaries and so on, which either currently provides services to the County Council or may do so in the future. In the case of schools based staff, you must declare in writing to your Headteacher any relatives, partners or friends who are engaged in a business which either currently provides services to your School, or schools with which your school collaborates or is federated to, or may do so in the future. This is in order to minimise the risk of suspicion that some influence may be exerted over a particular customer as to the choice of provider, or that the provider gained advantage in terms of information received.
- 7.4. You must not work privately for personal gain for a service user/pupil for whom you have a service provision role within the County Council unless you have written consent from your Assistant Director/Headteacher. This includes service users or pupils to whom an employee may not personally be giving a service but does receive a service from the County Council. Suitability of such work may depend on the scale of the work, the impact it has on an employee's performance and whether there is any potential for an employee to be perceived as taking advantage of their position to generate the work. This determination lies with your Assistant Director or Headteacher.
- 7.5. If you are permitted to engage in any other business or take up any additional employment, you must not undertake any work in connection with your additional employment in County Council time, or make use of any County Council equipment or facilities. It is the responsibility of each individual employee to declare any additional personal income to Her Majesty's Revenue and Customs (HMRC).
- 7.6. If you have any doubt whatsoever you should make a declaration, so that the County Council can make the judgement as to whether a conflict exists.
- 7.7. The County Council is entitled to ownership of intellectual property e.g. copyright of material created by you in the course of your duties as an employee of the County Council.

## **8. Personal interests**

- 8.1. Your off-duty hours are your own personal concern. However, you must not put yourself in a position where your job and personal interests conflict.

- 8.2. You must declare in writing any financial or non-financial interests that could in any way be considered to bring about conflict with the County Council's interests. This includes any relationship, discussions or correspondence over any employment or private interests with organisations or individuals that may have a past, current or future connection with the County Council, including but not limited to circumstances where funds are being paid or received by the County Council or situations that could result in more favourable treatment or give advantage to an individual or organisation. If you have any doubt whatsoever you should make a declaration, so that your employer can make the judgement as to whether a conflict exists (see Appendix 1: Making a declaration).
- 8.3. You are required to disclose any personal interest that may conflict with the County Council's interests e.g. representative of an organisation which may seek to influence the County Council's policies (see Appendix 1: Making a declaration). If a relative or friend accesses services provided by the County Council, you must declare any potential conflict between your job role and the services they receive. Employees must not access information or records related to Council services received by their relatives, friends, or anyone else they have a personal relationship with.
- 8.4. You must inform your Assistant Director/Headteacher if you are declared bankrupt or are involved as a Director of a company which is wound up or put into voluntary liquidation, if it may potentially impact upon your role and duties. Bankruptcy may impact on the duties of employees who have a financial responsibility. The purpose of this is to ensure that a proper framework of support is in place.

## **9. Disclosure of information and confidentiality**

- 9.1. It is generally accepted that open government is best. The law requires that certain types of information must be made available to members, auditors, government departments, service users, and the public. In particular, the Freedom of Information Act gives a legal right of access to information held by the County Council, subject to certain exemptions. You must ensure that you are aware of the Freedom of Information and Data Protection guidance, and guidance for staff issued in relation to this.
- 9.2. No politically or commercially sensitive information, should be released to anyone, including County Councillors, without authorisation from your line manager.
- 9.3. You must ensure that any personal information you work with is only processed in accordance with data protection legislation. When handling personal data you must always adhere to the Information Security and Data Protection Policy and Confidentiality Code of Practice. Further training and guidance is available from the Council, and you should ensure you are familiar with it. You must not access information or records related to Council services received by their relatives or friends, or anyone else you have a personal relationship with.
- 9.4. If you are in any doubt about disclosing information then you are expected to seek guidance from your manager.
- 9.5. Confidential Committee papers must not be released without the consent of the Deputy Chief Executive. In schools, confidential Governor Papers must not be released without the approval of the Governing Body.

- 9.6. You must not use any information obtained in the course of your employment for personal gain nor pass it on to others who might use it in such a way or for any purpose for which it was not originally intended.
- 9.7. Any information which you might receive from a County Councillor/ Governor relating to his/her personal/private affairs and which does not belong to the County Council should not be divulged without the prior approval of that County Councillor/ Governor, except where such disclosure is required or sanctioned by law.

## **10. Appointment and other employment matters**

- 10.1. You must not be involved in the day-to-day line management, appointment, or any other decisions relating to the discipline, promotion or pay or conditions of another employee, or prospective employee, who is a relative, partner or friend. Managers should consider whether their relationship with a colleague may have an impact on their ability to carry out their duties. In schools, staff Governors should not be involved in making decisions about these matters when a colleague is the subject.
- 10.2. If you are responsible for appointing employees, you must ensure that decisions are based on merit and not on anything other than their ability to do the job. Similarly, you must not canvass on behalf of any applicant. (Please see the Recruitment and Selection Policy).
- 10.3. If you have a connection in a private, social or domestic capacity with someone who also works for the County Council or who sits on a school's Governing Body that may potentially create, or be thought to create, a conflict of interest you need to declare this to your Assistant Director/Headteacher for them to consider.
- 10.4. Employees must inform their manager if they are being investigated by any professional body and any sanction imposed.
- 10.5. If you are in doubt about any of the above, please seek advice from the Personnel Advisory Team.

## **11. Employment after working at the County Council**

- 11.1. The County Council is concerned to safeguard the integrity of the workings of local government and to avoid even the appearance of impropriety among its employees. It is in the public interest that people with experience of public administration should be able to move into business and other bodies. It is also important that whenever a County Council employee accepts a particular outside appointment, there should be no cause for any suspicion of impropriety. The rules set out in Appendix 2 to this Code are aimed at safeguarding both the County Council and individual employees from such criticism or suspicion. The rules apply to appointments in the United Kingdom and across the European Union.

## **12. Criminal offences**

- 12.1. Employees are expected to conduct themselves at all time (inside and outside of work) in a manner which will maintain public confidence in both their integrity and the services provided by the County Council. In general, what an employee does outside work is his/her personal concern, unless those actions would cause a breakdown in the employment relationship.

12.2. Employees must inform their manager if they are arrested/convicted/cautioned in respect of any offence as soon as possible. Employees do not need to disclose minor driving offences (such as fixed penalty notices for speeding tickets) unless either:

1. driving is a key requirement of their role (e.g. they drive County Council vehicles or drive their own vehicle regularly for work); and / or
2. the conviction results in disqualification from driving.

(See the Safe Use of Motor Vehicles Policy for details.)

12.3. Disclosing all convictions does not necessarily mean disciplinary action will be taken against an employee. The extent to which a criminal offence may affect employment depends on whether the conduct:

- Makes the employee unsuitable for their type of work; and/or,
- May reflect adversely on the County Council's reputation or ability to perform its function.

12.4. Employees sentenced to immediate imprisonment may be dismissed without notice or compensation in lieu of notice.

12.5. Employees should always notify their manager if there is any doubt as to whether or not they need to share information about an arrest or conviction.

12.6. Any failure to disclose such information, even where no charges are brought against you, may lead to disciplinary action. Where it is deemed that there is an adverse impact on your employment, the Disciplinary Policy will apply.

### **13. Position of trust**

13.1. It is the responsibility of all staff to ensure they maintain professional standards and do not abuse or appear to abuse their position of trust in the way they conduct their relationships with service users/pupils/contractors, their families or carers.

13.2. Specific examples of conduct which should be avoided include, but are not limited to:

- meeting socially with pupils or service users (or their carers or families); and/or
- exchanging personal contact details or connecting using social media.

13.3. Employees must refrain from conduct of this nature unless there is sound operational reason to do so, in which case the action must only be taken with the express written approval of the employee's Assistant Director/Headteacher.

13.4. If employees are engaging in activity or associating with people outside work whose current or past conduct could raise doubts or concerns about an employee's own integrity or ability to be in a 'position of trust' with regard to children or vulnerable adults, this could have a direct consequence on their employment.

### **14. Sponsorship**

14.1. When an outside organisation wishes to sponsor or is being asked to sponsor a County Council activity, the basic conventions concerning the acceptance of gifts and hospitality apply. Please refer to the East Sussex County Council's Corporate Sponsorship Policy.

14.2. This section on sponsorship is not applicable to schools.

## **15. Relationships**

### **15.1. Councillors**

Employees are responsible to the County Council through its senior managers, except where a school's Governing Body is the employer. Your role may require you to give advice to councillors and senior managers. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors. It should therefore be avoided.

### **15.2. Contractors**

You must declare in writing to your Assistant Director/Headteacher any current or past relationships of a business or private nature with any outside organisation or individual that has a relationship with the County Council (see Appendix 1: Making a declaration). Orders and contracts must be awarded on merit and no special favour should be shown to any businesses, particularly those you have an interest in. If you have such an interest you must not be involved in any way in awarding work or orders or subsequent management of contracts. Similarly, you must not canvass on behalf of any outside organisation that has a relationship with the County Council.

Where your role within the Council means that you are involved with outside businesses and suppliers (e.g. through raising orders, letting contracts, contract management etc.) discussions over potential conflicts and gifts/hospitality should be had as part of regular performance and development conversations with your manager.

You must declare in writing to your Assistant Director/Headteacher, if you become aware that the County Council is entering a contract in which you have a direct interest, or if you are involved in assessing/evaluating tenders for business from an organisation in which you have a direct interest.

1. Staff in corporate departments who have an ESCC email account should use the electronic form available via the intranet.
2. Staff in corporate departments who do not have an ESCC email account should send their written declaration to their departmental coordinator.
3. Staff in schools should use the form available on the Webshop.

### **15.3. Contract Tenders**

If you wish to tender for a contract from the County Council, you must declare such an intention to the appropriate Assistant Director/Headteacher, as soon as intent has been formed, and at the earliest possible opportunity.

### **15.4. Foster Carers**

If you act as a foster carer for the County Council or any other agency you must declare this (including the intention to do so if you are not already a foster carer) in writing as a potential conflict of interest.

## 15.5. The Press and Media

You must not deal direct with the press or the media in relation to anything related to County Council business unless required to do so as part of your duties, or you have been expressly authorised by your line manager in consultation with your Assistant Director/Headteacher.

If you speak as a private individual directly to the press or at a public meeting or other situation where your remarks may be reported to the press, you must take reasonable steps to ensure nothing you say might lead the public to think you are acting in your capacity as a County Council employee.

## 15.6. The Local Community and Service Users

You must always remember your responsibilities to the community which you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the County Council.

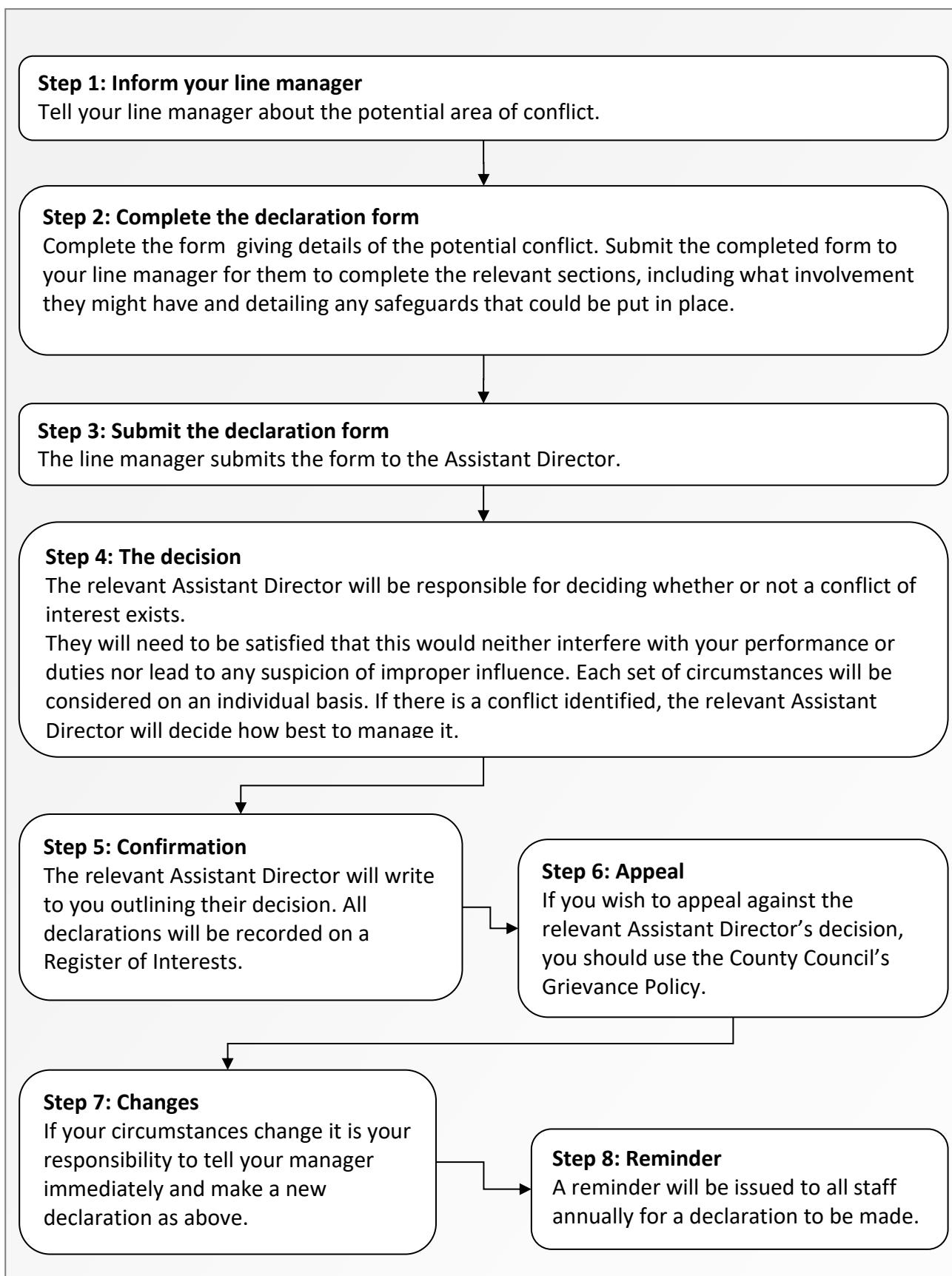
## 16. Approvals

- 16.1. Where Assistant Directors, Deputy Chief Officers, and Chief Officers require approval or notification under the Code then this shall respectively be obtained from the appropriate Deputy Chief Officer, Chief Officer, or the Chief Executive. The Chief Executive shall obtain approval or notify either the Monitoring Officer, or the Section 151 Officer.
- 16.2. Where the Headteacher requires approval or notification under the Code then this shall be obtained from the Chair of Governors.

## 17. If in doubt

- 17.1. It is not possible to cover every situation you may face as an employee of the County Council. Simply because a particular action may not be addressed within the Code, this does not condone that action by omission. If you are in any doubt about anything contained within this Code, or are concerned about anything relating to your personal position, you should speak to your line manager immediately. Where necessary, line managers should seek advice from their Assistant Director/Headteacher.

## Appendix 1: Potential Conflicts of Interest



## Appendix 2: Employment after working at the County Council

1. In order to safeguard the integrity of the administration of the County Council, and in order to counter any suspicion of impropriety in, among other things, the contracting process for local authority works and services, the County Council requires each of its employees to obtain the approval of their Chief Officer/Headteacher before accepting any offer of employment in business or other bodies outside the County Council which would commence within six months of leaving the employment of the County Council, whether full or part-time, or before establishing a consultancy in the following circumstances:
  - a. If you have had any material official dealings with your prospective employer (who, for the purpose of applying any of the clauses of these rules could be any organisation, individual or related undertaking including parent and subsidiary undertakings and associated undertakings as well as partners in joint ventures) during the last two years of employment with the County Council; or
  - b. If you have had any material official dealings of a continued or repeated nature with your prospective employer during the last two years of employment with the County Council; or
  - c. If you have had access to commercially sensitive information of competitors of your prospective employer in the course of your official duties; or
  - d. If you have been substantially involved in negotiations on behalf of the County Council in respect of any commercial or contractual arrangements with an external body or party; or
  - e. If, during the last two years of your employment with the County Council your official duties have involved advice or decisions benefiting that prospective employer, for which the offer of employment could be interpreted as a reward, or if your official duties have involved developing policy, knowledge of which might be of benefit to the prospective employer; or
  - f. If you are to be employed on a consultancy basis, either for a firm of consultants or as an independent self-employed consultant, and you have had any dealings of a commercial nature with outside bodies or organisations in your last two years of employment with the County Council.

Chief Officers to whom the rules apply are required to obtain approval from the Chief Executive. The Chief Executive will need to obtain approval from the Governance Committee in the event that s/he proposes to take up an appointment which would lead to the rules applying to him/her. Headteachers to whom the rules apply are required to obtain approval from the Chair of Governors.

2. Approval for appointment to any position falling within the scope of these rules shall not be withheld unreasonably. In considering whether to approve an appointment, the Chief Officer/Headteacher will take into consideration the following matters:
  - a. The relationship of the County Council to the prospective employer;
  - b. The relationship between the applicant and the prospective employer during the course of the applicant's employment with the County Council;
  - c. The possibility that the applicant may have had access to trade secrets and/or confidential information about one or more of the prospective employer's competitors during the course of employment with the County Council;
  - d. The applicant's degree of seniority within the County Council; and / or
  - e. Any other relevant factors.
3. It will be open to those considering applications to recommend unqualified approval or to recommend approval subject to any waiting periods less than two years or other conditions which are appropriate to the particular circumstances of the applicant (e.g. seniority of the employee and the prospective employer).

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### **(3) Code on Member/Employee Relationships**

#### **Scope**

Councillors and officers are indispensable to one another and mutual respect between Councillors and officers is essential to good local government. Very good constructive and effective relationships exist between members and officers of the County Council. In order to strengthen these further the County Council has approved this Code on Member/Employee Relationships.

#### **Code on member/employee relationships**

##### **1. Introduction**

1.1 Standards of Conduct for members and employees are contained in separate Codes of Conduct. Whilst these are detailed documents, they do not cover explicitly some of the issues arising from the close working relationships which are needed between the two if high value quality services are to be delivered and if the mutual confidence of members and employees is to be maintained. Any misunderstandings on these issues can, particularly at times of great uncertainty and change, give rise to unnecessary stresses and tensions which, if not resolved, can harm the effectiveness of these relationships. This Code cannot and does not seek to cover every eventuality, but it does seek to strengthen the good working relationships which already exist, to clarify possible areas of doubt and to offer advice as to how any difficulties which might arise can best be resolved properly and speedily without recourse, if possible, to the Council's more formalised procedures. Advice on the interpretation of the Code will be given by the Deputy Chief Executive.

1.2 Much of this Code primarily concerns the relationship between members and Chief Officers and other senior managers, but the same principles apply to all employees.

1.3 Specific issues will be added to this Code by way of annexes if the need should arise. At present there are three such annexes – Annex A covers the detailed process of political activity between employees and Party Groups, Annex B deals with press releases and County Council publicity and Annex C sets out the arrangements for the operation of the Shadow Cabinet.

##### **2. Roles and responsibilities**

###### **Members**

2.1 The role of the Councillor is defined by the Local Government Act 1972 and the Local and Housing Act 1989. In law all Councillors are equal and have the responsibilities of trustees.

2.2 All Councillors are required by law to:

- a) be guided by the Code of Conduct that their authority is required to adopt;
- b) comply with the Council's Standing Orders and Financial Guidelines;
- c) ensure that any facilities provided by the Council for members' use in undertaking their duties are used strictly for those duties and for no other purpose; and
- d) comply with all relevant statutory provisions.

Note: It is the responsibility of members themselves to ensure that they have proper advice. If members are ever in any doubt in terms of the law, any Council Code, Standing Orders, general propriety, conflicts of interest etc, then the Deputy Chief Executive should be consulted. Similarly, the Chief Finance Officer should be consulted in respect of financial advice.

2.3 The County Council has appointed a Leader of the Council who is Chair of the Cabinet.

2.4 The County Council has also agreed that the principles of the Anti-Fraud and Corruption Strategy should apply to members.

### **Committee Chairs**

2.5 The role of a Committee Chair is only legally recognised for procedural purposes (e.g. in conducting meetings and exercising a casting vote). In practice, Chairs are recognised as the 'lead member' on the areas and issues within the terms of reference of the Committee concerned, undertaking the following roles:

- a) presenting reports at Council and responding to questions (as defined in Standing Orders);
- b) responding to the press/media and making public statements on behalf of the Council; and
- c) liaising closely with the relevant Chief Officer(s).

### **Leader of the Council and Members of the Cabinet**

2.6 The Leader of the Council, in addition to being Chair of the Cabinet, may, as set out in Standing Orders, ask other members of the Cabinet to exercise functions on his/her behalf. Members of the Cabinet will liaise closely with the relevant Chief Officer(s) in relation to their portfolios, or when acting on the Leader's behalf, and will respond to the press/media and make public statements on behalf of the Council in relation to their portfolios.

[This Constitution makes provision for individual members of the Cabinet to make decisions. In making decisions they will be required to have regard to advice from relevant Chief Officers and to following certain guidelines.]

### **Shadow Cabinet**

2.7 The Shadow Cabinet is not part of the formal decision-making process but is an informal body made up of opposition group spokespersons on each of the service areas identified for the Cabinet. If the administration consists of one party, with the remaining parties forming the opposition, then a Shadow Cabinet may not exist but arrangements for briefing opposition groups would be made similar to those set down for the Shadow Cabinet. The arrangements agreed for the operation of the Shadow Cabinet are set out in Annex C.

### **Standards Committee**

2.8 The County Council has appointed a Standards Committee. Its terms of reference are set out in Part 2, Article 9 of the Constitution.

### **Employees**

2.9 Employees are employed by, and serve, the whole Council. They advise the Council and its Committees, and are responsible for ensuring that the decisions of the Council, either directly or through its Committees or Sub-Committees or employees themselves where decision-making has been formally delegated to them, are effectively implemented. All are legally required to be politically neutral. For some employees this is enforced through the political restrictions of the Local Government and Housing Act 1989. All are required to abide by the County Council's Anti-Fraud and Corruption Strategy and by the Council's Code of Conduct for Employees. The latter includes sections relating to:

- (a) standards of official conduct;
- (b) rules concerning disclosure of information and confidentiality;
- (c) political neutrality;
- (d) rules governing relationships with Councillors, local community and contractors;
- (e) appointments and other employment matters;
- (f) appointments following retirement, resignation or lawful termination of employment;
- (g) outside commitments and personal business interests;
- (h) equality issues;

- (i) separation of roles during tendering;
- (j) corruption, hospitality and gifts;
- (k) use of financial resources; and
- (l) sponsorship.

2.10 Employees are responsible to their line manager and ultimately their Chief Officer.

### **Chief Officers**

2.11 Chief Officers have professional responsibilities and accountabilities to the Chief Executive who has responsibilities for the proper management of the Authority's employees. Some Chief Officers have specific statutory responsibilities as statutory office holders as well, such as the Deputy Chief Executive as the Monitoring Officer and the Chief Finance Officer as the Section 151 Financial Officer.

2.12 The Chief Executive, other Chief Officers, and senior employees working to them, will inevitably need to work closely with members of the Cabinet if there is to be effective policy development and executive decision-making. This relationship has to function without compromising the ultimate responsibilities of employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide.

### **3. Information for members**

3.1 It is important for Chief Officers and employees to keep members informed, both about the major issues concerning the County Council and, more specifically, about issues and events affecting the areas which they represent. Local members should be informed about proposals which affect their electoral division whether this be a declaration of a surplus property, a new traffic management scheme or a local planning application. Local members should also be invited to attend the opening of a new County Council building or road scheme or other similar ceremonies within their electoral division.

3.2 Where an issue is to be discussed by the Cabinet or a Committee on which the relevant member does not serve, by convention, in consultation with the Chair, a local member, or a member with a known special interest who wishes to do so, should be invited to attend the Cabinet or Committee for consideration of the item and to speak on it if they wish to do so.

3.3 Members may request copies of any agendas of the Cabinet and Committees and Sub-Committees of which they are not members. Members' rights to information are subject to legal rules and, if a member has a legitimate interest in a matter and is able to demonstrate a "need to know", in their role as

a County Councillor, employees should provide the relevant information, including confidential information, to them.

3.4 When the Cabinet meets as a decision-making body, its papers are open to the public in the same way as other committee papers subject to the provisions of the Local Government (Access to Information) Act 1985. When the Cabinet meets in private to begin to discuss and formulate a policy, however, it may well wish to keep reports made to it and the notes of its deliberations confidential. Any member may seek copies of papers submitted to the Cabinet when meeting as a decision-making body or the minutes of such meetings on a "need to know" basis. The general approach is that it is reasonable for any member to seek and to be given confidential or exempt/confidential reports of such meetings. However, there may occasionally be exceptional circumstances where the Monitoring Officer will need to restrict reports to those members who can clearly demonstrate the need to have the information contained in the report. If the arrangements are to operate sensibly, members will need to comply with the restrictions about passing on the information described in paragraph 3.5 below.

3.5 Both the Code of Conduct and Standing Orders restrict the disclosure of information by members which they have gained as county councillors when the information is exempt/confidential. Such exempt/confidential information should not therefore be made available by the member concerned to the public. Nor should it be passed on to another county councillor who cannot demonstrate a similar "need to know" when the Monitoring Officer has restricted circulation of the report. The long-standing approach to openness adopted by the County Council will be maintained in the modernisation arrangements.

3.6 If members are not receiving, or are having difficulty in obtaining, information which they feel they need or to which they are entitled in order to carry out their duties as a county councillor they should contact the Deputy Chief Executive, just as employees will seek guidance from him/her.

3.7 The Deputy Chief Executive will circulate to all members the minutes of the Cabinet when meeting as a decision-making body. Departments will undertake to issue bulletins about their services. Efforts have been made and will continue to be made to update the County Council's website with more current information.

### **4. Respect and courtesy**

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between members and employees. This, too, plays a very important part in the Council's reputation and how it is seen in public. It is very important that both members and employees remember their obligations to enhance the Council's reputation and to do what they can to avoid criticism of members or employees in public places.

4.2 If an employee is in breach of this requirement some form of disciplinary action will result. If a member is in breach, then the leader of their political group within the County Council will treat the matter as extremely serious and, if appropriate, the Monitoring Officer will report to the Standards Committee.

## **5. Undue pressure**

5.1 In their dealings with Chief Officers and employees (especially junior employees) members need to be aware that it is easy for employees to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.

5.2 A member should not apply undue pressure on an employee, either to do anything that he/she is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

5.3 Similarly, an employee must neither seek to use undue influence on an individual member to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other employees. The County Council has formal procedures for consultation, grievance and discipline.

5.4 Reports to committee should be written by the Chief Officer or another employee authorised by him or her. It is likely that a sensitive report or sensitive issues would be discussed at one of the regular informal meetings held by the Cabinet with the Corporate Management Team, or the Lead Officer with a Chair of a Scrutiny Committee. The Cabinet member and/or the Chair of the Scrutiny Committee may make suggestions to the Chief Officer/Lead Officer respectively as to the contents of the report. However, the report is the employee's and any amendments can only be made by the Chief Officer/Lead Officer who will consult and inform the Monitoring Officer as necessary. Where a Panel, Sub-Committee or Committee, reports upwards the report is settled by the Deputy Chief Executive, after consultation with the Chair.

## **6. Familiarity**

6.1 Without detriment to the need for effective working relationships, particularly between the Cabinet and Chief Officers, close personal familiarity between individual members and employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information, or information which should not properly be passed between them, e.g. personal details.

6.2 Such familiarity could also cause embarrassment to other members and/or other employees and even give rise to suspicions of favouritism.

### 7. Redress

7.1 If a member considers that they have not been treated with proper respect or courtesy, they may raise it with the employee's line manager or Chief Officer without delay if they fail to resolve it through direct discussion. A member may raise the issue with the Chief Executive if the issue still remains unresolved, when appropriate disciplinary action may be taken against an employee.

7.2 If an employee feels the same way about a member, they should raise the matter with their line manager or Chief Officer as appropriate without delay – especially if they do not feel able to discuss it with the member concerned. In such circumstances the Chief Officer will take such action as is appropriate, by approaching either the individual member and/or Party Group Leader. The Chief Officer will inform the Chief Executive and the Monitoring Officer if the Party Group Leader becomes involved, or in any other case where that is appropriate and will approach the Monitoring Officer if it seems to be an issue for the Standards Committee to consider.

### 8. Political activity

8.1 Senior employees, except those specially exempted, cannot be local authority councillors or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party".

8.2 Employees are employed by the County Council as a whole. They serve the Council through the Cabinet, Committees and Sub-Committees and are responsible to the Chief Executive and their Chief Officer, and not to individual members of the Council, whatever office they might hold. Their conduct is subject to the application of the County Council's employment policies and procedures, including the Council's Anti-Fraud and Corruption Strategy and Code of Conduct for Employees.

8.3 In accordance with the Council's Code of Conduct for Employees, employees "must not be involved in advising any political group of the Council or attend any of their meetings in an official capacity without the express consent of their Chief Officer and the Chief Executive". This procedure does not apply to Chief Officers or, with the Chief Officers' agreement, their staff involved in informal private meetings of the Cabinet or the Shadow Cabinet with the Corporate Management Team. Nor does it obviate the necessity for regular contact on matters affecting the Council between the Chief Executive, Chief Officers, senior employees, and the leadership of political/independent groups, and on matters affecting committees between Chief Officers, other senior employees and Committee Chairs.

8.4 Council decisions can only be made by full Council, the Cabinet, a Lead Cabinet Member, Committees, Sub Committees or Panels, or Chief Officers acting under delegated authority. Decisions by party political groups do not constitute Council decisions. It is essential, therefore, that representations to the

Council, at any stage in the formal decision-making process with regard to any matter, should be made to the appropriate Committee and not to a political group.

## **9. Conclusion**

9.1 This Code is intended to build on the sound arrangements that have existed in East Sussex since 1974.

9.2 Mutual understanding, openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its members and employees.

APPROVED BY COUNTY COUNCIL 1996

Subsequently updated as part of the modernisation arrangements.

## **Requests for an employee to address group meetings and related points**

1. In accordance with the Code of Conduct for Employees, approved by the County Council, the Chief Executive should be made aware of any invitation by a Council political group or any part of a group (such as group members on a particular committee) for an employee to address a group meeting, in sufficient time before any meeting to enable the stages outlined in paragraphs 2 and 3 below to be completed before the meeting.

2. The Chief Executive should be made aware of:

- (a) the reason(s) why an employee is being invited to address the group meeting;
- (b) the name of the employee(s) concerned if known;
- (c) the topic(s) to be covered or on which information or a report is sought.

3. The Chief Executive, after consultation with the Chief Officer and individual employee(s) concerned, will decide whether permission can be given, in whole or in part, to the employee(s) concerned for them to address the meeting and will notify the relevant Group Leader accordingly together with the Leaders of the other Groups and indicate that similar arrangements will be made for them if they so wish. This is to ensure the preservation of the integrity of all concerned through openness and equal access to employees.

4. Since, legally, employees (including the Chief Executive and other Chief Officers) serve the whole County Council, and not individual political groups, their attendance at political group meetings is voluntary.

5. It follows from everything that has been said that employees are entitled to have their political neutrality respected should they agree to attend the group meeting, and to be treated in a fair and proper way. Employees must not be

placed in a position where they feel at a disadvantage or their political impartiality or integrity is put at risk.

6. To safeguard both employees and members, matters which have not been mentioned under 2 above should not be raised in the presence of the employee(s). Employees will be instructed on each occasion that they must leave a meeting if there is any suggestion that they are to be asked to comment on matters beyond the brief agreed in advance, or if they feel vulnerable or that their integrity were to be put in question.

7. Any breach of these arrangements by either members or employees will be viewed seriously and appropriate action taken by Group Leaders or the Chief Executive respectively. The Monitoring Officer will also be informed.

8. These arrangements do not apply to Chief Officers, or with the consent of the Chief Officer, other staff involved in the informal private meetings of the Cabinet or Shadow Cabinet with the Corporate Management Team.

**County Council publicity conventions about press releases and responses to/about appearances on the media**

**Introduction and purpose**

1. The purpose of this note is to set down as conventions long-standing rules and practices which govern press releases and media relations. The aim is to avoid misunderstanding and to facilitate effective action and maintain constructive relationships between members and employees.

- (i) Section A sets out Basic Rules governing County Council publicity
- (ii) Section B covers Group Publicity
- (iii) Section C sets out the Conventions

2. The activity of the Communications Team will take account of the priorities of the County Council's Performance Plan and Communications and Consultation Strategy as agreed and amended from time to time and the Convention needs to be read and operated in that context.

3. Providing more information on what the County Council is about and seeking the views and involvement of the public is a vital part of the modernisation agenda.

## **A. Basic Rules Governing County Council Publicity**

1. The County Council and any Public Relations/Press Office of a Local Authority in England, or any agency acting on the County Council's behalf, must follow the principles laid down in the Code of Recommended Practice on Local Authority Publicity ("the Code") introduced with the Local Government Act 1986 (amended 1988 and 2001).

2. The Code recognises (a) the role of a Communications and Media Team in helping to make the public more aware of the services which the County Council provides to the community and the functions it performs; (b) the need for Authorities to explain their policies, objectives and priorities to electors and council tax payers and in general to improve local accountability; and (c) the importance of public consultation and two way communications and the use of electronic media.

3. The Code, which was introduced in the 1980s after some Authorities spent large sums of money on publicity which was seen to be party political and/or campaigning, lays down guidance on what is not appropriate publicity for a Local Authority Public Relations and Press Office. The main points are:

- a Local Authority should not publish material designed to affect public support for a political party;
- publicity should be relevant to the functions and powers of the Authority;
- publicity describing a Council's policies and aims should be as objective as possible, concentrating on facts and explanations/ justifications;
- advertising may be appropriate subject to cost-effectiveness and meeting the provisions of the Code;
- comments on proposals of Central Government, other Local Authorities and public bodies should be objective, balanced, informative and accurate;
- publicity touching on issues that are controversial should be handled with care;
- a Local Authority should not use public funds to mount publicity campaigns the primary purpose of which is to persuade the public to hold a particular view on a question of policy; although publicity campaigns to promote the effective and efficient use of facilities and services, or to attract tourism or investment, or to influence public behaviour or attitudes on e.g. health, crime prevention or equal opportunities, may be permissible;
- Local Authorities discharge their functions "corporately" through the Council or its executive (the Cabinet) or committees. The Code, states that "It is therefore inappropriate for public resources to be used to publicise individual councillors". Local authorities must not issue publicity which reports the personal views of individual members, or their activities, except when they are representing the Authority or acting on behalf of the Council (e.g. the Chairman, Leader of the Council or other Cabinet member or Chairmen of Committees); i.e. in the interests of public accountability;
- particular care needs to be taken when publicity is issued immediately prior to an election, to ensure that this could not be perceived as seeking to influence

public opinion, or promote the image of a candidate or candidates. This operates once Notice of Election has been given.

4. To summarise, all County Council press and media releases are issued by the Communications Team and can only reflect the policies and decisions of the County Council, the Cabinet and Committees. Quotes from individual members can only be as representatives of the County Council, i.e. the Chairman of the County Council, Leader of the Council, Cabinet member with the portfolio concerned, or Chairmen of Committees and must be confined to policy or comments in response to particular events, which call for a particularly speedy reaction from the Council.

5. Aside from formal County Council press releases, members may have frequent, informal contact with the media. The Communications Team is available to assist members in dealing with media presentations.

### **B. Group Publicity**

1. The advantage of publicity produced by Groups or individual members is that political and other considerations can be communicated, fulfilling a role that County Council publicity cannot.

2. The County Council Communications Team cannot be involved in the preparation or distribution of Group or individual member publicity since that is not County Council publicity.

3. The Communications Team, without contravening these rules, will always try to help a member in relation to handling the media.

### **C. Conventions for County Council Publicity**

1. The Code re-states the constitutional legal position that a Local Authority discharges its functions corporately through the Council. Decisions are taken by the Council, the Cabinet or Committees. The Leader of the Council, or other members of the Cabinet, can be given executive authority in relation to their portfolios but, in law, Committee Chairmen or other members may not be given executive authority.

2. Publicity by the County Council has to comply with the Code and the specific accounting rules governing such expenditure: particular care will be taken once Notice of Election has been given.

3. Publicity must not report the view of individual members, except where they are formally representing the Council. A statement or comment or explanation of official Council, Cabinet or committee policy by a Chairman, the Leader of the Council or other members of the Cabinet responsible for the portfolio(s) concerned is included where that is appropriate. Press releases with a quotation from the Chairman, Leader of the Council or other member of the Cabinet can be issued in advance of an issue coming before the Cabinet,

committee or sub-committee by making it clear that the Cabinet, committee or sub-committee will be considering it.

Only Chairmen, the Leader of the Council or other member(s) of the Cabinet can formally comment on official committee or Cabinet policy (or on what the committee or Cabinet may decide).

4. The Leader of the Council and members of the Cabinet will agree the detail of their arrangements and will liaise with the Press and Communications Team.

5. Copies of press releases will be circulated to all members via e-mail and copies will also be put on the County Council website.

6. Employees seek to operate with common sense and flexibility but they have to operate within what is legitimate within the rules. The Head of Communications will, on occasions, have to make judgements, advised by the Deputy Chief Executive or his/her colleagues, who may also have to make decisions as to what is and what is not possible within the rules.

### **Operation of the Shadow Cabinet**

1. The Shadow Cabinet is not part of the formal decision-making process but is an informal body comprising opposition group spokespersons on each of the service areas identified for the Cabinet.

2. One of the principles agreed at the start of the modernisation programme was that the democratic structures that are put in place should be robust enough to withstand changes in the administration of the authority. If the administration consists of one party, with the remaining parties forming the opposition, an informal Shadow Cabinet may not exist. Alternatively, one opposition group may form itself into a Shadow Cabinet but arrangements for briefing opposition groups would be made similar to those set down for the Shadow Cabinet. It is the commitment of the Council to brief the non-administration group(s) by senior officers which needs to be recorded and preserved. That has been the Council's approach from the outset, re-affirming the principle that officers remain the servants of the whole Council and the practice of providing information to, and being open with, all members.

3. Formal briefings are offered in closed meetings to the Shadow Cabinet before each County Council meeting. Briefings are given collectively by the Chief Executive, Chief Officers, or senior officers in their departments, depending on the subject matter. Spokespersons of the group(s) outside the administration are also entitled to information/ briefing on issues which are to be considered by the Cabinet at a formal meeting.

4. Briefing is offered to groups individually on specific issues, such as the budget. Any information given to officers by the groups and any advice provided on specific group proposals will be kept confidential. It is not possible for opposition groups to commission work on policy proposals. Such matters will be

## CONSTITUTION – PART 5 – CODES AND PROTOCOLS

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dealt with through the scrutiny arrangements, requests to the Leader of the Council or Notices of Motion.

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## **(4) Protocol on Decision Making**

### **Introduction**

1. One of the objectives of the Government's programme of reform set out in the Local Government Act 2000 is to make individual local politicians more clearly responsible and accountable for the decisions which they make on behalf of their local communities. Another is to speed up the process of decision-making.
2. Members of the Cabinet will be collectively responsible for decisions made by the Cabinet and Cabinet members will be individually responsible for decisions which they make individually.
3. The high degree of personal visibility of the new system makes it all the more important that the processes by which decisions are made, both collectively by the Cabinet and individually by Cabinet members, are transparent, robust and clearly documented.
4. The purpose of this protocol is to protect the interests of the County Council and of individual members in a situation in which decisions are being made in new ways. In this protocol, Cabinet members are referred to as "Cabinet Members" when exercising powers given to them to take Cabinet decisions in accordance with the list maintained by the Leader under Article 7.06 of the County Council's constitution ("the constitution").

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

5. In the general public interest and specifically to guard against the possibility of successful legal challenge to decisions made by the Cabinet or by individual Cabinet members, we need to be able to demonstrate:
  - (1) that relevant matters were fully taken into account in decision-making;
  - (2) that nothing irrelevant was considered;
  - (3) that the principles of decision making set out in Article 13.01 of the constitution were complied with;
  - (4) that the other provisions of the constitution have been complied with including:

- (a) that all the relevant procedure rules set out in Part 4 of the constitution have been complied with (namely Council, Access to Information, Budget and Policy Framework, Cabinet, Overview and Scrutiny, Financial and Procurement and Contract Standing Orders respectively);

- (b) that the Cabinet or Cabinet member had the benefit of advice from all Chief officers and/or other responsible officers, the proper officer and other statutory officers;
- (c) that the member concerned considered whether he or she had an interest in the particular item;
- (d) that in the case of a Cabinet member the power is within the list prepared by the leader under Article 7.06 of the constitution;
- (e) that the decision was properly recorded and published, together with declarations of interest and background papers.

6. This means that a clear audit trail of decision-making must be maintained and kept available for future reference. The importance attached to these matters by the Government is emphasised by its proposal to make it a criminal offence not to record properly an Executive decision.

7. The Deputy Chief Executive is responsible for advising members and officers on these issues, to ensure that the County Council's decision-making processes meet the requirements of the law and of good government, and for the proper implementation of these procedures. He/she will issue such further guidance as is necessary from time to time to ensure that the procedures are clearly understood and complied with by members and officers.

### **Decision-Making by the Cabinet and by Individual Cabinet Members**

8. The general principle set out in the constitution is that, before decisions are made, the member or members making them must receive a written report setting out:

- (1) the name of the Chief or other responsible officer making the recommendation;
- (2) the issue to be decided;
- (3) whether the report contains exempt information (that is, information which justifies the exclusion of the press and public);
- (4) the justification for the recommendation and any other options;
- (5) any legal requirements and legal advice from the Deputy Chief Executive including the Crime and Disorder Act/ Human Rights Act implications;
- (6) personnel advice and advice from the Chief Operating Officer on ICT and Property implications and the Chief Finance Officer on financial implications;

- (7) any planning advice from the Director of Communities, Economy and Transport;
- (8) any comments from the Corporate Management Team;
- (9) any advice from the Chief Executive or the Monitoring Officer or Chief Finance Officer;
- (10) any County Council policy relating to the issue;
- (11) implications for other County Council activities and/or cross-service priorities;
- (12) any relevant national or regional guidance;
- (13) any consultations undertaken, including with borough, district, town and parish councils and other organisations;
- (14) the electoral division(s) affected and confirmation that the local member(s) has been consulted (local members will also be sent a copy of the report to be considered by the Cabinet or Cabinet member).

9. The Deputy Chief Executive as Monitoring Officer will issue procedural guidance to assist officers submitting reports.

10. The chief officer or responsible officer originating a draft report to the Cabinet will also, at an early stage, discuss the issues with the relevant Cabinet member(s), and will ensure that the views of the Cabinet member(s) concerned are taken into account in the report. Consultation under this paragraph will also involve any other Cabinet members whose areas of responsibility are affected by the proposal, for example, the member responsible for resources.

11. Exceptionally (for example, on a politically contentious matter or when the chief officer or other responsible officer does not wish to support the recommendation to Cabinet), at the chief officer's request the report may appear over the name of the relevant Cabinet member(s) rather than that of the chief officer or other officer.

12. Members of the Cabinet will meet informally with the Corporate Management Team to discuss the agendas for future Cabinet meetings and the draft reports which are proposed for consideration as appropriate.

13. Exceptionally, in contentious or 'political' cases where the Leader or other Cabinet member(s) with responsibility for taking a decision believe(s) the whole Cabinet should be aware of the issue and participate in the decision, or the chief officer is unhappy to take the decision because of public controversy or sensitivity, or where the chief officer takes a different view of the proposal and feels unable to be associated with it, the item will be submitted to the Cabinet. (See also Table 3 in Part 3 of this Constitution dealing with decision making by

individual members in situations where a member has a conflict of interest). The agenda and papers for the Cabinet or notice of the intention of an individual Cabinet member to consider a matter will be sent to all members of the County Council and, subject to restrictions in relation to confidentiality, circulated within the organisation.

### **Access to Information and Due Notice Procedures**

14. The requirements and time limits in the Access to Information and other relevant procedures in the Constitution and statutory rules will be complied with. Decisions taken by Cabinet members individually will be properly documented. Cabinet members will have regular meetings with chief officer(s) and other relevant officers to discuss recommendations and make decisions, possibly on a selected day each week so as to comply with the relevant procedures and enable attendance of members with local or other interests and petitioners.
15. The Deputy Chief Executive as Proper Officer will publish information to all members via e-mail and place on the website information on decisions to be made by Cabinet members in advance of the decision(s) being taken.

### **Record of Decision**

16. These will be made under paragraph 18 of the Access to Information Procedure Rules and paragraph 20 of the Overview and Scrutiny Procedure Rules and made public and published by email indicating when the decisions made will become effective. This will enable members to consider whether they wish to seek the call-in of any decisions made by the Cabinet or by individual Cabinet members.
17. Once a decision becomes effective, a formal decision record will be published and retained for future reference. Formal minutes of Cabinet decisions will be published for the next Cabinet meeting.

### **Urgent Decisions**

18. The procedure for dealing with urgent decisions and decisions of special urgency is set out in paragraphs 15 and 16 of the Access to Information Procedure Rules and paragraph 4 of the budget and Policy Framework Procedure Rules. Decisions taken in this way will not be subject to call-in, although it will be open to an overview and scrutiny committee to scrutinise such a decision. Urgent decisions are subject to the provisions of those paragraphs which will ensure the use of the procedure should be rare and itself open to scrutiny. There is an obligation on everyone involved not intentionally to delay matters so that the urgent action procedure has to be used. Breach of this duty could constitute maladministration.

**Call-in of Decisions by Cabinet or Individual Cabinet Members**

19. Decisions made by the Cabinet and by individual Cabinet members may be called-in for consideration by the relevant overview and scrutiny committee. The procedures where a decision is contrary to the policy framework are set out in paragraph 7 of the Budget and Policy Procedure Rules. The procedures in relation to other decisions are set out in paragraphs 19 and 20 of the Overview and Scrutiny Procedure rules.

20. The Cabinet or Cabinet member's decision is final (except for those matters reserved to Council) provided it is not contrary to the policy framework or contrary to or not wholly consistent with the budget.

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## **(5) Advice to Members Serving on Outside Bodies**

### CONTENTS

1. Introduction
2. Indemnity for Loss
3. Trusts
4. Unincorporated Associations
5. Companies
6. Council's Code of Conduct

#### **1. Introduction**

1.1 The point has already been made about the importance of such appointments as part of working in partnership with an increasing range of bodies. The guidance that follows is designed to help you act with confidence and diligence by spelling out your obligations to the organisation concerned. The intention is not to discourage you from seeking appointment but to ensure you understand the position and to reassure you that if you act with due diligence, as you would in relation to your duties as a councillor, then you should have little to fear and much to contribute.

1.2 Solicitors and Member Services staff in the Governance Services Directorate will be pleased to assist in resolving individual questions.

1.3 The duties of members appointed to outside bodies cannot be taken lightly and members who are so appointed must take care and carry out their duties to the best of their ability. Such appointments cannot be regarded as mere "figureheads". Responsibilities a member assumes cannot be passed on to others who may have particular functions within the outside body concerned. It is important for members to attend meetings on a regular basis, although some organisations will allow substitutes to attend on an occasional basis.

1.4 Members cannot be required to act as delegates and carry out their duties and vote in line with the instructions of the County Council; they must act in accordance with their own judgement and the duties and responsibilities set out below. A member's ultimate responsibility is to the terms of the trust, the objectives of an association, or the objectives of the company; the County Council can always terminate an appointment if it is unhappy with the performance of a member.

#### **1.5 Main Issues**

- The primary duty is to act in the interests of the outside body;
- Duties as a trustee (if applicable);
- Liabilities in respect of unincorporated organisations;
- Duties as a Company Director (if applicable);
- The application of the Council's Code of Conduct.

### 1.6 Matters to Check

Members are advised that in the event of being appointed to an outside body they should be clear about the answers to the following questions;

- What is the nature of the organisation and its main activities? Is it a company, if so what type of company is it (limited by shares or guarantee)? Is it unincorporated? Does it have charitable status?
- In what capacity do I serve on the outside body? Is the effect of my appointment to make me a member of the company, director or a charitable trustee?
- Do I have a copy of the body's governing instrument (this may a trust deed, a constitution or memorandum and articles of association)?
- Have I been supplied with a copy of any code of conduct to which I am subject as a member of the body?
- Am I aware of the identity of other directors, trustees or committee members?
- Is there an officer of the body such as secretary or clerk to whom I can refer?
- Are written minutes kept of meetings and have I seen these minutes?
- Am I aware of the financial position of the organisation to which I have been appointed?
- Am I aware of any contracts between the body and the Council?
- Do the governing body of the organisation receive regular reports on the financial position?
- Have I seen the last annual report and accounts?
- Am I aware and have I been advised of the main risks the body faces and what steps are taken to deal with such risks?
- Have I been informed of the main insurances held by the body?
- Does the County Council's indemnity apply to my appointment?

1.7 If, having read the guidance, there are issues about which members are unsure or if members encounter any problems and feel that, for instance, they cannot reconcile a conflicting interest, they should seek advice from the County Council's officers. Questions of a legal nature should be referred to the Deputy Chief Executive or one of their staff. Other queries about, for example, the general operation or the constitution of the outside body should be raised with the County Council department involved or the secretary of the organisation.

### **2. Indemnity for Loss**

2.1 The County Council may indemnify members who are appointed to outside bodies where they are exercising a function on behalf of the County Council. However, the indemnity provided by the County Council acts as a back-stop, where the organisation to which the member has been appointed to by the County Council does not itself indemnify or insure the member against any loss or liability. The indemnity provided by the County Council is also subject to restrictions which include that the indemnity shall not apply to (i) criminal offences and fraud, (ii) any act where the member does not reasonably believe that the act or omission

in question was within the powers she/he had at the time when she/he acted, and (iii) does not extend to making claims for defamation.

2.2 Any member wishing to take advantage of the indemnity is required (amongst other things) to notify the County Council of this fact as soon as is reasonably practicable after the circumstances giving rise to a potential claim has come to his/her attention, and to take reasonable steps to mitigate the amount that might be claimed under the indemnity. Any request for assistance under the indemnity should be made to the Deputy Chief Executive to determine whether the indemnity will apply.

2.3 If a member serves on an outside body in a personal capacity, i.e. where he/she is not appointed, or is not doing so at the request of the County Council, then the indemnity will not apply.

2.4 Further information on the indemnities which can be provided by outside bodies is set out below. As part of familiarising yourself with the aims and objectives of the body, members appointed by the County Council to serve on outside bodies should check with the body concerned what indemnities and/or insurance cover, if any, is provided by the body.

### **3. Trusts**

3.1 A trustee should be fully aware of the state of trust property, of the contents of all the deeds and documents relating to the trust and carry out the terms of the trust in accordance with those documents. Any breach of duty on his/her part may result in him/her being held personally liable. In addition, he/she may be personally liable for the acts of his/her co- trustee(s) if his/her own neglect or default contributed to the breach. A trustee must not make use of the trust property or of his/her position as a trustee for his/her own private advantage. It is a general principle that a trustee must not profit from his/her trust. He/she must execute the trust with reasonable diligence and conduct its affairs in the same way as an ordinary prudent person of business, however, higher standards are required of professionals and in relation to investment matters.

3.2 As a general rule, a trustee is personally responsible for the exercise of his/her judgement and for the performance of his/her duty. He/she cannot escape responsibility by leaving all decisions to be made by another person. Decisions concerning the trust must be taken by all the trustees acting together.

3.3 A trustee must usually act impartially and look at the interest of all those who may benefit from the trust. Like a company director, a trustee is expected to act with reasonable prudence and in good faith – the fiduciary duty – in the best interest of the trust and its objects. Trustees must keep an accurate account of trust property and trustees of charities are usually required to submit annual accounts to the Charity Commission. Furthermore, a trustee must usually invest promptly all trust capital and all income which cannot immediately be used for trust purposes.

3.4 The Charity Commissioners exercise powers of supervision and control of charitable trustees. If in doubt always consult the Charity Commissioners. A trustee who does so will avoid personal liability for breach of trust if he/she acts in accordance with the advice given by the Charity Commissioners. Charitable trustees in breach of certain statutory obligations may be criminally liable eg if they recklessly supply misleading information to the Charity Commission, or default in providing the annual report. Also, certain persons are disqualified from acting as charitable trustees. Amongst these are persons with a criminal record for dishonesty, undischarged bankrupts and disqualified company directors.

3.5 An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability. Provided that the trustees have authority, they are entitled to be insured against claims that may arrive from their legitimate actions as trustees and will be covered against liability as long as they have acted honestly and reasonably. Again you need to establish what the position is from the Trust itself.

### **4. Unincorporated Associations**

4.1 An unincorporated association consists simply of its members acting together for social reasons, the promotion of politics, sport, art, science or literature or for any other lawful purpose. The property and funds of the association generally belong to the members jointly. The business of the association is either conducted in a general meeting or delegated to committees under the constitution. The members of such committees are usually trustees whose duties and responsibilities are outlined above.

4.2 In most cases, an unincorporated association cannot sue or be sued and therefore questions frequently arise about a person's liability for goods supplied to an association, or contracts made on its behalf. The members of an association may be individually liable on contracts entered into by its executive or management committee as authorised by the constitution or because the members themselves specifically agreed to the particular transaction.

4.3 There is no limit on liability similar to that which exists for company directors. It is, therefore, essential that members carefully read the constitution of any associations with which they are concerned. Members must keep themselves informed of all financial obligations entered into by the association and ensure that if they disagree with the proposed financial transaction, it is properly recorded in the minutes.

4.4 Having sounded this note of caution, many of the unincorporated associations with which members will be concerned do not have their own budgets or become involved in transactions of any kind. Many are purely advisory or consultative bodies such as local interest groups, and it is most unlikely that any question of personal liability will ever arise.

4.5 Members will be entitled to an indemnity from the organisation if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution. In many instances, for the sort of reasons given in the previous paragraph, the organisation may well not have insurance cover.

### **5. Companies**

#### **5.1 Directors Duties**

The Companies Act 2006 introduces a partial codification of the general duties of company directors.

##### **5.1.1 General statutory compliance**

The directors of a company have a duty to comply with specific business legislation e.g. concerning employment, health and safety at work, and the payment of taxes. They also have a duty to ensure that their companies comply with the law in general, e.g. if a company is proved to have committed a criminal offence with the consent or neglect of a director, the director as well as the company may be liable. A company or its shareholders can also sue a director for breach of duty and damages.

##### **5.1.2 Act within Powers**

A director must not act outside the company's objects as set out in the Memorandum and Articles of Association and/or Constitution prepared at the time of the formation of the company. Therefore, members appointed as directors should familiarise themselves with the Memorandum and Articles of Association concerned.

##### **5.1.3 Duty to promote the success of the company**

A director must act in the way that he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole.

##### **5.1.4 Duty to exercise Independent Judgement**

A director must exercise independent judgement in relation to his/her responsibilities to the company, though it is permissible for him/her to take account of the interests of a third party which he/she represents. In such a case the director must disclose that position and tread a fine line between the interests of the company and the party represented (in this case the Council). The director cannot vote simply in accordance with a Council mandate. To do so would be a breach of duty. A director must also disclose any interest he/she may have in actual or proposed contracts involving the company.

##### **5.1.5 Duty to exercise reasonable care, skill and diligence**

The duty imposes an objective standard on the director (the general knowledge, skill and experience to be expected of a person in his/her position), and a subjective standard (whereby he/she must exhibit the level of care to be expected of a director with his knowledge, skill and experience).

### 5.1.6 Compliance with Companies Acts

In addition, directors must ensure that proper accounting records are maintained and that annual audited accounts, which give a true and fair view of the company's financial position, are filed with the Registrar of Companies within certain time limits. A director should be satisfied personally with the company's accounts. Ignorance is no excuse.

5.2 Directors can be indemnified against liability to a third party other than the company or an associated company, for example to shareholders, or creditors in negligence, as long as the indemnity does not extend to criminal fines or penalties incurred, whether or not judgement is given against the Director. It is also lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

5.3 Directors are, to a certain extent financially protected by limited liability. This means that, while company members may lose the share capital they contribute or, in a company limited by guarantee, have to pay the guarantee (usually £1) that is the limit of their risk. Provided the director has performed his/her duties honestly and in good faith he/she does not normally have any financial responsibility for the company's debts.

5.4 However, company legislation aims to weed out the dishonest. A director may be personally liable for the debts of a company which has traded fraudulently and if he/she is to avoid accusations of wrongful trading a director must recognise the moment when his/her company can no longer avoid insolvent liquidation (i.e. its assets are insufficient to pay its debts or other liabilities) and take immediate action to protect the interest of creditors. A director is unlikely to be liable if he/she has taken every step he/she can to minimise the potential loss to the company's creditors. In considering whether a director ought to have known that the company could not avoid going into insolvent liquidation and what steps a director ought to have taken, the court will look at a director's actual knowledge, skill and experience and that which might reasonably be expected of a person in that position.

### 5.5 Corporate Trusts

5.5.1 Corporate trusts are best described as a "hybrid" of a company and a trust so the principles of both apply if a member is appointed as a director of a corporate trust. A corporate trust is essentially a trust but instead of individuals acting as trustees, a company acts as the trustee. The company is a registered

company like any other company as set out above, but it is often incorporated with the sole purpose of acting as trustee.

5.5.2 In an unincorporated trust, the trustees are personally liable for the trust's liabilities. A corporate trust, however, limits the trustee's liability to the assets of the company. The individuals who would be trustees, instead become directors of the trust company. Any member appointed as a corporate trustee must act in accordance with the duties and responsibilities of the company as they would as a director of any other company.

## **6. Council's Code of Conduct**

### **6.1 Register of Interests**

(a) The Council's Code of Conduct for Members (paragraph 8 (3)(a)) provides that you have a personal interest in any business of your authority where either it relates to, or is likely to affect, any body of which you are a member or in a position of general control or management, and to which you are appointed or nominated by your authority.

(b) As soon as you have been appointed you must take steps to have your appointment included in the Register of Interests. Any changes must also be notified within 28 days.

### **6.2 Observance of Code**

The Council's Code of Conduct for Members (paragraph 2 (3)) requires that where you act as a representative or your authority:-

(a) on another relevant authority, you must, when acting for that other authority, comply with that authority's Code of Conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's Code of Conduct except and in so far as it conflicts with any other lawful obligations to which the other body may be subject.

### **6.3 Conflicts of interests**

Members appointed to an outside body will have personal interest in that body and will need to consider their position when they sit on a council committee or decision-making body which is considering a matter to which that interest relates. This may be prejudicial in certain instances, for instance, members participating in a planning or funding decision should declare a personal and prejudicial interest in respect of their membership of the outside body.

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## **Scheme of Members’ allowances 2025/26**

### **1. Basic Allowance**

From 1 April 2025, every elected member will be entitled to a basic allowance of £15,142 per annum.

### **2. Special Responsibility Allowance**

Special responsibility allowances will be paid as follows per annum:

1. Leader of the Council - £42,399
2. Deputy Leader of the Council - £21,641
3. Other Cabinet Members - £18,548
4. Chairman – County Council - £15,454
5. Vice Chairman – County Council - £6,188
6. Chairs of Scrutiny Committees - £7,727
7. Chair of the Planning Committee - £7,727
8. Chair of the Pension Committee - £7,727
9. Chairs of Scrutiny and Best Value Project Boards (pro rata for the duration of the project subject to a maximum of 3 months) - £1,543
10. Leader of the largest Opposition Group - £15,454
11. Deputy Leader of the Largest Opposition Group - £4,014
12. Leader of the second Opposition Group - £6,188
13. Chair of the Audit Committee - £7,727

No one member shall receive more than one special responsibility allowance. If a member holds two positions which qualify for such an allowance the member shall receive the higher of the two allowances.

### **3. Travel Allowances**

Travel allowances will be paid, in accordance with the rates set out in Annex 2 for:

- a) attendance at meetings of (a) the County Council; or (b) the Cabinet or any Committee, Sub-Committee or Panel constituted by the Council as a member of the Cabinet or such Committee, Sub-Committee or Panel or as the local member or because the member has a special interest in one or more of the agenda items.
- b) Attendance at meetings of the bodies, or any Committee or Sub-Committee meeting of those bodies, listed in Annex 1: provided that the appointment or nomination to those bodies was by the County Council.
- c) Attendance at any other meeting convened by the authority (including members' seminars and Committee or Sub-Committee tours of inspection),

## CONSTITUTION – PART 6 – MEMBERS’ ALLOWANCES SCHEME

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provided that members of each of the political groups on the County Council have been invited and the meeting has been approved in advance by the appropriate Committee or Sub-Committee.

- d) Attendance at training sessions organised by, or on behalf of, the County Council to which members of each of the political groups have been invited and which have been approved in advance by the Deputy Chief Executive after consultation with the Group Leaders.
- e) Attendance at committees of Eastbourne and Hastings Borough Councils where such attendance is by invitation in order to participate in the debate on a delegated highway matter.
- f) Attendance at a conference or seminar convened by an organisation other than the County Council, provided attendance has been authorised in advance by the Council, a Committee, Sub-Committee or Panel or by the Deputy Chief Executive under his delegated power.
- g) Attendance at meetings of the Local Government Association, including Executive meetings, Forums, Panels and Task Groups, the County Councils Network and Special Interest Groups.
- h) Attendances as the local County Councillor at formal meetings of Parish Councils and annual parish meetings.
- i) Social Services rota inspection visits.
- j) Up to 10 party group meetings summoned to discuss County Council business and held within East Sussex.
- k) Visits to sites, establishments or exhibitions where a Committee, Sub-Committee or Panel resolves in advance that a visit is necessary to enable a decision to be made on a current issue.
- l) Interviews or fact finding being undertaken as a member of a Project Board established by a Scrutiny Committee, as part of an agreed programme and in accordance with the Overview and Scrutiny Procedure Rules.
- m) Meetings with officers, convened by the officer(s), to discuss a matter relating to a County Council service or in which the County Council has an interest as part of its community leadership role.
- n) The following members may claim travel for consultations with persons or organisations outside the County Council and any other duty for or on behalf of the County Council:
  - Chairman and Vice Chairman of the County Council, Chairs of a Committee, Sub-Committee or Panel or members of the Cabinet or a substitute nominated by them;

- Nominated Committee or Sub-Committee Spokespersons of minority parties.

#### **4. Subsistence Allowances**

Subsistence allowances up to the limits of the overnight subsistence rates in Annex 2 will be paid where the performance of one of the duties specified in paragraph 3 above involves an overnight stay. Otherwise a subsistence allowance shall not be payable. Members will be expected to meet any such expenses from their Basic Allowance.

In the following circumstances where the duty does not go over to a second day, the Council will meet the cost of an overnight stay:

- a) following an invitation in their capacity as a postholder within the County Council, the member is undertaking an official duty or attending an official function and, because it finishes late in the evening, it is not practicable or reasonable for the member to get home on the same day, for example the member has another County Council engagement on the following morning and to go home and return for the following day’s engagement would involve the member in a significant travelling claim when set against the cost of the overnight stay; or
- b) a member has been appointed by the County Council to attend a conference or meeting outside of East Sussex and the start or finish time mean that it is impracticable or unreasonable for the member to travel to the venue or home on the day of the meeting or conference.

“Postholder” within this context shall cover those positions set out in paragraph 3 (n) of the Members’ Allowances Scheme.

#### **5. Dependents’ Carers’ Allowance**

The Council will pay an allowance in respect of costs necessarily incurred by councillors in making arrangements for the care of children or other dependants living with them, to enable them to perform any of the duties listed in section 3 above. The allowance will normally be the actual cost up to £15 per hour. Councillors must sign a certificate verifying that they have incurred the costs claimed. Payment will not be made where the carer is a member of the councillor’s family.

Anyone co-opted to a County Council committee, Panel or other body is entitled to claim dependent carer’s allowance for the actual cost up to £15.61 per hour.

#### **6. Telephones**

The Council provides a mobile phone to any councillor who requests one on the basis that it is for County Council business use only.

## **7. Co-optees’ Allowance**

An allowance of £40.02 per hour shall be payable to the Independent Persons appointed in relation to standards issues.

## **8. Amendments to the Scheme**

Amendments to the scheme may be made at any time in accordance with Regulation 10 of the Local Authorities (Members’ Allowances) (England) Regulations 2003.

The Deputy Chief Executive is authorised:

- after consultation with the Chief Executive, to implement revised rates for members’ allowances, including payments for travelling and subsistence; and
- after consultation with the Chair of the Governance Committee, to approve additions to the list of outside bodies for which members may claim travelling expenses

and to amend the Members’ Allowances Scheme accordingly.

The allowance figures shall be updated annually in line with the percentage increase in the salaries of managers who are on locally negotiated pay.

## **9. Payment of allowances**

Basic and special responsibility allowances will be paid on the last working day of the month to which they relate. Travel expenses will be paid at the end of the following month, subject to receipt of a claim form.

Claims for travelling and subsistence allowances shall be submitted to the Democratic Services Manager within two months of the duty for which the allowance has been claimed. Claims received after the expiry of this period will only be paid in exceptional circumstances.

If a councillor becomes or ceases to be eligible for a Basic or Special Responsibility Allowance during the course of a year the entitlement will be adjusted by reference to the number of days for which entitlement existed relative to the number of days in that year.

Where a councillor is suspended or partially suspended from his or her responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of Basic Allowance and any Special Responsibility Allowance payable to him or her in respect of the period for which he or she is suspended or partially suspended shall be withheld if so decided by the Standards Committee. The Committee may also decide that travelling or subsistence allowances shall not be paid to a member during the period of any suspension or partial suspension.

## **10. Election not to receive payment**

Members who do not wish to receive payment of allowances shall notify the Deputy Chief Executive in writing. Any entitlement up to and including the day before the election is received will be paid in accordance with the details under paragraph 9 (Payments) above.

## **11 Councillor Parental Leave Policy**

The County Council has agreed a Councillor Parental Leave Policy that sets out the arrangements in relation to councillors taking appropriate leave at the time of birth or adoption and that reasonable and adequate arrangements should be in place to provide cover for any special responsibilities during any period of leave taken. A copy of the Policy is attached at Appendix 1.

### **Annex 1 Other bodies to which the Authority makes appointments or nominations (and any Committee or Sub-Committee of these bodies)**

- ACCESS Joint Governance Committee
- Ashdown Forest Conservators
- Chailey Common Local Nature Reserve Management Committee
- Chailey Heritage Foundation Governing Body
- Coombe Valley Countryside Park Community Interest Company
- County Councils Network
- County Councils Network Executive Committee
- Corporate Programme Advisory Group of the Institutional Investors Group on Climate Change
- Dungeness Local Community Liaison Council
- East Sussex Energy and Infrastructure and Development Limited (Sea Change)
- Local Government Association
- European Union Structural and Investment Funds South East Committee
- Fostering Panel
- Gatwick Airport Consultative Committee
- GOSE – Rural Forum for the South East
- Harbour of Rye Advisory Committee
- Hastings and Bexhill Renaissance Limited (Sea Space)
- Hastings and Bexhill Taskforce
- Hastings Joint Parking Board
- High Weald – Joint Advisory Committee
- Joint Waste and Recycling Committee
- Lewes Joint Parking Board
- LGA General Assembly
- Love Hastings Limited
- Parking and Traffic Regulations Outside London Adjudication Committee
- Regeneration Partnerships to which the County Council is invited to nominate a Councillor to serve

- Rye Harbour Nature Reserve Management Committee
- Safer Communities Partnerships
- Sea Change Sussex
- South Downs National Park Authority
- South Downs National Park Authority Seven Sisters Country Park Stakeholder Advisory Group
- South East Employers' Organisation
- South East 7
- South East Local Enterprise Partnership Ltd
- Southern Regional Flood and Coastal Committee
- Sussex Energy Saving Partnership
- Sussex Inshore Fisheries and Conservation Authority
- Sussex Police and Crime Panel
- Viridor in East Sussex Board
- Wealden and Rother Renewal Partnership
- Woodland Enterprises Limited

### **Annex 2 – Travelling and Subsistence Rates**

#### **Car mileage allowances**

45p per mile

#### **Supplement for Passengers**

An additional 15p per mile for each passenger carried.

#### **Cycle allowance**

30p per mile

#### **Overnight subsistence**

#### **Bed and breakfast**

- Standard rate – actual cost up to £82.00
- Special rate for London and the annual conference of the LGA – actual cost up to £133.00

Where suitable hotels are only available at higher costs, the Deputy Chief Executive has discretion to agree appropriate reimbursement.

In addition, the Council will reimburse the cost of dinner up to £25 where it is necessary for a member to have dinner away from home as a result of an approved duty that involves an overnight stay.

**Member Parental Leave Policy**

The objective of this policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption and that reasonable and adequate arrangements are in place to provide cover for any special responsibilities during any period of leave taken.

**1. Leave Periods**

**1.1** Members giving birth are entitled to up to 6 months maternity leave following or starting around the time of birth, with the option to extend up to 52 weeks by agreement if required.

**1.2** In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

**1.3** In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.

**1.4** Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

**1.5** A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

**1.6** Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

**1.7** A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

**1.8** Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

**1.9** Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

**1.10** Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers

and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

**1.11** If a still birth occurs after 24 weeks of pregnancy, full maternity and paternity benefits and leave as set out in this policy will apply. If still birth occurs before 24 weeks of pregnancy, discretion will be given for a shorter period of absence.

**1.12** If a miscarriage occurs during the first 23 weeks of pregnancy, discretion will be given for a shorter period of absence.

**1.13** The Council’s counselling and employee assistance service is available 24 hours a day (0333 212 8382). This is a fully confidential service and can provide counselling in the event of a still birth, miscarriage or termination. The Miscarriage Association also provide a range of advice and support at [www.miscarriageassociation.org.uk](http://www.miscarriageassociation.org.uk).

**1.14** Parental bereavement leave: in line with the eligibility for paid employees under the Parental Bereavement (Leave) Regulations 2020, members are entitled to two weeks bereavement leave if they lose a child under the age of 18, with continued entitlement to allowance as set out for parental leave in parts 2 and 3 below.

## **2. Basic Allowance**

**2.1** All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

## **3. Special Responsibility Allowances**

**3.1** Members entitled to a Special Responsibility Allowance (SRA) shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

**3.2** 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.

**3.3** The payment of SRAs, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.

**3.4** Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one SRA shall apply.

**3.5** Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the party to which they belong loses control of the Council during their leave period, they 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.

#### **4. Resigning from Office and Elections**

**4.1** If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

**4.2** If an election is held during the Member’s maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

#### **5. Local Member responsibilities**

**5.1** Any Member intending to take maternity, paternity, shared parental or adoption leave should ensure that they make arrangements for an alternative Member point of contact to be available to local residents in their division for the purposes of casework and other local Member enquiries.

#### **6. Notification of leave and of return**

**6.1** In cases where additional leave may be taken by agreement, the leave should be agreed between the councillor requesting leave and their group leader and Chief Executive (or Chief Executive if an Independent Councillor).

**6.2** The group leader or councillor should notify the Chief Executive of cover arrangements. The councillor should keep the group leader and Chief Executive informed of their intentions, giving normally at least one month’s notice of their intended return date, including whether the period of absence should be extended to cover a longer period of time than first anticipated.

**6.3** Permitted leave will be reflected in attendance records as ‘absent with reason’.

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