

BUCKINGHAMSHIRE COUNTY COUNCIL

CONSTITUTION

Made under the Local Government Act 2000

May 2001

Amended by Council

25 April 2002

24 April 2003

17 July 2003

27 November 2003

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27 April 2006

28 September 2006

1 December 2007

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PART 1

SUMMARY AND EXPLANATION

The Council's Constitution

Buckinghamshire County Council agreed, at their meeting on 24 May 2001, a new 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 all. Some of these processes are required by law, while others are the Council's own choice.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and Codes of Practice are provided separately at the end of the document.

What's in the Constitution?

This Constitution has been written in response to the Local Government Act 2000. It provides the framework for decision making by the Executive and for the discharge of responsibilities by the Council and the Overview & Scrutiny Committees.

Members of the Cabinet are collectively responsible for the decisions made by the Cabinet and responsible for decisions they make individually. There will be a high degree of personal visibility, ensuring that decisions taken are transparent, robust, and clearly documented. Buckinghamshire County Council is committed in the Council Plan, which forms part of the Corporate Plan, to working in partnership with public and private sectors to provide the best service for the people of Buckinghamshire.

Through the operation of its Constitution, and the Corporate Plan, the Council will seek to:-

- a Facilitate a wider understanding of democratic values within the community, particularly amongst young people, and provide greater knowledge of how the Authority operates and its decision making process;
- b Enable the public to have a wider understanding of the role and duties of elected members and of the concept of public service;
- c Create an effective means of holding decision-makers to public account;
- d Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- e Ensure that the Authority's decisions are subject to effective scrutiny and are taken without conflicts of interest damaging the well-being of the community;
- f Provide a means of securing best value for the community in the delivery of services;
- g Facilitate effective working with key community, regional, national and international partners in promoting the best interests of the people of the area.

- h With effect from 15th June 2010, petitions from members of the public will be dealt with under the Council's Petitions Scheme which is set out in Part 4 of the Constitution.

Articles 2 – 16 explain the rights of the public and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- The Public and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council. (Article 5).
- Overview & Scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- 1.2 Regulatory & Audit and Other Committees (Article 8).
- The Standards Committee (Article 9).
- Local 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 57 members elected every four years. Members are democratically accountable to residents of their electoral area. The overriding duty of members is to the whole community, but they have a special duty to all their constituents.

Members have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee oversees training and advises on the Code of Conduct.

All members meet together as the Council. Meetings of the Council are open to the public. Here members decide the Council's overall policies and set the budget each year. The Council's decisions are divided between:

- a Strategic Decisions, which are decisions regarding Policy or Resource allocation reserved by law as matters which must be determined by the Council;

- b Reserved Decisions, which are delegated by the Council to a Committee of the Council, whether in the Terms of Reference of Committees or otherwise;
- c Key Decisions, which are allocated to the Leader and individual members by this Constitution, and are therefore subject to consultation, referral and reporting requirements (unless the urgency procedure applies or there is a major emergency).
- d Administrative Decisions, which are delegated by the Cabinet to officers
- e Council Delegated Decisions (Non Executive), which are delegated from the Council or a Committee to officers.

The Council delegates to its Leader and Cabinet members, Chief Executive, Strategic Directors and Heads of Service the powers and duties necessary to discharge Buckinghamshire County Council's functions within broad areas of responsibility, together with the specific delegations so defined. This should be taken to include powers and duties within those descriptions under all present and future legislation, and all powers incidental to that legislation including the application of the incidental powers under Section 111 of the Local Government Act 1972. This also includes the power to affix the Common Seal of the Buckinghamshire County Council, and to enter contracts under Section 1 of the Local Government (Contracts) Act 1997.

How Decisions are Made

The Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, elected by the Council, and up to nine members appointed by the Leader who together make up the Cabinet, one of whom will be the Deputy Leader. 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. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions, which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Overview and Scrutiny

There are two Overview & Scrutiny Committees which support the work of the Cabinet and the Council as a whole. They allow the public to have a greater say in Council matters by holding reviews into matters of local concern. These lead to reports and recommendations, to advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview & Scrutiny Committees also monitor the decisions of the Cabinet. They can 'call-in' a decision that has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision.

Overview & Scrutiny Committees may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council employs 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.

The Public's Rights

The public 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 or as a tenant of the Council, they have additional rights. These are not covered in this Constitution.

The public have the right to:

- vote at local elections if they are registered;
- contact their local member about any matters of concern to them;
- obtain a copy of the Constitution;
- petition the Council for a mayoral structure and vote in any subsequent Referendum.
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- find out, from the Cabinet's Forward Plan, what major issues are to be discussed or decided by the Cabinet, and when;
- make representations on key decisions made by the Council;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see (non confidential) reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council about a range of matters, following the procedure listed in the Council's complaints procedure;
- 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 for England if they have evidence which they think shows that a member has not followed the Council's Code of Conduct;
- raise concerns about the behaviour of elected members with the Monitoring Officer, the Standards for England and the Standards Committee;
- inspect the Council's accounts and make their views known to the external auditor; and
- make an application to the Council for information under the provisions of the Freedom of Information Act and associated legislation.

The Council welcomes public participation in its work. A statement of the rights of the public to inspect agendas and reports and attend meetings is available from the Head of Legal and Democratic Services on request.

PART 2

ARTICLES OF THE CONSTITUTION

ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.3 The Constitution

This Constitution, consisting of Parts 1-7, is the Constitution of the Buckinghamshire County Council.

1.4 Purpose of the Constitution

The purpose of the Constitution is to:

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

1.5 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 has instructed the Head of Legal and Democratic Services to keep the Constitution up to date and to make any amendments which are required to reflect any changes, whether made by the Council or the Cabinet or by legislation.

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.1 Composition and Eligibility

- a **Composition.** The Council will comprise 57 members. Members 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 member.

2.2 Election and Terms of Members

The election of the whole Council takes place every four years.

Election and Terms. The regular election of members will be held on the first Thursday in May every four years beginning in 2005, unless varied by legislation. The terms of office of members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. The acceptance of office needs to be made within two calendar months of the election.

2.3 Roles and Functions of all Members

a Key Roles

All members will:

- collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- balance different interests identified within the electoral division and represent the electoral division as a whole;
- be involved in decision-making;
- be available to represent the Council on the Council's Local Community meetings and
- maintain the highest standards of conduct and ethics.

b Rights and Duties

- i Members 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 Members 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 member or officer entitled to know it.
- iii For these purposes, “confidential” and “exempt” information are defined in the Access to Information Standing Orders in Part 4 of this Constitution.

2.4 Conduct

Members will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.5 Allowances

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

ARTICLE 3 – THE PUBLIC AND THE COUNCIL

3.1 The Public's Rights

The public's rights to information and to participate are explained in more detail in the Access to Information Standing Orders in Part 4 of this Constitution. In general they have the following rights:-

- a **Voting and Petitions.** Those on the electoral roll 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. With effect from 15th June 2010, citizens can petition the Council to take specified action(s). Such petitions will be dealt with under the Council's Petitions Scheme, which is set out in Part 4 of the Constitution.

- b **Information.** The public have the right to:
 - i attend meetings of the Council, Council committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - ii attend meetings of the Cabinet when key decisions are being considered;
 - iii find out from the Forward Plan what key decisions will be taken by the Cabinet and Cabinet Members and when and make representations;
 - iv see reports and background papers, and records of decisions made by the Council, the Cabinet and Cabinet Members; except in all cases where confidential or exempt information is being discussed, and
 - v inspect the Council's accounts and make their views known to the external auditor.

- c **Complaints.** The public have the right to complain to:
 - i the Council itself under its complaints scheme;
 - ii the Ombudsman after using the Council's own complaints scheme;
 - iii the Standards Board for England about a breach of the Members' Code of Conduct;
 - iv the Information Commissioner about a breach of the Council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2005.

3.2 The Public's Responsibilities

The public also have responsibilities. They must not be violent, abusive or threatening to members or officers and must not wilfully harm things owned by the Council, members or officers.

ARTICLE 4 – THE FULL COUNCIL

4.1 Functions of the Full Council

Only the Council will exercise the following functions:

- a adopting and changing the principles of Cabinet governance;
- b approving or adopting the policy framework and the budget.
- c subject to the urgency procedure contained in the Access to Information Standing Orders in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or budget;
- d electing the Leader;
- e agreeing and/or amending the terms of reference for committees and deciding on their composition;
- f adopting an allowances scheme under Article 2.5;
- g changing the name of the area
- h promoting or opposing the making of local legislation or personal Bills;
- i arranging for the exercise of all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or its committees rather than the Cabinet; and
- j consider petitions for debate at Council in accordance with the Petitions Scheme as set out in Part 4 of the Constitution;
- k all other matters which, by law, must be reserved to Council.

4.2 Meanings

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

These fall into three separate groups:

- i those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 or other regulations made under section 13 of the Local Government Act 2000 to be adopted by the Council:
 - Library Plan;
 - Corporate Plan
 - Children and Young People's Plan;
 - Community Strategy;
 - District based Crime and Disorder Reduction Strategies;

- Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan;
 - Youth Justice Plan.
- ii those other plans and strategies which Chapter 2 of Department of the Environment, Transport and the Regions (DETR) Guidance recommends should be adopted by the Council as part of the Policy Framework:
- Food Law Enforcement Service Plan;
 - Adult Learning Plan;
 - Local Agenda 21 Strategy;
 - Quality Protects Management Action Plan.
- iii any other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.
- nil at present
- b **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council Tax and the Council's decisions relating to the Council's borrowing requirements, its capital expenditure and the setting of virement limits.

4.3 **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions, which are not the responsibility of the Cabinet.

4.4 **Council Meetings**

There are three types of Council meeting:

- a the annual meeting;
- b ordinary meetings;
- c extraordinary meetings.

They will be conducted in accordance with the Council's Standing Orders in Part 4 of this Constitution.

ARTICLE 5 – CHAIRMAN OF THE COUNCIL

5.1 Role and Function of the Chairman

The Chairman of Council and in his/her absence, the Vice-Chairman, will have the following roles and functions:

5.2 Chairing the Council

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

- 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 members 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 and Committee Chairmen to account;
- d in the event of voting at the Council meeting being equal to have a second or casting vote;
- e to uphold and enforce the rules of good debate;
- f to promote public involvement in the Council's activities;
- g to attend such civic and ceremonial functions as he/she determines appropriate.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.1 Remit of the Overview and Scrutiny Committees

- 6.1.1 The Council will appoint two Overview and Scrutiny Committees to carry out the Council's statutory scrutiny functions. These are the Overview and Scrutiny Commissioning Committee and the Health Overview and Scrutiny Committee.
- 6.1.2 The Overview and Scrutiny Commissioning Committee will discharge the functions conferred by section 21 of the Local Government Act 2000 and regulations made under section 13 of the Local Government Act 2000. The Health Overview and Scrutiny Committee will discharge the functions required in sections 7 and 8 of the Health and Social Care Act 2001. The Overview and Scrutiny Committees will have regard to changing legislative requirements relating to scrutiny, including statutory guidance.
- 6.1.3 The Overview and Scrutiny Committees may form time-limited Task and Finish Groups to undertake scrutiny reviews or carry out any other specific role or function within the remit of the Committees.
- 6.1.4 The Overview and Scrutiny function will be supported by the Scrutiny Team and Democratic Services Officers, the Overview and Scrutiny Manager shall act as the designated statutory Scrutiny Officer.
- 6.1.5 Where either the Overview and Scrutiny Committee believes that a particular matter should be included in the four month Cabinet Forward Plan, it may recommend to the Cabinet to that effect and may require the Cabinet to report to it on the matter, but the final decision as to whether to include a matter in the Forward Plan remains with the Cabinet.
- 6.1.6 The Committees have a role in scrutinising policy and decisions at all stages. This means that they both will have a role in the policy development process before and after decisions are taken.
- 6.1.7 Where an Overview and Scrutiny Committee conducts a review or scrutinises an issue which (either in whole or part) fall within the remit of the other scrutiny committee, the Committee undertaking the scrutiny shall invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the issue is being discussed.

6.2 Overview and Scrutiny Commissioning Committee

- 6.2.1 The Overview and Scrutiny Commissioning Committee will take strategic responsibility for the Council's Overview and Scrutiny functions other than Health. In addition, it shall be the Designated Crime and Disorder Committee as stipulated by the Police and Justice Act 2006.
- 6.2.2 The Overview and Scrutiny Commissioning Committee will take responsibility for ensuring that scrutiny adds value, is able to challenge decision-making effectively, and contributes to policy development. It will play a key role in monitoring use of resources and having a strategic view of both the County Council's and partners' performance in terms of how well local public services are working to improve outcomes for local people.

6.2.3 The specific remit of the Overview and Scrutiny Commissioning Committee is:

- To oversee and manage the County Council's scrutiny process
- To maintain an overview of, and challenge the performance of the County Council and partners
- To hold the Cabinet individually and collectively to account for decisions they take as part of the democratic process
- To hold discussions with Cabinet Members and Senior Officers as and when appropriate
- To monitor the County Council's Forward Plan of key decisions
- To undertake scrutiny of the Medium Term Plan and annual budget process. The draft budget will automatically be referred to the Overview and Scrutiny Commissioning Committee for its consideration as part of the annual budget process.
- To determine the work programme and the initial scope for each scrutiny review and to manage the Forward Plan
- To review reports and recommendations from Task and Finish Groups
- To hold the countrywide Crime and Disorder Reduction Partnership, known as the Safer Bucks Partnership, to account for the decisions it takes and to take part in joint review with District Councils of District Crime and Disorder Reduction Partnerships
- To contribute to the Improvement Plan for Buckinghamshire
- To hear, discuss and determine how to deal with Call-ins and Councillor Call for Action, which may include the setting up of Scrutiny Task and Finish Groups
- To consider suggestions for Scrutiny Reviews from County Councillors, Local Communities, Service Providers and other sources
- To engage residents in the work of scrutiny, including through of the provision for the public to ask questions and/or speak at Committee meetings
- To represent the County Council on and contribute to Joint Scrutiny Reviews with District Councils
- To undertake quality control of scrutiny procedures and outputs
- To monitor the implementation of scrutiny recommendations and take action where appropriate
- To evaluate the impact of scrutiny and to present the Annual Report to County Council
- To oversee the development of member skills in undertaking scrutiny and to contribute to the programme for scrutiny conferences
- To consider petition appeals (in line with the Council's Petition's Scheme)
- For one meeting every year the Committee will be formally constituted as the Education Scrutiny Committee to consider all matters relating to Council's statutory responsibilities for education; the five statutory education co-optees will sit as full members of the committee when scrutinising this function.

6.3 Health Overview and Scrutiny Committee

6.3.1 The Committee will make reports and/or recommendations to the full Council and/or the Cabinet and to a local NHS body (as defined in regulations) or other appropriate body, or request a response from such a body to a report or recommendation made to it, in accordance with regulations made by the

Secretary of State. Reports to the Council or Cabinet will, in addition, go to the Board of the NHS bodies that have been scrutinised.

- 6.3.2 The Committee may, with reasonable notice, require all relevant senior officers of local NHS bodies to come before the Committee to answer such questions as appear to the Committee to be necessary for the discharging of its functions, except: a where a prohibition on the disclosure of confidential or other information by a local NHS body to an Overview and Scrutiny Committee with health scrutiny functions applies under regulations made to the Secretary of State; or b where the officer would be entitled to refuse to answer in relation to court proceedings. Chairmen and non-executive board members may also be invited to give evidence either alone or accompanying officers. The Committee may require officers and Members of the County Council to attend meetings to provide information and evidence.
- 6.3.3 The Committee may request a local NHS body to provide it with such information about the planning, provision and operation of health services in the area as the Committee reasonably requires in order to discharge its functions, subject to any provision made by the Secretary of State in regulations to prevent, or apply conditions to, the disclosure of any such information which is confidential information or the disclosure of which is otherwise prohibited by statute.

6.4 Policy Development and Review

The Health Overview and Scrutiny Committee will review and/or scrutinise any matter relating to the planning, provision and operation of health services within Buckinghamshire within the framework set out below:

- arrangements made by the local NHS bodies to secure hospital and community health services to the inhabitants of the County Council area
- the provision of such services to those inhabitants
- arrangements made by local NHS bodies for public health, health promotion and health improvement (including addressing health inequalities) in the authority's area
- the planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the population and the provision of health care
- the arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Section 11 of the Health and Social Care Act 2001
- matters referred to the Committee by a patients' forum
- Social Care Services and other health related services delivered by the Local Authority

6.5 Responding to local NHS consultations

The Health Overview and Scrutiny Committee shall have the following functions in relation to consultation by a local NHS body:

- on request by a local NHS body, it may consider and respond to proposals made by that body for a substantial development of, or variation to, the Health Service in the area;
- where the NHS unreasonably fails to consult or where the Committee considers that a proposal on which it has been consulted by a local NHS body would not

6.6 Scrutiny of Public Health issues

The HOSC shall have the following responsibilities for public health:

- to scrutinise whether public health services are meeting the needs and wishes of Buckinghamshire's residents (including minorities, socially excluded groups and other targeted equalities groups) that have been identified
- to scrutinise whether services provided that impact on the health of local inhabitants are accessible to, and can be accessed by, all parts of the local community
- to secure continuous improvement of health services and services that impact upon health.
- to engage residents in the work of scrutiny, including through the provision for public questions and/or speaking at the Health Overview and Scrutiny Committee meetings.

ARTICLE 7 – THE CABINET

7.1 Role

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

7.2 Form and Composition

The Cabinet will consist of the Leader together with up to nine other members appointed to the Cabinet by the Leader.

7.3 Leader

The Leader will be a member elected to the position of Leader by the Council. The Leader will hold office until:

- a he/she resigns from the office; or
- b he/she is suspended from being a member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c he/she is no longer a member; or
- d he/she is removed from office by resolution of the Council on receipt of a Notice of Motion signed by at least 10 members after having given at least 10 days Notice to the Head of Legal and Democratic Services; or
- e he/she is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Head of Legal and Democratic Services. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council.

Should the situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a member to the position of Leader.

7.4 Deputy Leader

The Leader following his or her election will appoint one of the Members of the Cabinet as his/her Deputy.

The Deputy Leader may not vary the arrangements made by the Leader under articles 7.4 – 7.8 inclusive or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:-

- (a) changes consequent upon the dismissal of a Leader during the period until the new Leader is elected or

- (b) where, in the opinion of the Chief Executive, the Leader is incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired

The Deputy Leader shall hold office until

- a he/she resigns from office; or
- b Until the end of the Leader's term of office and the new Leader has been elected.
- c he/she is suspended from being members under Part III of the Local Government Act 2000 (although the/she may resume office at the end of the period of suspension); or
- d he/she is no longer a member; or
- e he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.5 Other Executive Members

Appointment of Cabinet

Following his/her election the Leader will appoint up to eight further Members of the Cabinet.

Only Members may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Chairman nor Vice Chairman of the Council may be appointed to the Cabinet and Members of the Cabinet (including the Leader) may not be Members of the Overview and Scrutiny Commissioning Committee, the Overview & Scrutiny for Health Services Committee or any Task and Finish Group established to undertake a specific scrutiny exercise.

Cabinet Members shall hold office until:

- a they resign from office; or
- b they are suspended from being members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c they are no longer members; or
- d they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.6 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Executive Standing Orders set out in Part 4 of this Constitution.

7.7 Responsibility for Functions

The Council may, as part of its Executive Arrangements, allocate specific functions to the Cabinet, to individual Cabinet members (including the Leader) or to Officers. In respect of all Executive decisions, the Leader will, subject to Article 7.7 below, determine who within the Cabinet shall be responsible for the discharge of each particular function or activity. The Leader will therefore determine which Executive functions shall be retained for decision by the Cabinet, which may be allocated to individual members, and (subject to any statutory requirements and in accordance with the Scheme of Delegation to Officers) which Executive functions shall not be retained for decision by the Cabinet and, therefore, shall be discharged by officers. These responsibilities may be amended by the Leader on written notice to the Head of Legal and Democratic Services who will report on the amendments to the next meeting of the Council.

7.8 Children's Services – Lead Member arrangements

In respect of Children's Services, the Leader shall designate a Member as Lead Member for Children's Services, in accordance with section 19(1), Children Act 2004. The Leader may allocate such Member-level functions in relation to Children's Services as he or she considers appropriate to a second Cabinet Member, who shall not be known as a Lead Member. Notwithstanding any such appointment of a second Member, the Lead Member shall be responsible for the strategic direction of the Authority's Children's Services and their effective overview, and shall carry overall political responsibility for those services.

7.9 Cabinet Spokesman

The Leader may appoint non-executive Members as Spokesman to advise and assist Cabinet Members in the discharge of his/her duties within their portfolio(s). Such Members may not discharge any executive function given to the Cabinet Member and are not Members of the Executive.

ARTICLE 8 – REGULATORY & AUDIT AND OTHER COMMITTEES

8.1 Regulatory & Audit and Other Committees

These committees are appointed to carry out functions that are reserved to the Council and the duties of these committees shall not be delegated either to the Cabinet or to any individual Cabinet Member.

The Council will appoint the committees, detailed in Part 3 of this Constitution, which also details responsibility for discharge of Council functions.

ARTICLE 9 – THE STANDARDS COMMITTEE

9.1 Standards Committee

The Council will appoint a Standards Committee together with a Referral Sub Committee and a Review Sub Committee.

9.2 Composition

Standards Committees do not have to comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

The Standards Committee will be composed of seven members, including the Chairman or Vice-Chairman of the County Council, plus provision for five independent members.

These seven members shall select a pool of independent members (following submission of applications for the position).

The Monitoring Officer shall select any three available independent members from this pool for any meeting of this Committee.

The Leader may not be a member of the Standards Committee.

The Committee must always be chaired by an Independent Member.

9.3 Role and Function

The Standards Committee shall, subject to any legislative provisions, have the following roles and functions:

- a To promote and maintain high standards of conduct by members and to assist all elected members and co-opted members to observe the Council's Code of Conduct for Members.
- b To develop local protocols giving guidelines for elected members and co-opted members relating to the operation of the Code of Conduct and other ancillary matters.
- c To consider complaints against any elected member or co-opted member relating to alleged breach of the Council's Code of Conduct for Members, to make findings of fact and decisions in respect of the action to be taken and where necessary to make recommendations to the County Council.
- e To consider the implications for the Council and the proper conduct of its business, of the principles of conduct proposed by the former DETR and adopted by the Council and to recommend any action required to facilitate compliance with those principles.
- f To consider any report referred to it by an Ethical Standards Officer of the Standards Board and to determine any matters arising out of the report and exercise any appropriate powers of sanction available to it.

- g To monitor the Council's Code of Conduct and local protocols agreed by the Council and to propose such amendments, deletions and additions, as may be needed from time to time, to the Council, taking into account any mandatory elements of the Model Code of Conduct produced nationally.
- h To monitor the operation of the Code of Conduct and local protocols.
- i To advise, train or arrange training for elected members and co-opted members on matters relating to the Council's Code of Conduct and associated local protocols.
- j To advise the Council on any aspects of standing orders relating to conduct, or otherwise on propriety.
- k To support the Monitoring Officer in discharging his/her role in respect of standards of conduct and behaviour.
- l To approve and keep under review the Council's Whistleblowing Code of Practice in accordance with the Public Interest Disclosure Act 1998.
- m To receive an annual report from the Council's Complaints Officer and consider any ethical implications for the Council, its members and its officers and, if necessary, issue advice on the same.
- n To receive the annual letter from the Local Government Ombudsmen and consider any issues raised.

Referral Sub Committee

The Referral Sub Committee shall comprise three members of whom one shall be an independent Co-opted member of the Standards Committee who shall chair the Sub Committee and the other two shall be elected members of the authority.

Role and Function

- 1 To receive allegations that a member of the authority has failed to or may have failed to comply with the Authority's Code of Conduct.
- 2 To assess the allegation and to do one of the following;
 - a Refer the allegation to the Monitoring Officer, with instruction to arrange a formal investigation.
 - b Refer the allegation to the Standards for England
 - c Decide no further action should be taken in respect of the allegation or
 - d Where the allegation related to a person who is not longer an elected member of the authority but is a member of another authority, refer the allegation to that authority.
- 3 To determine on completion of an investigation whether it;
 - a Accepts the Monitoring Officers' finding of a no failure to observe the Code of Conduct.
 - b Refers the matter to the Committee sitting as a Hearings Sub Committee
 - c Refers the matter to the Adjudication Panel for determination

Review Sub Committee

1 The review Sub Committee shall comprise of three members of whom one shall be an independent Co-opted member of the Standards Committee who shall chair the Sub Committee and the other two shall be elected Members of the authority.

2 Role and Function

- a To review upon request of a person who has made an allegation of a breach of the Authority's Code of Conduct as described in paragraph above.
- b To advise any further action in accordance with paragraph above

ARTICLE 10 – LOCAL COMMITTEES AND FORUMS

10.1 Local Committees

The Council may appoint local 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 parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish local committees.

In the Aylesbury Vale and Wycombe District Council areas, the Local Committees should be disbanded, and replaced with Local Area Forums (Aylesbury Vale) Chiltern and South Bucks or Local Community Partnerships (Wycombe District)

10.2 Local Committees - Conflict of Interest

If an Overview & Scrutiny Committee is scrutinising specific decisions in relation to the business of the Local Committee, Local Area Forum or Local Community Partnership of which the member concerned is a member, then the member may not speak or vote and should withdraw at the Overview and Scrutiny Committee meeting unless a dispensation to do otherwise is given by the Standards Committee.

General policy reviews

Where the Overview & Scrutiny Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.3 Executive Members on Local Committees

A Member of the Cabinet may serve on a Local Committee, Local Area Forum or Local Community Partnership if otherwise eligible to do so as a member.

ARTICLE 11 – JOINT ARRANGEMENTS

11.1 Joint Arrangements

The Local Government Act 1971, Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and to delegate functions to other local authorities.

The County Council has joint arrangements such as:-

Bucks Joint Committee on Waste

Buckinghamshire Accessible Services Partnership (“BASP”) Joint Committee

ARTICLE 12 – OFFICERS

12.1 Management Structure

Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff, other than Strategic Directors and Statutory Officers, must be the responsibility of the Head of Paid Service or his/her nominee.

a General

The full Council may engage such officers as it considers necessary to carry out its functions.

b Statutory Officers

Certain Officer posts are required under either the Local Government Finance Act 1988 or the Local Government and Housing Act 1989.

12.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council has designated the following posts as shown:

Post	Designation
Chief Executive to the Council	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Head of Finance	Chief Finance Officer

Such posts will have the functions described in Articles 12.4 – 12.6 below.

12.3 Structure

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure and deployment of officers.

12.4 Functions of the Head of Paid Service

Discharge of functions by the Council

The Head of Paid Service may 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.

Emergency Powers

The Head of Paid Service has the following powers:

- a To take the actions allocated to Heads of Service in paragraph 12.11 of this Article where such actions relate to more than one service.

- b The Council and Cabinet have authorised the Chief Executive (where the Leader, Deputy Leader or, in the case of an individual Cabinet Member 'Key Decision', the Cabinet Member, are not available or cannot be contacted) to take any actions required in cases of urgency to protect the interests of the Council or any person or property to whom, or for which, the Council has responsibility, subject to such consultation as may be appropriate and to reporting such urgency decisions as soon as reasonably practicable to the body or person who would (in non urgent cases) have taken such a decision. (See also Article 13.3).
- c That the delegations relating specifically to the functions of the Council be delegated to the Chief Executive in cases of urgency set out in (b) above.

12.5 **Functions of the Monitoring Officer**

a **Maintaining the Constitution**

The Monitoring Officer will ensure that the Constitution is kept up to date and amended to reflect changes in legislation and decisions of the Council and the Cabinet.

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 an Executive function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

c **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.

d **Receiving reports**

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of tribunals.

e **Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

f **Proper Officer for access to information**

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

g **Advising whether proposed Cabinet decisions are within the budget and policy framework**

The Monitoring Officer will advise whether proposed decisions of the Cabinet are in accordance with the budget and policy framework in consultation with the Chief Finance Officer and the Corporate Director – People and Policy.

h **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 members.

i **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.6 **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 an Executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

b **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 members and will support and advise members and officers in their respective roles.

e **Giving financial information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.7 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 the officers' opinion sufficient to allow their duties to be performed.

12.8 Other Statutory Posts

The Council is required under the Children Act 2004 to appoint officers as (1) Director of Children's Services (2) Director of Adult Social Care to carry out the statutory functions of those roles. The role is to exercise the functions conferred on, or exercisable by, the Authority under or in accordance with Section 18 of the Children Act 2004 or regulations made thereunder.

12.9 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.

12.10 Employment

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

12.11 Heads of Service and Divisional Directors

Heads of Service and Divisional Directors have delegated to them all the powers of the Cabinet other than those reserved to the Cabinet or delegated to Committees and individual members of the Cabinet by statute or this Constitution. This delegation is subject to:

- a such protocols as may be approved by the Chief Executive from time to time and deposited with the Head of Legal and Democratic Services;
- b the Policy Framework;
- c any consequent expenditure being already included in the Council's Revenue Budget or approved Capital Programme;
- d the requirements of the Council's Contracts Standing Orders and Financial Regulations;
- e the approval of the Head of Property Services to dealings in land and property. The Head of Property Services is authorised to approve any dealing unless the consideration or value of the interest involved exceeds the figure of £500,000 (see also Land and Property Standing Orders in Part 4);
- f the approval of the Head of Legal and Democratic Services, or such officers as he/she may specifically authorise, to the instigation of Legal proceedings;

- g the power of any officer to whom power is delegated to exercise that power notwithstanding the fact that it has been delegated to another person or body;
 - h the power of any person to whom a power has been delegated to choose to refer the matter for decision to the body which has delegated the power;
 - i the power of the Chief Executive and the Strategic Directors to exercise all powers delegated to Heads of Service and Divisional Directors.
- 12.12 Heads of Service and Divisional Directors shall, only with the written agreement of the Head of Legal and Democratic Services, make arrangements within their respective services to determine what further delegations are necessary to ensure the efficient day to day operation and management of the services, provided that such delegations are specific to identifiable posts within their management structure and are formally recorded.
- 12.13 The Monitoring Officer shall be provided with a copy of the delegation arrangement provided by each Head of Service or Divisional Director, and maintain a central record of this information.
- 12.14 In the case of a vacant Head of Service or Divisional Director post, the Chief Executive shall make arrangements to cover the vacancy by either appointing a person in an acting capacity or determining other temporary arrangements.
- 12.15 Any person or persons temporarily fulfilling the responsibilities of a post shall be entitled to exercise the delegated authority referred to in this Article as if they were the permanent post holder until such time as a permanent appointment is in post or other permanent arrangements are made and agreed by the Council.

ARTICLE 13 – DECISION MAKING

13.1 Principles of decision making

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

In the general public interest and specifically to guard against the possibility of successful legal challenge to decisions made by the Council, the Cabinet or individual Cabinet members, it is necessary to demonstrate:

- a that all relevant matters were fully taken into account in reaching decisions;
- b proportionality – that in any decision the action was proportionate to the desired outcome;
- c that Council Standing Orders and Contracts Standing Orders and Financial Regulations were complied with;
- d that the decision has taken into account the provisions of the Human Rights Act 1998;
- e that the Cabinet, Chief Executive, Strategic Directors or Cabinet Members had consulted with and taken professional advice from all relevant officers including the Monitoring Officer and the Chief Finance Officer
- f that any member concerned considered whether he or she had any declarable interest in the particular item and if necessary made a declaration of interest;
- g that the current Schemes of Delegation to Cabinet Members and to Officers (where relevant) had been complied with;
- h that the decision was taken in an open and transparent manner;
- i that the decision was taken in accordance with the Council's aims and strategies;
- j that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers;
- k that where appropriate the views of the local member had been sought.

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 is emphasised by the proposal to make it a criminal offence not to record properly an Executive decision.

The Corporate Director – People and Policy advises members and officers on these issues, ensures that the County Council's decision making processes meet the requirements of the law and of good government and is responsible for the proper implementation of these procedures in consultation with the Monitoring Officer.

13.2 **Types of Decision**

- a Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b Key decisions.
- c Non key decisions.

13.3 **"Key Decision"**

"Key Decisions" are defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 to comprise those which:-

- a result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;
- b are deemed to be significant in terms of their effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The Council has resolved that the following shall also be treated as key decisions. This description may be changed by the Council and the Cabinet as may be required in the light of experience of operating the Constitution.

A decision which:

- a is not consistent with the Revenue Budget, Capital Programme or Borrowing Limits and Financial Regulations approved by the Council;
- b is in conflict with a policy, plan or strategy approved by the Council or a Committee of the Council;
- c raises new issues of policy;
- d requires any of the following:
 - i Staff:

It will give rise to the need to appoint additional permanent staff for which there is no budget provision.
 - ii Land:

Requires the acquisition or disposal of any land or interest in land in excess of a value of £500,000;
- e comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown;
- f requires the passage of local legislation; or

- g is of such significance to the locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a Key Decision;

A decision taker may only make a key decision in accordance with the requirements of Part 4 of this Constitution and, in particular (and to the extent applicable in any given case) with:

- a the Access to Information Standing Orders;
- b the Budget and Policy Framework Procedure Rules;
- c the Executive Standing Orders and, so far as practicable, the Guidance contained in the Protocol on Key Decision-Making by the Cabinet and by individual Cabinet Members (attached to those Standing Orders), and the Overview & Scrutiny Standing Orders; and
- d so far as practicable, the Guidance contained in the Protocol on Overview & Scrutiny Committees and the Protocol on Attendance and Questioning at Overview & Scrutiny Committees (attached to the Overview & Scrutiny Standing Orders).

A Key Decision may only be taken by the Cabinet or an Individual Cabinet Member, except that in a case to which Access to Information Standing Order 16 or 17 applies (i.e. Special Urgency or Major Emergency respectively), an officer may take a decision which, if made by a Member, would be a key decision, where it is appropriate for that officer, rather than a Member, to take the decision. Article 13.9 below applies to a decision made under this provision.

13.4 Decision Making by the Full Council

Subject to Article 13.1, the Council meeting will follow Standing Orders set out in Part 4 of this Constitution when considering any matter.

13.5 Decision Making by The Cabinet

Subject to Article 13.1, the Cabinet will follow the Executive Standing Orders set out in Part 4 of this Constitution when considering any matter.

13.6 Decision Making by Overview and Scrutiny Committees

Overview & Scrutiny Committees (including the Corporate Task Group) will follow the Overview & Scrutiny Standing Orders set out in Part 4 of this Constitution when considering any matter.

13.7 Decision Making by Other Committees Established by the Council

Subject to Article 13.1 other Council committees will follow those parts of Standing Orders set out in Part 4 of this Constitution as apply to them.

13.8 Decision Making by Council Bodies Acting as Tribunals

The Council, a member 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 rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

13.9 Decision Making by Officers

Officers may make decisions under their delegated powers (“Delegated Decisions”) but may not make Key Decisions.

13.10 Policy Advisory Groups (PAGs)

The Council may also appoint Policy Advisory Groups (PAG) to advise Cabinet Members particular policy issues and matters of current interest. These are not part of the formal decision making process but these groups will involve members in the work of the Executive and provide opportunities for members to acquire experience of executive decision making. Meetings may be held in public or private and Cabinet Members may consult the PAG by other means including e-mail, fax or telephone. PAGs may meet in the absence of officers to give political advice to Cabinet Members.

ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS

This Article refers to the Authority's Financial Regulations and Contracts Standing Orders which are contained in Part 4 of this Constitution.

14.1 Financial Management

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

14.2 Contracts

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

14.3 Legal Proceedings

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

14.4 Authentication of Documents

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

Any contract with a value exceeding £65,000 entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the Council or made under the common seal of the Council attested by at least one officer.

14.5 Common Seal of the Council

The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal and Democratic Services.

The Common Seal of the Council shall not be affixed to any document unless authorised by:

- a a resolution of the Council or a Committee;
- b the Cabinet or a Portfolio Holder (after the call-in procedure is completed if appropriate);
- c a decision of a duly authorised officer

The Seal shall be attested by the Head of Legal and Democratic Services or a Group Solicitor or a Senior Solicitor.

An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for this purpose and shall be signed by the persons who shall have attested the sealing.

ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to Monitor and Review the Constitution

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

The Monitoring Officer should be aware of the strengths and weaknesses of the Constitution adopted by the Council, and 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:

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

15.2 Changes to the Constitution

a Approval

Changes to the Constitution, other than those forming part of the functions of the Monitoring Officer under Article 12.5, will only be approved by the full Council after consideration of the proposal by the Regulatory and Audit Committee and the Monitoring Officer.

b Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa.

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals. If the change proposed is to a Mayoral form of Executive it can only be implemented after being approved in a local referendum.

ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

16.1 Suspension of the Constitution

a Limit to suspension

The Articles of this Constitution may not be suspended. The standing orders specified below may be suspended by the full Council to the extent permitted within those standing orders and the law.

b Procedure to suspend

A motion to suspend any standing orders will not be moved without notice unless at least one quarter of the Council is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

c Rules capable of suspension

The following standing orders may be suspended in accordance with Article 16.1:

Any standing order may be suspended by resolution of the Council so far as regards any business at a meeting of the Council where its suspension is moved except for those standing orders governed by statutory requirements.

Any motion for a suspension shall state the specific standing order(s) which it is intending to suspend.

16.2 Variation and Revocation of Standing Orders

The standing orders may be added to, varied or revoked by giving notice.

16.3 Rules to be given to Members

A printed copy of the Constitution shall be given to each member of the Council by the Head of Legal and Democratic Services on delivery of the member's declaration of acceptance of office.

16.4 Interpretation

The ruling of the Chairman of 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.

16.5 **Publication**

- a The Head of Legal and Democratic Services will ensure that copies of this Constitution are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- b The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

16.6 **Description of Executive Arrangements**

The following parts of this Constitution constitute the Cabinet arrangements:

- a Article 6 (Overview & Scrutiny Committees) and the Overview & Scrutiny Standing Orders;
- b Article 7 (the Cabinet) and the Executive Standing Orders;
- c Article 10 (Local Committees and Forums) – These constitute executive arrangements only where they comprise the establishment of the Local Committee itself or the delegation of Council functions to it.
- d Article 11 (Joint arrangements) – These constitute executive arrangements only where they comprise the establishment of the Joint arrangements themselves or the delegation of Council functions to them.
- e Article 13 (Decision making) and the Access to Information Standing Orders;
- f Part 3 (Responsibility for Functions).

PART 3

RESPONSIBILITY FOR FUNCTIONS

Section 13 of the Local Government Act 2000 provides that all the functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by the Local Government Act 2000, by subsequent legislation or by regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 define those functions:

- a those functions which must not be discharged by the Cabinet;
- b those functions which may be the responsibility of the Cabinet;
- c those functions which may not be the sole responsibility of the Cabinet;
- d circumstances in which functions which would otherwise be functions of the Cabinet fall to be discharged other than by the Cabinet.

Accordingly, the Council only has discretion to define the split of functions between the Council ("Council Functions") and the Cabinet ("Executive Functions") in respect of those which fall within categories (b) and (c) above.

Council Functions

"Council Functions" shall therefore comprise:

- a those functions which are reserved as Council functions by the Local Government Act 2000 and by subsequent legislation;
- b those functions which are reserved as Council functions by Regulation 2 of, and Schedule 1 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations made under the Local Government Act 2000;
- c those functions set out in Regulation 3 of, and Schedule 2 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, shown in the following table as non executive functions;
- d and the plans and strategies the adoption or approval of which shall be a Council function (the "Policy Framework"), namely those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 together with such other plans and strategies as the Council may identify from time to time for this purpose.

The Council has determined that certain Council functions shall be carried out by the Committees as set out in this part of this Constitution.

Executive Functions

All other functions, including those shown in the local choice table, shall be Executive functions.

Under Section 15(2) of the Local Government Act 2000, the Council, in determining the Executive Arrangements, has agreed that all executive functions shall be vested in the Leader, and that the Leader shall appoint Cabinet Members to a particular portfolio, and in turn delegate such powers to those Members as are necessary to enable them to carry out the duties associated with that portfolio.

The Council has also determined that all powers of the Council including Executive powers shall be delegated concurrently to officers in accordance with the Scheme of Delegation to Officers.

(See also Article 12.10 in relation to Heads of Service)

For matters within the Policy Framework, Best Value Reviews or exceptionally, in contentious or “political” cases where the Leader or Cabinet Member believes the whole Cabinet should be aware of the issue and participate in the decision, or where an officer or Cabinet Member wishes to refer the decision to be taken to the Cabinet because of public controversy or sensitivity, or where he/she takes a different view of the proposal and feels unable to be associated with it, the item will be submitted to the Cabinet. In such circumstances the Leader may direct that the matter be referred to Cabinet for decision and his/her decision to do so will take precedence.

Responsibility for Local Choice Functions

The following table details the present arrangements with regard to the apportionment of local choice functions.

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

All Non Executive functions are delegated to Council Committees as set out in their terms of reference.

Function	Executive or Non Executive
1 The determination of an appeal against any decision made by or on behalf of the Authority.	Non Executive
2 The making of arrangements pursuant to regulations made under section 52 of the Education Act 2002 (exclusion of pupils).	Non Executive
3 The making of arrangements pursuant to section 94(1) and (4) of, the Schools Standards and Framework Act 1998, and in accordance with regulations made under section 50 of the Education Act 2002 (admission appeals).	Non Executive
4 The making of arrangements pursuant to section 95(2) of the Schools Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies), and regulations made under section 95 of that Act.	Non Executive
5 The making of arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of functions of a Police Authority.	Non Executive
6 The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Executive
7 The conducting of Best Value Reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Executive
8 Any function relating to contaminated land.	Non Executive
9 The discharge of any function relating to the control of pollution.	Non Executive
10 The service of an abatement notice in respect of a statutory nuisance.	Non Executive
11 The investigation of any complaint as to the existence of a statutory nuisance.	Non Executive
12 The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non Executive
13 The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non Executive
14 The making of agreements for the execution of highways works.	Non Executive
15 The appointment of any individual – a to an office other than an office in which he is employed by the Authority b to any body other than- i the Authority ii a joint committee of the Authority; or c to any committee or sub-committee of such a body, and the revocation of such appointment.	Executive

RESPONSIBILITY FOR COUNCIL FUNCTIONS

The following Committees shall be Standing Committees of the County Council.

The exercise of some of these functions is delegated to Strategic Directors and Heads of Service.

a SENIOR APPOINTMENTS AND BUCKS PAY AWARD COMMITTEE

Terms of Reference

- 1 To be responsible for the recruitment and termination of the posts of Chief Executive, Strategic Directors, the Monitoring Officer and the Chief Finance Officer having responsibility for the purposes of Section 151 of the Local Government Act 1972.
- 2 To agree significant changes in Employment conditions for Bucks Pay Employees.
- 3 To consult on, and determine pay awards to, staff employees on Bucks Pay Conditions (after taking into account any representations made by recognised Trade Unions and staff).
- 4 To agree relevant Human Resources procedures (e.g. Conduct, Capability) for the senior managers of the Council, i.e. the Chief Executive, Strategic Directors and Heads of Service, including statutory officers.

Membership: 7 Members

b APPEALS AND COMPLAINTS COMMITTEE

Terms of Reference

APPEALS

- 1 For all employees, other than staff employed in schools with delegated budgets to hear and determine appeals and grievances on the following matters:
 - a Dismissal on grounds of misconduct, capability, ill-health and unfair selection of staff for redundancy;
 - b Grievances submitted under agreed procedures.
- 2 To determine appeals from pupils/students on matters of entitlement to transport or to financial assistance towards transport costs.
- 3 To determine any other appeal against a decision made by or on behalf of the Council where provision is made for a right of appeal.

COMPLAINTS

- 1 To receive, on an annual basis, statistical reports and details of the complaints received and investigated through the County Council's Complaints Procedure, where payments or other benefits have been provided in cases of maladministration.
- 2 To review the operation of the Corporate Complaints Procedures and recommend, or agree, any modifications to it that might be necessary.

Membership: 6 Members

c DEVELOPMENT CONTROL COMMITTEE

Terms of Reference

- 1 To exercise the Council's functions as local planning authority as specified in regulation 2 of the Local Government Authorities (Functions and Responsibilities) (England) Regulations 2000 insofar as such functions are not the responsibility of any other local authority.
- 2 The functions include:
 - a imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions;
 - b determining whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject to the exercise of its functions;
 - c revoking any approval, consent, licence, permission or registration granted in the exercise of its functions;
 - d amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation, restriction or term to which it is subject;
 - e determining whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration.

Town and Country Planning and Development Control Functions

- 1 Power to require information as to interests in land.
- 2 Duty to give notice etc of applications for planning permission.
- 3 Power to determine application for planning permission.
- 4 Power to decline to determine application for planning permission.
- 5 Power to grant planning permission for development already carried out.
- 6 Power to grant or refuse planning permission for development without complying with conditions to which previous planning permission is subject.
- 7 Power to enter into agreement regulating development for use of land.
- 8 Power to serve a completion notice.
- 9 Power to serve a planning contravention notice, breach of condition notice or stop notice.

- 10 Power to issue an enforcement notice.
- 11 Power to apply for an injunction restraining a breach of planning control.
- 12 Power to authorise entry onto land.
- 13 Power to enter into agreement for the execution of highway work.
- 14 Powers relating to the protection of important hedgerows.
- 15 Duties relating to the making of determinations of planning applications.
- 16 Power to determine application for planning permission made by a local authority, alone or jointly with another person.
- 17 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
- 18 Power to issue a certificate of existing or proposed lawful use or development.
- 19 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
- 20 Duties relating to applications for listed building consent and conservation area consent.
- 21 Power to serve a building preservation notice, and related powers.
- 22 Powers to acquire a listed building in need of repair and to serve a repairs notice.
- 23 Power to apply for an injunction in relation to a listed building.

Membership: 10 Members

d REGULATORY AND AUDIT COMMITTEE

The purpose of the Regulatory and Audit Committee is to:

1. Provide independent assurance on the adequacy of the Council's risk management framework and the associated control environment;
2. Provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment; and
3. Oversee the financial reporting process.
4. Exercise the Council's functions as specified in regulation 2 of the Local Authority (Functions and Responsibility) (England) Regulations 2000 insofar as such functions are not the responsibility of any other Committee of the Council or of any other Local Authority.
5. Oversee changes to the Council's Constitution which includes ensuring all changes need to be in writing before agreement.
6. Provide assurance on the adequacy of the Council's Treasury Management risk framework and the associated control environment;

Terms of Reference

Audit

1. Consider the Chief Internal Auditor's annual plan and annual report (including a summary of internal audit activity and the level of assurance it can give over the Council's governance arrangements).
2. Consider summaries of specific internal audit reports and the Chief Executive's responses to such reports.
3. Consider reports dealing with the management and performance of the providers of internal audit services.
4. Consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
5. Consider specific reports as agreed with the Head of Finance, Chief Internal Auditor, Monitoring Officer, Chief Executive or external auditor.
6. Comment on the scope and depth of external audit work and to ensure it gives value for money.
7. Commission work from internal and external audit in accordance with guidelines.
8. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.

Governance

9. Maintain an overview of the Council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
10. Review any issue referred to it by the Chief Executive, Head of Finance or Monitoring Officer, or any Council Body within the remit of these terms of reference.
11. Monitor the effective development and operation of risk management and corporate governance within the Council.
12. Approve and monitor Council policies on "whistleblowing" and the anti fraud and corruption.
13. Review and make recommendations on the Council's Annual Governance Statement.

14. Consider the Council's arrangements for corporate governance and make recommendations to ensure compliance with best practice.
15. Monitor the Council's compliance with its own and other published standards and controls.
16. Consider reports dealing with the management of risk across the organisation and to consider reports identifying the key risks facing the Council, seeking assurance of appropriate management action.
17. The Chairman of the Committee shall act as the Member Risk Champion.
18. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.

Financial Reporting

19. Review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
20. Consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
21. Consider periodic Treasury Management reports. In January each year, the annual Treasury Management Strategy will be considered prior to full Council approval. In June, an annual outturn report inclusive of assurances will be considered prior to the Regulatory and Audit Committee approving the Council's Annual Governance Statement.

Regulatory

- 22 To:
 - a) Impose any condition, limitation or restriction, or determining any other terms on an approval, consent, licence, permission or registration granted in the exercise of its functions (other than Development Control functions)
 - b) Determine whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject (other than Development Control functions);
 - c) Revoke any approval, consent, licence, permission or registration granted in the exercise of its functions (other than Development Control functions);
 - d) Amend, modify or vary any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation, restriction or term to which it is subject; and
 - e) Determine whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration.

23. To exercise the Council's powers in approving licensing for:
 - a) The movement and sale of pigs;
 - b) Collecting centres for the movement of pigs;
 - c) Movements of cattle from a market;
 - d) Premises for the solemnisation of marriages;
 - e) Employment of children;
 - f) Street Works;
 - g) The depositing of a builder's skip on a highway;

- h) The planting, retention and maintenance of trees, etc in part of highway;
- i) Works in relation to buildings etc which obstruct the highway; and
- j) Temporary deposits or excavations in streets.

24. The power to:

- a) Make, amend or revoke byelaws;
- b) Dispense with obligation to erect hoarding or fence;
- c) Require information as to interests in land;
- d) To consent to constructions of vaults, arches and cellars under streets or carriageways;
- e) Ensure the removal of things so deposited on highways as to be a nuisance;
- f) Consent to the making of an opening in footways for access to a cellar or vault under a street; and
- g) Restrict the placing of rails, beams etc over highways.

25. To carry out appropriate statutory functions relating to:

- a) The Local Government Pension Scheme
- b) Elections
- c) Contaminated land;
- d) Control of pollution or the management of air quality; and
- e) Safety certificates for sports grounds.

26. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.

Membership

This Committee is composed of eight elected members

e RIGHTS OF WAY COMMITTEE

Terms of Reference

- 1 To exercise the Council's functions in respect of rights of way matters as specified in regulation 2 of the draft Local Authorities (Functions and Responsibilities) (England) Regulations 2000 insofar as such functions are not the responsibility of any other local authority.
- 2 The functions include:
 - a imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions
 - b determining whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject, in the exercise of its functions
 - c revoking any approval, consent, licence, permission or registration granted in the exercise of its functions
 - d amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation, restriction or term to which it is subject
 - e determining whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration

Rights of way functions are

- 1 Power to require information as to interests in land.
- 2 Power to create footpaths and bridleways.
- 3 Power to stop up footpaths and bridleways.
- 4 Power to divert footpaths and bridleways.
- 5 Duty to assert and protect the rights of the public to use, and enjoyment of, highways.
- 6 Duty to keep a definitive map and statement under review.
- 7 Duty to reclassify roads used as public paths.
- 8 Power to authorise creation of stiles etc on footpaths or bridleways.
- 9 Powers relating to the removal of things so deposited on highways as to be a nuisance.

- 10 Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
 - a an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or
 - b an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict. c.118)
- 11 Power to register variation of rights of common.
- 12 Power to make, amend, revoke, re-enact or enforce byelaws.

Membership: 8 Members

f STANDARDS COMMITTEE

Terms of Reference

- 1 To promote and maintain high standards of conduct by members and to assist all elected members and co-opted members to observe the Council's Code of Conduct for Members.
- 2 To develop local protocols giving guidelines for elected members and co-opted members relating to the operation of the Code of Conduct and other ancillary matters.
- 3 To consider complaints against any elected member or co-opted member relating to a breach or an alleged breach of any local protocol agreed by the Council, to make findings of fact and decisions in respect of the action to be taken and where necessary to make recommendations to the County Council.
- 4 To consider complaints against any elected member or co-opted member relating to alleged breach of the Council's Code of Conduct for Members, to make findings of fact and decisions in respect of the action to be taken, and where necessary to make recommendations to the County Council.
- 5 To consider the implications for the Council and the proper conduct of its business, of the principles of conduct proposed by the former DETR and adopted by the Council and to recommend any action required to facilitate compliance with those principles.
- 6 To consider any report referred to it by an Ethical Standards Officer of the Standards Board and to determine any matters arising out of the report and exercise any appropriate powers of sanction available to it.
- 7 To monitor the Council's Code of Conduct and local protocols agreed by the Council and to propose such amendments, deletions and additions, as may be needed from time to time, to the Council, taking into account any mandatory elements of the Model Code of Conduct produced nationally.
- 8 To monitor the operation of the Code of Conduct and local protocols.
- 9 To advise, train or arrange training for elected members and co-opted members on matters relating to the Council's Code of Conduct and associated local protocols.
- 10 To advise the Council on any aspects of standing orders relating to conduct, or otherwise on propriety.
- 11 To support the Monitoring Officer in discharging her/his role in respect of standards of conduct and behaviour.
- 12 To approve and keep under review the Council's Whistleblowing Code of Practice in accordance with the Public Interest Disclosure Act 1998.
- 13 To receive an annual report from the Council's Complaints Officer and consider any ethical implications for the Council, its members and its officers and, if necessary, issue advice on the same.

- 14 To receive the annual letter from the Local Government Ombudsman and consider any issues raised.

Membership: The Standards Committee will be composed of eight elected members, including the Chairman or Vice-Chairman of the County Council, plus a pool of five independent members.

g CEREMONIAL COUNCIL

Terms of Reference

- 1 To recognise individuals, community groups and organisations for their outstanding achievements and award Freedom of the County to the same.

Membership: All members of the Council

h Buckinghamshire County Council Pension Fund Committee

Purpose

- 1 To be responsible for the Council's statutory function as administering authority (also including investment matters) under the Local Government Pension Scheme Regulations and associated legislation under Sections 7, 12 and 24 of the Superannuation Act 1972. The committee will be established under s101 of the Local Government Act 1972.
- 2 The Pension Fund Committee will be provided with full-delegated powers to discharge the following functions on behalf of the Council:
 - To deal with all matters arising relating to the Buckinghamshire Local Government Pension Scheme;
 - To instruct the Head of Finance and Procurement on the management and investment of the Buckinghamshire County Council Pension Fund ("the Pension Fund")
 - To constitute a Pension Fund Consultative Group in accordance with the Pension Fund Consultative Group terms of reference as outlined within this document.

Terms of Reference

- 1 To agree and ensure the continual review of:
 - The strategic asset allocation and objectives of the Pension Fund in terms of investment return and risk exposure
 - The Statement of Investment Principles
 - The strategic benchmarks for the performance of the Pension Fund against which the actual performance is to be measured
 - The strategic targets against which the performance of the Fund Managers is to be measured.
- 2 To agree the appointment and termination of:
 - Fund Managers
 - The Actuary
 - The Custodian
 - Firms or individuals to provide investment and actuarial advice for the Fund
- 3 On a quarterly basis, review the performance of the Pension Fund and the Fund Managers against the objectives, benchmarks and targets set and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund. This may include:
 - The removal, selection, appointment and enhanced performance monitoring of, the Managers of the Pension Fund
 - Reviewing the allocation of the assets of the Pension Fund and the generic selection of asset portfolios in order to meet the objectives of the Pensions Fund.
 - To agree from time to time any restrictions to be placed on any one or more Managers of the Pension Fund as to particular classes of authorised investment or decisions they may take on behalf of the Pension Fund or as to the exercise of voting rights;

- Reviewing the structure of the management arrangements necessary to achieve the effective management of the Pension Fund to meet its objectives.
 - Reviewing the Pension Fund Risk Assessment (every six months).
- 4 On an annual basis (or more frequently as required by the Committee), review the performance of the Pension Fund and the Fund Managers against the strategic objectives, benchmarks and targets set by them and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund.
 - 5 To approve the Pension Fund Annual Accounts and Governance Compliance Statement.
 - 6 Review the formal Actuarial Valuation and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund.
 - 7 To consider the admission of employing organisations to the Fund where there is discretion to do so and as escalated by the Head of Finance and Procurement.
 - 8 To have due regard to the advice of the Head of Finance and Procurement and to the advice of Consultants appointed by the Committee. Rationale for decision making shall be recorded in the minutes of the Committee.
 - 9 To receive minutes and consider recommendations from key officers and the Pension Fund Consultative Group. To ensure the effective performance of the Pension Fund Consultative Group and thereby ensuring that effective arrangements exist for consultation with the stakeholders that have an interest in the affairs of the Pension Fund.
 - 10 To receive auditor reports as appropriate and seek assurance that any action points arising are implemented.
 - 11 To deal with any other matters arising in respect of Local Government Pensions.

Reporting

- 1 Minutes of the Committee will be reported to Council under the existing County Council Committee framework.
- 2 An annual report shall be presented to Cabinet on the discharge of the Committee's responsibility and the performance of the Fund.
- 3 The Committee will aim to operate as transparently as feasible, although detailed performance reports will remain confidential items on Committee agenda as will any other item deemed as such by the Chairman..
- 4 The Chairman shall consult with the County Council's Monitoring Officer (and that of any relevant partner organisation) where any Member

misses three Committee meetings in a row (to include formal training sessions).

Membership

Comprises 9 members as follows:

- 1 Six Elected Members from Buckinghamshire County Council
- 2 One Elected Co-Opted Member from Milton Keynes Council
- 3 One Elected Co-Opted Member from Thames Valley Police Authority
- 4 One Elected Co-Opted Member chosen by the four District Councils in Buckinghamshire in consultation with the Chairman..
- 5 Members have Quasi-Trustee status and consequently substitutions are not permitted.
- 6 The quorum for this Committee is 4 Members.

Frequency

- 1 Eight meetings will be scheduled each year and at least six meetings should occur.

i THE LEADER OF THE COUNCIL AND SCHEME OF DELEGATION TO CABINET MEMBERS

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

1 Leader of the Council

The following functions are allocated to the Leader of the Council

To appoint a Deputy Leader, and Members of the Cabinet and Cabinet Spokesman and assign to them their portfolio areas, and maintain effective working relationships with the Cabinet Members.

- To determine the content of portfolios assigned to Cabinet Members
- To determine which matters shall be decided by the Cabinet collectively and which shall be delegated to Cabinet Members
- To discharge or arrange to be discharged the Executive Functions of the Council
- To delegate the discharge of any Executive Functions within the remit of a Portfolio to that Cabinet Member
- To delegate the discharge of Executive Functions to an Officer of the Council
- To have principal responsibility for the political and policy direction of the Council
- To chair meetings of the Cabinet and oversee the preparation of business for its consideration
- In consultation with the Chief Executive, to draw up a 4 month programme of work by the Cabinet and to keep it under continuous review.
- To be the principal political spokesman for the Council at internal and external meetings
- To share in the responsibilities of the Cabinet and have the responsibilities of an individual member of the Cabinet, with a specific portfolio of responsibilities

2 Cabinet Members

- a Where executive functions are not reserved to the Council or to Cabinet or officers, they are Cabinet member matters in accordance with the portfolios within this scheme.
- b The Corporate Director – People and Policy in consultation with the Leader of the Council shall determine which is the appropriate Cabinet Member to deal with a matter in cases of uncertainty.

- 3 The following areas of responsibility are included in the matters which may be determined by the appropriate Cabinet Member.
- a To consider reports prepared by officers and to make any decisions in accordance with Article 13 of this Constitution and the Protocol on Key Decision Making by the Cabinet and by individual Cabinet Members
 - b To consider draft reports to the Cabinet with the relevant Strategic Director or Head of Service.
 - c To determine how expenditure on services should be undertaken within approved budgets
 - d To agree annual reports
 - e To approve service plans and monitor their performance
 - f To monitor the budget for particular services
 - g To agree the Best Value review for particular services
 - h To determine policies for particular services, which are consistent with the Policy Framework and the corporate strategies
 - i To agree responses to consultation papers
 - j To make payment of grants to outside bodies within the list approved by the Cabinet, except those which fall to the Cabinet itself to decide
 - k To approve decisions affecting a particular locality (i.e. which are not service-wide, county-wide or otherwise corporate)
 - l To appoint a Policy Advisory Group and determine its work
- 4 The Leader may make such changes to the number and structure of the Portfolios as may be necessary to carry out the functions detailed in paragraph 3 above. Such changes will be reported to full Council and recorded by the Monitoring Officer as a change to this Constitution.
- 5 At present the following Portfolios shall be assigned by the Leader to Cabinet Members with responsibility for decisions and planning in relation to services/functions as set out below:

3. **Cabinet Spokesman**

Role and Responsibilities:

- (a) To deputise for the relevant Cabinet Member at meetings of the Cabinet and full Council when the Cabinet Member cannot be present and to answer questions at those meetings on behalf of the Cabinet Member.
- (b) To support the Cabinet Member in undertaking his/her responsibilities effectively.
- (c) To be consulted as part of the decision-making process
- (d) To represent the relevant Cabinet Member at appropriate meetings.

- (e) In the absence of the relevant Cabinet Member to be the Senior Member who a Chief Officer consults under the constitution in appropriate cases before exercising delegated powers.
- (f) To undertake specific tasks, research and investigations as directed by the relevant Cabinet Member within their areas of responsibility.
- (g) To attend conferences, seminars and meetings as requested by the Cabinet Member.
- (h) To keep abreast of current policy and development initiatives.
- (i) To meet regularly with the relevant Cabinet Member and advise him/her on policy development in relation to decision-making.
- (j) To meet regularly with relevant senior officers in order to keep fully apprised of relevant service issues and advise the Cabinet Member.
- (k) To attend regular policy and review meetings with the Cabinet Member and relevant Director and senior officers.
- (l) To liaise with non-executive members in order to ensure that the Cabinet Member is fully aware of issues which are of concern to members.
- (m) To carry out any other appropriate duties as directed by the relevant Cabinet Member.
- (n) To help co-ordinate and sometimes chair appropriate Policy Advisory Groups
- (o) To report back in writing to the relevant Cabinet Member on a monthly basis

A Cabinet Spokesman cannot:

- (a) Exercise a vote on behalf of a Cabinet Member or take decisions
- (b) Be a Member of the Overview & Scrutiny Commissioning Committee which scrutinises his or her Cabinet Member's portfolio.
- (c) Be a formal Member of a Task and Finish Group which develops or reviews policy within his or her Cabinet Member's portfolio (but can attend if invited).

LEADER	DEPUTY LEADER
<p>To be the Leader of the Council and to lead and chair the Cabinet as a corporate team working together to achieve common aims. To lead the development of Council policy and resource allocation. To represent the Council and its policies externally, and in so doing to champion the interests of the residents of Buckinghamshire. Specific responsibilities include:</p> <ul style="list-style-type: none"> a the effective leadership and chairing of the Cabinet b leadership of the development and delivery of the policy framework, to reflect agreed Council priorities, the majority group manifesto and the views of the people of Buckinghamshire c the Council's service and budget planning framework, including the medium term Council Plan and annual Local Performance Plan, which sets out standards and targets for improvement d representing the Council externally, for example in leading community planning arrangements within the County, and furthering the Council's interests in the South East region, nationally and in Europe 	<p>To support the Leader of the Council in his/her role with a specific emphasis on</p> <ul style="list-style-type: none"> a co-ordinating the work of developing policy so that they integrate effectively and are realistic b ensuring progression is made in achieving the Council's aims c establishing effective member support/communication and information services to all members of the Council so that the Cabinet is informed of backbench opinion d Managing important corporate partnership arrangements and establishing a clear protocol for the way the Council works with stakeholders and others
<p>Services/Functions</p> <ul style="list-style-type: none"> • Policy Framework • Strategic Overview • Overall Performance • Chief Executive, Policy Support Team • Budget Strategy • External Relations • Local Performance Plan • Development of the organisation • Pathfinder • External funding 	<p>Services/Functions</p> <ul style="list-style-type: none"> • Communications • Policy co-ordination and monitoring • Member Services • Working with partners • Regional Planning • Equal Opportunities • Local Agenda 21 and Sustainability • Localities & Safer Communities • Member Development • London 2012 games • External relations

<p>EDUCATION</p> <p>To be responsible for the strategic directions of the Authority's Children's Services and for their effective overview, and to carry overall political responsibility for those services.</p> <p>Working with the Member responsible for Children's Social Care, to promote, co-ordinate and integrate the services for children and young people in Buckinghamshire, in accordance with the Children Act 2004.</p> <p>To take the lead in relation to the Authority's Achievement and Learning and Commissioning activities in respect of children and young people.</p> <p>To lead the work of continuing to raise achievement for pupils in all maintained schools in the County including:</p> <ul style="list-style-type: none"> a the shaping of the Council's continuing response to the challenge posed by the transfer of school budgets direct to schools, and the resulting re-organisation of the services and functions of the County Council as LEA to reflect such changes b the championing of the existing system for delivery of education c the putting in place of specific action which will prevent schools from failing and will establish expectation of performance for all schools linked to both existing and new resources d seeking the improvement of efficiency by identifying any over-provision and exposing support services to competition <p>The children and young people to be supported within the areas for which the Cabinet Member is directly responsible include:</p> <ul style="list-style-type: none"> a Pupils 	<p>FUNCTIONS RELATING TO SAFEGUARDING CHILDREN AND YOUNG PEOPLE</p> <p>These may be assigned to a second Cabinet Member.</p> <p>To take the lead in relation to the Authority's Safeguarding activities in respect of children and young people.</p> <p>Working with the Cabinet Member for Education. To promote, co-ordinate and integrate services for children and young people with needs in relation to Children's Social Care. .</p> <p>The children and young people to be supported include:</p> <ul style="list-style-type: none"> a Children looked after by the Council including fostering and adoption b Children subject to child protection c Children in need (e.g. with a disability) <p>Services/Functions</p> <ul style="list-style-type: none"> • Children and Families – Social Care • Looked after children and those on the Child Protection Register Youth Offending Service
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<p>b Children with special educational needs</p> <p>c Children who are excluded or at risk of exclusion</p> <p>d Children at risk of offending</p> <p>e Children whose parents elect to educate their children at home</p> <p>f Pre school children</p> <p>Services/Functions (direct responsibility)</p> <ul style="list-style-type: none"> • School Improvement – across mainstream and special schools • Schools Support • School Organisation • Early Years & Childcare • Planning & Information • Schools Resources • Home to School transport policy • Special Educational Needs (Strategy, Policy, Funding and Statementing) • Educational Psychologists • Education Welfare Service • Residential Units, Pupil Referral Units and Family Centres • Youth Services 	
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PLANNING & ENVIRONMENT	TRANSPORT
<p>To protect and enhance the built and natural environment of Buckinghamshire, support a diverse economy and improve quality of life through promoting the sustainable development of the County.</p> <p>To include:</p> <ul style="list-style-type: none"> a Through Regional, Sub-regional and Local development policies, to pursue the Council's objectives for sustainable development of the County and social and economic health of the wider community b Through current and relevant planning frameworks, to seek to balance the provision for development with the need to achieve sustainable communities and active community involvement c By means of preventative action, to deter abuse of the physical environment through active monitoring; and to ensure that effective use is made of enforcement powers d To ensure that growth in waste arisings is contained, in partnership with District Councils e To ensure that the proportion of waste sent to landfill is reduced and that the level of recycling and composting increases <p>Services/Functions</p> <ul style="list-style-type: none"> • Strategic Planning and Infrastructure • Development Control • Waste Management • Minerals Plan • Countryside & Heritage Services • Economic Development 	<p>To recognise the high priority placed by the people of Buckinghamshire on Transport in public consultation exercises. To secure the strategic and local transport infrastructure to sustain and develop the economy; to facilitate growth and provide access for all whilst balancing free safe and efficient movement of people and goods with protection of the environment.</p> <p>To include:</p> <ul style="list-style-type: none"> a To ease and prevent congestion and reduce the need to travel and improve access to employment b To address local priorities for transport improvements, including condition of roads and pavements, public transport, congestion and road safety c To address the travel needs of children and young people as well as older people, with a focus on public transport d To maintain and protect the rural environment, whilst improving access and amenity, supporting tourism and the rural economy. To seek to improve local air quality e To seek to reduce the number of deaths and serious injuries on the County's roads. To promote healthy travel choices f To work with partners delivering Transport for Buckinghamshire <p>Services/Functions</p> <ul style="list-style-type: none"> • Infrastructure Management • Strategic Transport • Highway Network • Transport and Accessibility • Rights of Way • Gypsy and Traveller Services

<p>ADULTS & FAMILIES</p> <p>To develop the Council's approach to those services which focuses on the specific needs of individuals, so that services are delivered in a co-ordinated and specific way to address those needs. In particular, to address how:</p> <ul style="list-style-type: none"> a the budgets for these services can be contained within an agreed envelope of affordable cost by establishing priorities b new partnership/joint arrangements can be created both within and outside the County Council to provide these services c the client centred approach can be developed into practical steps which benefit the individual <p>Services/Functions</p> <ul style="list-style-type: none"> • Learning Disabled • Physical Disability • Mental Health • Older People • Culture and Learning • Registrars and Coroners 	<p>RESOURCES</p> <p>To establish clear and effective arrangements for identifying the effectiveness of support services (including by identifying the best practice/good governance) for the Council as a whole, providing strategic and corporate advice to support service delivery and delivering specific support services concentrating specifically on:</p> <ul style="list-style-type: none"> a creating an Asset Management Plan for the better use/disposal/acquisition of resources b developing the Information Communications Technology Strategy into specific actions which deliver a return on investment including specifically long-term strategic partnerships for their provision c building on the Council's aim to be a good employer by actions to produce a workforce of improving skills and competencies <p>Services/Functions</p> <ul style="list-style-type: none"> • Finance/procurement • Legal & Democratic • Human Resources • Property • Information and Communications Technology • Customer Contact • Cohesion and Equalities
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PART 4

STANDING ORDERS

a COUNCIL STANDING ORDERS

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1 MEETINGS OF THE COUNCIL

- 1 The annual meeting of the Council will be held
 - a in the year of election of members on the eighth day after the day of retirement of members or on any other day within twenty-one days of the day of retirement that the Council may fix
 - b In any year other than the year of election of members on the fourth Thursday in May or any other day in May that the Council may fix.
- 2 Ordinary meetings of the Council will be normally held on the fourth Thursday in the months of February (budget) April, September, and November and on the second Thursday in July. The Chairman of the Council and the Leader of the Council may jointly agree to vary the time or date of any ordinary meeting or to cancel any ordinary meeting. If they decide to do so, the decision must be agreed and notified to the Head of Legal and Democratic Services no less than one month before the date that the meeting was due to take place, unless the variation or cancellation is due to exceptional and unforeseen circumstances.
- 3 The Chairman of the Council or the Head of Legal and Democratic Services may call an extraordinary meeting of the Council at any time.
- 4 Five members may send the Chairman a signed request for an Extraordinary Meeting of the Council. If after receiving such a request the Chairman refuses to call an Extraordinary Meeting or does not call such a meeting within seven days, then any five members have a statutory right immediately to call an Extraordinary Meeting.
- 5 Where the Chairman has received a request for an Extraordinary meeting, the Extraordinary meeting must be held within 15 working days of the date he/she receives the request. If the 15 working day period expires in the month of August, the meeting must be held within 25 working days of the receipt of the request.
- 6 The Chairman of the Council and the Leader of the Council may jointly agree to part of one meeting of the full Council becoming the Ceremonial Council. The Ceremonial Council is a committee established under section 101 of the Local Government Act 1972 comprising all members of the full Council. The function of the Ceremonial Council will be to:
 - a recognise outstanding achievements by individuals, community groups and organisations, and
 - b award Freedom of the County to the same.
 - c appoint Aldermen
- 7 Meetings of the Council will be held at County Hall, Aylesbury and will normally commence at 9.30 am. There is an expectation that, unless Members agree otherwise by vote, that the meeting will close by 1.00pm. Council Meetings may be held at other times and in other appropriate locations with the agreement of the Chairman of the Council and the Leader. Public accessibility (particularly for those with limited mobility) is a key factor in determining the suitability of venues for meetings.

- 8 The quorum is one-quarter of the total number of members of the Council ie 15 members.
- 9 If during any meeting of the Council the number of members present does not form a quorum, then the Chairman of the Council must adjourn the meeting and arrange another date and time. If no date and time are fixed by the Chairman, any unfinished business before the Council must be considered at the next ordinary meeting of the Council.
- 10 If the Chairman is absent from a meeting, any power or duty assigned to the Chairman relating to the conduct of a meeting may be exercised by the person presiding at the meeting.

2 ORDER OF BUSINESS

The Chief Executive will call the meeting to order and the meetings will normally commence with a procession into the Chamber by the Chairman, The Vice-Chairman and other invited guests. The Chairman may commence the meeting with a prayer.

- 1 Normally, meetings of the Council will deal with the following items (where relevant) in the following order:
 - a At the annual meeting of the Council, to elect a Chairman and appoint a Vice-Chairman. At the first annual meeting after a County Council election, or in the event of a Leader resigning during the Council term, the annual meeting shall also elect a Leader of the Council.
 - b If the Chairman and Vice-Chairman are absent, to choose a person to preside, such a person not being a member of the Cabinet.
 - c At the Annual Meeting of the Council, for the Leader to advise the Council on the membership of the Cabinet. At any other meeting, for the Leader to advise the Council of any change of membership of the Cabinet.
 - d To read and approve as a correct record the minutes of the last meeting of the Council. If a copy has been circulated to each member of the Council not later than the date that the summons to attend the meeting was issued, they shall be taken as read.
 - e To deal with business required by statute to be done.
 - f To receive any Reports from Statutory Officers of the Council.
 - g To receive any Petitions.
 - h To receive any apologies for absence.
 - i For the Chairman to make any announcements.
 - j To receive any Declarations of Interest relevant to the business before the meeting.
 - k To dispose of any business remaining from the last meeting.

- l To receive and consider reports of the Cabinet, the Leader and/or Cabinet Members. Questions may be asked of Cabinet Members or comments made on these reports. Any written questions of which Notice has been given to the Head of Legal and Democratic Services in accordance with Standing Order 5 below to the Cabinet Member will be asked and answered immediately after the presentation of the appropriate report.
 - m To move notices of motion in the order in which they have been received.
 - n To receive and consider reports of Committees. Any questions including written questions of which Notice has been given to the Head of Legal and Democratic Services in accordance with Standing Order 5 below shall be asked and answered immediately after the presentation of the appropriate committee report. Comments may also be made about these reports.
 - o To ask any questions of an Overview and Scrutiny Committee of which written notice has been given to the Head of Legal and Democratic Services in accordance with Standing Order 5 below or make comments on any report presented by an Overview & Scrutiny Committee.
 - p To ask any other questions on Council business of which written notice has been given to the Head of Legal and Democratic Services in accordance with Standing Order 5 below.
 - q To move notices of motion in the order in which they have been received.
 - r To conduct any other business, specified in the agenda.
- 2 The Chairman has discretion to vary the order of business or add items of business at any meeting. The order of business may also be varied if a notice of motion is put forward and carried by the majority of members at the meeting. Such a variation may not displace business falling under items (a), (b), (c), (d), (e) or (f) in paragraph 1.
 - 3 The Chairman has discretion to invite a speaker to address the Council meeting, or to permit an officer of the Council to attend the meeting and present a briefing paper or report on any matter before the Council.

3 MINUTES

- 1 The minutes of a meeting of the Council will be submitted to the next ordinary meeting for approval as "a correct record".
- 2 Minutes of any meeting of the Council will be published and available to all members and interested parties on request, on the basis that the minutes remain unconfirmed until the next meeting.
- 3 No motion or discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by moving a formal amendment to the minutes.

4 The Chairman shall sign the minutes once their accuracy has been agreed.

4 PETITIONS

1 Any Member of the County Council may present to the Chairman of the Council any petition received from constituents addressed to the Council.

2 At the Chairman of the Council's discretion, any member of the public may (jointly with their elected Councillor) present to the Chairman of the Council any petition addressed to the Council.

3 The substance of a petition presented at a meeting of the Council will briefly be summarised by the member of the Council who presents it. If the petition does not refer to a matter before the Council it shall be referred without debate to the appropriate Committee or Portfolio Holder.

4 If the petition refers to a matter before the Council it will be available for members to inspect during the course of the meeting.

5 If a petition is referred to a committee for further consideration, the member presenting the petition may attend the meeting concerned to present and speak about the petition.

6 The appropriate committee chairman or Portfolio Holder will report the Council's response to the petition as soon as possible, but at the latest within six months of the meeting at which the petition was presented to the Council.

7 Petitions received by the Council will be considered in accordance with the Council Petitions Scheme as set out in Part 4 to the Constitution.

5 WRITTEN QUESTIONS

1 Except at the annual meeting in a year of County Council elections, any member of the Council may ask any question on Council business if written notice has been given to the Head of Legal and Democratic Services in accordance with paragraph 2 below. The Chairman will ask the Leader or another member of the Cabinet or the Chairman of any Council body whose remit covers the subject matter in question to answer the question.

2 A member wishing to ask a question on Council business shall send a copy of the question in writing to the Head of Legal and Democratic Services to be received by 9.30am on the Monday before the meeting of the Council at which the question is to be asked.

3 Questions must be reasonably concise and must be framed in appropriate language. They must not divulge, or require the answer to divulge, confidential or exempt information. They must not be abusive, defamatory, frivolous or vexatious. The Head of Legal and Democratic Services or the Chairman may edit or require the questioner to withdraw any question or part of a question that does not comply with these requirements. All written questions will be given a written answer. No oral discussion on matters raised in written questions will take place.

6 ORAL QUESTIONS

- 1 Oral questions on Cabinet Member Reports shall be time-limited to one minutes per question per member.
- 2 If the Opposition Group Leader has an oral question on a Cabinet Member Report, he/she shall be invited to ask that question first.
- 3 The Chairman of the Council will decide the total amount of time allocated to questions on each Cabinet Member Report.

7 MOTIONS WITH NOTICE

- 1 Any member may propose a motion by giving notice in accordance with this standing order. Motions must be relevant to a matter over which the Council has power, or which affects the County.
- 2 A notice of motion must be signed by one or more members of the Council and delivered to the offices of the Head of Legal and Democratic Services, who will enter the details of the notice of motion and the time and date of receipt in a book. This book shall be open for inspection by any member of the Council at any time during normal office hours.
- 3 An ordinary notice of motion must be delivered as set out in paragraph 2 at least 10 clear days before the meeting of the Council at which it is to be considered.
- 4 An urgent notice of motion must relate to an issue of immediate concern which is not due to be considered by the Council in the normal course of events (such as budget, the Strategic Plan Framework or a response to a consultation paper). It must be delivered as set out in paragraph 2 no later than 12.30 pm on the Monday before the meeting of the Council at which it is to be considered.
- 5 An urgent notice of motion must be accompanied by a written statement explaining why it relates to a matter of immediate concern.
- 6 Upon receipt of an urgent notice of motion, the Head of Legal and Democratic Services will copy the notice to the Chairman of the Council and to each group leader, who must notify the Head of Legal and Democratic Services of any objection to the notice of motion by 12.30 pm on the Tuesday before the Council meeting. Any objection must set out why the objector considers that the issue is not one of immediate concern.
- 7 If any objection is received, the Head of Legal and Democratic Services will determine whether the issue is one of immediate concern.
- 8 Where the Head of Legal and Democratic Services has received an ordinary notice of motion, or where he/she has received an urgent notice of motion to which no objection has been received or in respect of which any objections have not been upheld, he/she will:
 - a determine whether the issue requires a technical investigation which cannot be completed by the time of the Council meeting, in which case he/she will notify the member or members who have submitted the notice of motion that he/she has commissioned such an investigation and that the notice of motion will now be considered at the next but one

meeting of the Council, and he/she will report for information to the next meeting of the Council the receipt of the notice of motion and the commissioning of the investigation;

- b where consideration of the notice of motion is not deferred for a technical investigation, determine whether a background briefing would be of assistance to members and, if so, arrange its preparation and distribution to all members with the agenda for the meeting or as soon as possible thereafter.
- 9 The Head of Legal and Democratic Services will set out in the agenda for every Council meeting all notices of motion in the order in which they were received, unless:
- a a member giving notice has stated in writing that the motion will be moved at a later meeting or
 - b the motion has since been withdrawn in writing.
- 10 Notices of motion must be framed in appropriate language and must not be abusive, defamatory, frivolous or vexatious.
- 11 No motion to rescind any resolution of the Council passed within the preceding six months, and no motion or amendment to the same effect as one which has been disposed of within the preceding six months (whether by the Council or by a member or a committee), shall be proposed unless:
- a a recommendation is made by a committee or portfolio holder or
 - b a notice of motion has been given bearing the names of at least eleven members of the Council.
- 12 If it appears to the Head of Legal and Democratic Services that a notice of motion is not in order, or is framed in improper or unbecoming language, he/she will consult the Chairman as to whether and in what form it shall be placed on the agenda. The decision of the Chairman, after consultation with the giver of the notice, shall be final unless this is not possible.
- 13 A motion will generally be moved by the member, or one of the members, who has given notice of the motion. Where a member is unable through absence to move a motion, that member may, in writing, and with the consent of the Chairman, assign the right to move the motion to another member.
- 14 If the motion is not moved it will, unless postponed by consent of the Council, be treated as abandoned and may not be moved without fresh notice.
- 15 Once a motion has been moved, the Chairman will invite a member to second the motion. If the motion is seconded, the Chairman will then invite the Cabinet member under whose portfolio the issue falls, or in his absence another Cabinet member, to respond. The motion will then be open for debate.
- 16 In exceptional circumstances, the Council may resolve to refer a motion to a committee or to the Cabinet. Where this takes place, the member who gave the notice of motion (or one member from among those members who gave the

notice of motion) is entitled to attend and speak at the meeting of that body. The body must report its decision on the motion to the next Council meeting.

8 MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

1 The following motions may be moved without notice:

- a Appoint a Chairman for that meeting
- b To amend the minutes
- c To approve the minutes as a correct record
- d To refer a committee's report or any item in it, or any other item, back to a committee
- e To appoint committee members if this arises from an item in the agenda of the meeting
- f To adopt a report or recommendation of the Cabinet, a committee or an officer
- g To amend a motion
- h To withdraw a motion or amendment
- i To suspend any standing order capable of being suspended
- j To exclude the public
- k Not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
- l To amend the time limit for speeches
- m To proceed to the next business
- n To postpone consideration of a motion
- o To put a question to the vote (otherwise known as a motion "that the question be put")
- p To adjourn the debate
- q To adjourn the meeting
- r To vary the order of business

9 CONSIDERATION OF COMMITTEE REPORTS

1 Where a committee or the Cabinet puts a report before the Council, each item for report to the Council arising out of the report shall be debated in accordance with the Council's rules of debate.

2 For the purpose of the rules of debate, each recommendation to the Council arising out of a Cabinet or committee report shall be a separate motion.

3 When there are items of business before the Council which appear to be related the Chairman may decide that they should be taken together.

10 RULES OF DEBATE

1 Whenever the Chairman stands up during a debate a member then speaking or standing shall be seated and the Council shall be silent.

2 A member shall stand when speaking and shall address the Chairman. This will not apply to members with mobility difficulties.

3 If two or more members rise, the Chairman shall call on one to speak.

4 The Chairman's interpretation and application of these standing orders shall be final.

5 A member may raise a point of order or personal explanation:

a A point of order may only relate to an alleged breach of these standing orders or the law. The member must indicate the rule or law and the way in which he or she considers it has been broken.

b A personal explanation shall consist of the right to correct any statement concerning the member made about him/her by another member during a previous speech in the course of the same debate.

The decision of the Chairman on the admissibility of a point of order or a personal explanation shall be final.

6 Where a member raises a point of order or a personal explanation, he or she shall be entitled to be heard immediately and the speaker shall give way.

7 Speeches shall be relevant to the question under discussion or to a point of order or to a personal explanation.

8 With the exception of speeches by the Chairman of the Council, the Chairmen of Committees, the Leader and Cabinet Members and Leader of the Opposition when speaking in that capacity no speech shall exceed four minutes except with the consent of the Chairman.

9 The Chairman of the Council shall not be time limited in any speech. Chairmen of Committees, the Leader and Cabinet Members may speak for more than four minutes when presenting a report to the Council or responding to a motion. Otherwise, they may only speak for more than four minutes with the consent of the Chairman. The Chairman of the Council shall not be time limited in any speech.

10 A motion or amendment shall not be discussed or put to the meeting until it has been moved and seconded. Unless notice has been properly given under standing order 6 or the motion is one which may be moved without notice under standing order 7, the motion shall be put in writing and handed to the Chairman, in time for it to be circulated to all members of the Council, unless otherwise

agreed by the Chairman, before it is discussed or put to the meeting. The Chairman's decision as to whether the motion may be proposed without due notice shall be final.

- 11 A member when seconding a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.
- 12 A member may with the consent of his/her seconder and of the Council, signified without discussion, alter in committee, his/her motion if the alteration is one which could be made as an amendment.
- 13 A motion or amendment may be withdrawn by the mover with the agreement of the seconder and the Council itself, signified without discussion. No member shall debate a motion after the mover has asked permission to withdraw it unless such permission has been refused.
- 14 A member shall only speak once on any motion or amendment except:
 - a in exercise of the right of reply or
 - b on a point of order, or
 - c by way of personal explanation, or
 - d to move that the question be put to a vote.

- 15 Where a motion for which notice has been given has been referred for consideration to a committee or the Cabinet and there is a report back, the following order of debate shall apply:

The mover of the motion shall speak first

The Chairman (or Chairmen) of the committee(s), the Leader or Cabinet member reporting on the motion shall then speak

The matter is then open to debate

The person reporting on the motion shall have the right to make the penultimate speech in reply to the debate on the motion

The mover of the motion shall have the right of reply at the end of the debate.

This paragraph does not apply when a motion is taken on the day it is put, when the normal rules of debate will apply.

- 16 Any amendment will normally be copied and circulated to all members of the Council prior to the commencement of the meeting, must be relevant to the motion and must be either
 - a To leave out words
 - b To insert or add words.

- c To leave out words and insert or add others.
- 17 An amendment may not be contrary to the motion before the Council or have the effect of introducing a new proposal.
 - 18 Only one amendment may be moved and discussed at a time, and no further amendment may be moved until the amendment under discussion has been dealt with.
 - 19 If an amendment is rejected, further amendment may be proposed 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 motion on which any further amendment may be moved.
 - 20 If an amendment is moved the mover of the original motion has a right of reply at the close of the debate and before the amendment is put to the vote, but shall not otherwise speak on the amendment.
 - 21 The proposer of an amendment has no right of reply to the debate on that amendment but if the amendment is carried he/she shall have the right to make the penultimate speech in the debate on the amendment.
 - 22 The mover of a motion has a right to reply at the end of the debate on the motion. The original motion or the motion as amended shall then be put to the vote. No amendment shall be proposed on the motion after the mover of the motion has exercised his/her right of reply.
 - 23 A member exercising a right of reply or a right to make the penultimate speech in the debate on the amendment shall not introduce any new matter.
 - 24 When a motion is under debate no other motion shall be moved except the following:
 - a to amend the motion
 - b to withdraw a motion or amendment
 - c to postpone consideration of the motion
 - d to adjourn the meeting
 - e to adjourn the debate
 - f to proceed to the next business
 - g to put the question to a vote
 - h not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
 - i to refer the subject of debate back to a committee
 - j to exclude the public
 - k to amend the time limit for speeches

l to suspend any standing order capable of being suspended .

25 A member may move without comment at the conclusion of a speech of another member to proceed to the next business or to put the question to a vote or to adjourn the debate or to adjourn the meeting. If such a motion is seconded, the Chairman shall proceed as follows:

a On the motion to proceed to the next business:

Unless in the Chairman's opinion the matter before the meeting has not been sufficiently discussed, the Chairman shall first give the mover of the original motion the right to speak against the closure motion, and then put to the vote without debate the motion to proceed to the next business.

b On a motion to put the question to a vote:

Unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, the Chairman shall first put to the vote without debate the motion that the question be now put and if it is passed then give the mover of the motion under debate a right of reply before putting the motion or amendment to the vote.

c On a motion to adjourn the debate:

If in the Chairman's opinion the matter before the meeting cannot reasonably be discussed on that occasion, the Chairman shall put the adjournment motion without debate to the vote, without giving the mover of the original motion the right of reply. If the motion is passed, consideration of the matter under discussion shall stand adjourned to the next ordinary meeting of the Council.

d On a motion to adjourn the Council:

A member may move at any time to adjourn the meeting. The mover and one other speaker replying on the invitation of the Chairman may speak for four minutes each and the question shall then be put. If the motion is carried the meeting shall stand adjourned with unfinished business held over to the next ordinary meeting of the Council, unless an extraordinary meeting is called to deal with it.

26 If any question arises at a Council meeting concerning a particular person employed or formerly employed by the Council, the Chairman shall move a motion that shall immediately and without debate be put to the vote, to exclude the public under Section 100A(4) and Schedule 12A paragraph 1 of the Local Government Act 1972.

11 **DISORDERLY CONDUCT**

1 If, in the opinion of the Chairman, any member of the Council misbehaves at a meeting by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, the Chairman or a member may move not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.

- 2 If, in the opinion of the Chairman, the member persistently misbehaves after such a motion has been carried, the Chairman may require the removal of the member for such period as the Chairman shall determine. The Chairman may if necessary adjourn or suspend the sitting of the Council.
- 3 If a member is required to leave a meeting under this Standing Order, the member is not entitled to vote during the period of exclusion.
- 4 If a member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may order the person's removal from the Council Chamber.
- 5 In case of general disturbance in any part of the chamber open to the public the Chairman may order that part cleared. If the Chairman considers it necessary, he may adjourn or suspend the sitting of the Council.

12 VOTING

- 1 Voting is generally by a show of hands.
- 2 Any member may ask for a vote to be recorded provided he/she is supported by nine other members who show their support by standing up. Individual votes will then be taken by way of a roll call and recorded in the minutes so as to show how each member present and voting gave his/her vote.
- 3 Whenever a vote is taken by show of hands and not by roll call, the Chairman shall ask for those in favour, and those against to vote in turn. He will then ask those abstaining from voting to indicate accordingly. Any member may ask for the number of those in favour, the number of those against and the number of those abstaining to be recorded in the minutes.
- 4 A member may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- 5 If a member arrives before the casting of votes has been commenced he/she is entitled to vote.
- 6 Immediately after a vote is taken any member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- 7 The Chairman, or other person presiding, will have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- 8 Where there are more than two persons nominated for any position to be filled by the Council, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.
- 9 Where a vote is taken for the election of the Chairman of the Council and the current Chairman is present in the room and not seeking re-election, the current Chairman will preside over the election of a new Chairman.

10 Where the current Chairman is seeking re-election, he/she may not be present in the room when the election is taking place. He/she should arrange for another member to submit his / her nomination and to preside over the election.

11 Officers shall not call for nominations for the election of the Chairman.

13 APPOINTMENT OF COMMITTEES

1 The Council, or a duly constituted committee acting in the exercise of its delegated powers and in accordance with its terms of reference, shall be entitled to take all necessary action to fulfil its duties.

2 The following committees shall be Standing Committees of the Council.

- Overview & Scrutiny Commissioning Committee
- Health Overview & Scrutiny Committee
- Development Control Committee
- Regulatory and Audit Committee
- Appeals and Complaints Committee
- Rights of Way Committee
- Senior Appointments and Bucks Pay Committee
- Pension Fund Committee
- Standards Committee

3 The Council will appoint members of committees in accordance with the principles of political balance set out in section 15 of the Local Government and Housing Act 1989. The total number of seats available on all committees will be distributed among the political groups in proportion to their membership of the Council. Subject to this, the number of seats on each committee will then be distributed among the political groups in proportion to their membership of the Council.

4 The Council is entitled to co-opt to committees appointees who are not elected members of the Council in accordance with its powers under the law. Co-optees are not entitled to vote on any matters before the committee unless otherwise provided elsewhere in this constitution or in the general law.

5 Any church representatives or governors shall be members of the Children's Services Overview and Scrutiny Committee.

6 Before the annual meeting in the year of election of members the Head of Legal and Democratic Services will consult with the retiring Chairman of the Council and Group Leaders on the size and membership of Committees and will report as appropriate to the annual meeting immediately following the election.

7 The Council will appoint committees taking account of this report.

8 The Head of Legal and Democratic Services will also consult with the retiring Chairman of the Council and group leaders on the size and membership of sub-committees of the Standing Committees and will report to each Standing Committee at its first meeting after the annual meeting of the Council in the year of the election of members. Standing Committees will appoint sub-committees taking account of these reports.

- 9 Upon nomination from the appropriate Group Leader or the Head of Legal and Democratic Services the Council may appoint members to fill any casual vacancies that may arise.
- 10 The Head of Legal and Democratic Services may by delegated powers vary the membership of a committee by appointing substitute members on a permanent or temporary basis on the nomination of a Group Leader.
- 11 Any nomination must be received and acted upon prior to the commencement of the relevant meeting of the Committee.
- 12 If a Member has been substituted, he/she cannot be appointed Chairman or Vice-Chairman in his/her absence

14 RIGHTS OF ACCESS TO THE COUNCIL, CABINET AND COMMITTEES

- 1 Meetings of the Council, the Cabinet and any committees shall be open to the public except when dealing with exempt or confidential information. The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire and on the Internet. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 The public may be excluded from the whole or part of a meeting of the Council, or any of its committees, on the ground that exempt information would be disclosed. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.
- 3 The public must be excluded from any meeting of the Council, or any of its committees, when any information would be disclosed to them which
 - a has been provided by a government department on terms which forbid disclosure, or
 - b would be prohibited by law or by an order of the court.
- 4 The Head of Legal and Democratic Services shall determine which Committee reports or parts of reports are unlikely to be taken in public and shall withhold such papers from public circulation.
- 5 A member who is not a member of a committee may attend a meeting of the committee to make a statement on behalf of his/her constituents where an item under discussion directly affects the member's division. The member must obtain the prior consent of the Chairman of the meeting, which shall not be unreasonably withheld.
- 6 Where a committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, members who are not members of that committee will generally also be excluded from that meeting or part of the meeting. However, a member may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the committee if he can demonstrate a "need to know".

- 7 A member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a member. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a member to "rove through" a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.
- 8 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Overview & Scrutiny Committees where they are relevant to that business to be conducted by that committee. This presumption may be disapplied in exceptional circumstances.
- 9 In the event of a dispute, the Head of Legal and Democratic Services will determine whether a member has demonstrated a "need to know". The test that will be applied is whether it is reasonable to refuse access given all the circumstances. For example, if a member is motivated by improper or ulterior reasons, it would be appropriate to refuse access.

15 SUMMONS AND AGENDA PROCEDURE

- 1 At least five clear working days before a meeting of the Council a summons to attend the meeting in the name of the Head of Legal and Democratic Services together with an agenda specifying the business to be transacted shall be delivered to the usual place of residence (or such other address as the member may specify) of every member of the Council, provided that want of service of the summons shall not affect the validity of the meeting.
- 2 Any additions or amendments to an agenda that has been served on members and/or any supplemental agenda must be approved by the Head of Legal and Democratic Services or the Leader or the Deputy Leader. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 3 No business may be transacted at a meeting of the Council which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the Council agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the minutes.

16 INSPECTION OF DOCUMENTS

- 1 Agendas of Council, Committee meetings and public Cabinet meetings and reports, except those marked "Not for Publication", will be available for inspection on request by the public at County Hall during normal office hours and at the major reference libraries in the County. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 All documents which are open to public inspection, will normally be available at least five clear days before the relevant meeting. If it is not reasonably

- 3 Members of the public may submit comments in writing about any published report, within five days of its publication. Where practicable, such comments will be attached to the report.
- 4 Any document in the possession of the Council which relates to an item on the agenda of a meeting of the Council or any of its committees shall be open to inspection by members of the Council, but this right of access does not extend to confidential or exempt information.
- 5 Members of the Council who can satisfy the "need to know" test will be entitled to inspect papers in the possession of the Council not otherwise open to members. The "need to know" test is explained in Standing Order 13.
- 6 Members of the Council shall not knowingly inspect or call for a copy of any document in the possession of the Council on any matter in which they are professionally interested or in which they have a prejudicial interest as defined in the Code of Conduct for Members.
- 7 The Head of Legal and Democratic Services may refuse to allow inspection of any document in the possession of the Council which is, or in the event of legal proceedings would be, protected by legal privilege.
- 8 The Head of Legal and Democratic Services will decide which documents cannot automatically be disclosed to members.
- 9 A member shall not disclose or quote in public the contents of any agenda, report or other document which is marked "Confidential" or "Not for Publication" unless the document has already been made available to the public or the press on behalf of the Council.
- 10 A member shall not disclose to a non-member or quote in public any unpublished matter disclosed to the member in his/her capacity as a member of the Council where such disclosure would prejudice the interests of the Council.

17 INTEREST OF MEMBERS AND OFFICERS

- 1 All members on accepting office shall declare that they will observe the Code of Conduct of Buckinghamshire County Council set out in part 5a of this Constitution. Members must familiarise themselves with the content of the Code of Conduct and adhere to it scrupulously. If a member has any uncertainties about the provisions of the Code of Conduct or about whether he/she has a personal and/or prejudicial interest in a matter, he/she should consult the Head of Legal and Democratic Services or the Standards Committee.
- 2 Every member shall submit details of his/her interests to the Head of Legal and Democratic Services who shall maintain a Register of Members' Interests as required under the Code of Conduct. The Register shall be open during normal office hours to the inspection of any member of the public.

- 3 The Head of Legal and Democratic Services shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under Section 117 of the Local Government Act 1972, of a prejudicial interest in a contract, and the book shall be open during office hours to the personal inspection of any member of the Council.

18 INSPECTION OF LANDS OR PREMISES

- 1 A member of the Council, unless authorised to do so, has no right to enter and/or inspect any lands or premises which the Council has the right or statutory duty to inspect.
- 2 A member of the Council has no right to enter County Council premises or require any action to be taken for any works to be carried out by or on behalf of the Council without proper authority being given.

19 CANDIDATES FOR APPOINTMENT

- 1 Canvassing of members of the Council or any Committee of the Council directly or indirectly for any employment under the Council shall disqualify the candidate for such appointment.
- 2 A member of the Council shall not seek for any person any employment with the Council, or recommend any person for such appointment or for promotion; but this shall not prevent a member from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.
- 3 Candidates for any appointment to the Council who know that they are related to any member or senior officer of the Council shall, when making application, disclose that relationship. A candidate who fails to do so shall be disqualified from appointment and, if appointed, shall be liable to dismissal without notice.
- 4 Every member and senior officer of the Council shall disclose to the Head of Legal and Democratic Services any relationship he/she knows to exist between himself/herself and a candidate for an appointment of which he/she is aware. It shall be the duty of the Head of Legal and Democratic Services to report to the Council or to the appropriate committee any such disclosure made.
- 5 When a relationship to a member of the Council is disclosed, the provisions of the Code of Conduct may apply.
- 6 For the purpose of this Standing Order "senior officer" means an officer the maximum of whose salary grade exceeds the maximum of Bucks Pay Range 6. Persons shall be considered to be related if they are:
- Father or mother
 - Husband or wife or partner
 - Son or daughter
 - Son-in-law or daughter-in-law
 - Grandson or granddaughter
 - Brother or sister
 - Nephew or niece

of the member or the senior officer or his/her spouse/partner.

- 7 Where the Council proposes to appoint the Chief Executive to the Council, a Strategic Director, the Monitoring Officer (Head of Legal and Democratic Services) or the Chief Finance Officer (Head of Finance) and it is not proposed that the appointment be made from among its existing officers, it shall
- a draw up a statement specifying
 - i the duties of the officer concerned, and
 - ii any qualifications or qualities to be sought in the person to be appointed;
 - b make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - c make arrangements for a copy of the statement mentioned in paragraph a to be sent to any person on request.
- 8 Where a post has been advertised as provided in paragraph (7)(b), the Council shall
- a interview all applicants for the post, or
 - b select a short list of such applicants and interview those included on the short list; or
 - c where no qualified person has applied the Authority shall make further arrangements for advertisement in accordance with Standing Order 18(7)(b).
- 9 Every appointment of a Chief Executive, a Strategic Director, the Monitoring Officer or the Chief Finance Officer shall be made by the Council's Senior Appointments and Bucks Pay Committee.
- 10 No disciplinary action in respect of the Chief Executive to the Council, the Head of Finance (Chief Finance Officer) or the Head of Legal and Democratic Services (Monitoring Officer), except action described in paragraph 11, shall be taken by the Authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 11 The action mentioned in paragraph 10 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which it takes effect.

20 PROCEDURES RELATING TO STANDING ORDERS

- 1 Any Standing Order other than those governed by statutory requirements may be suspended by resolution of the Council. Any suspension may only apply to any business at the meeting of the Council during which the suspension is moved.

- 2 A motion to suspend a Standing Order or Orders may be moved without notice unless less than one quarter of the whole number of the members of the Council is present.
- 3 Any motion for a suspension shall state the specific Standing Order(s) which it is intending to suspend.
- 4 These Standing Orders may be added to, varied or revoked by giving notice under Standing Order 6.
- 5 A printed copy of these Standing Orders and of the statutory provisions which govern the procedure at meetings of the Council shall be given to each member of the Council by the Head of Legal and Democratic Services on delivery of the member's declaration of acceptance of office.
- 6 A copy of the Council's Constitution containing these Standing Orders and of the statutory provisions which govern the procedure at meetings of the Council will be published on the Council's internet site and updated as changes are made.
- 7 Every Committee, the Cabinet, Portfolio Holders and Officers shall comply with the Scheme of Delegation to Committees, and all Standing Orders, including the Financial Regulations, Standing Orders as to Contracts and the Scheme of Delegation to Officers.

21 PUBLICATION OF ADDITIONAL INFORMATION

- 1 The Council shall maintain a register giving:
 - a the name and address of every member of the council for the time being and the division which he/she represents; and
 - b the name and address of every member of any Committee or body of the Council
- 2 The Council shall maintain a list:
 - a specifying those powers of the Council which are exercised by officers of the Council
 - b stating the designation of the officer by whom each of the powers listed is exercised

but a power need not be specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.
- 3 There shall be kept at the offices of the Council a written summary of the rights of members and the public:
 - a to attend meetings of the Council, its Committees and other bodies
 - b to inspect and copy documents and to be provided with documents.

- 4 The register maintained under paragraph (1) above, the list maintained under paragraph (2) above and the summary kept under paragraph (3) above shall be open to inspection by the public at the Council's offices during normal office hours.

21 REGULATING PROCEEDINGS AND BUSINESS

- 1 In this Part

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

- 2 Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

- 3 Before the authority

- a amends the draft plan or strategy;
- b approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- c adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- 4 Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may

- a submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
- b inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.

- 5 When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when

- a amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

b approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

c adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

6 Subject to paragraph 10, where, before 8 February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year

a estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

b estimates of others amounts to be used for the purposes of such a calculation;

c estimates of such a calculation; or

d amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them; it must take the action set out in paragraph 7.

7 Before the authority make a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8 Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may

a submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or

- b inform the authority of the disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.
- 9 When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account
- a any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - b the executive's reasons for those amendments;
 - c any disagreement that the executive has with any of the authority's objections; and
 - d the executive's reasons for that disagreement,
- which the executive leader submitted to the Authority, or informed the authority of, within the period specified.
- 10 Paragraph 6 to 9 shall not apply in relation to
- a calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52 J, 52T or 52U of the Local Government Finance Act 1992; and
 - b amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

23 STAFF

1 In this Part

"The 1989 Act" means the Local Government and Housing Act 1989;

"The 2000 Act" means the Local Government Act 2000;

"Disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Executive" and "executive leader" have the same meaning as in Part II of the 2000 Act;

"Member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"Proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

- 2 Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.
- 3 Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against
- a the officer designated as the head of the authority's paid service;
 - b a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
 - c a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - d a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
 - e a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- 4(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointments is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph a, b, c or d of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
- 5(1) In this paragraph, "appointor" means, in relation to the appointment of a person as officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph a, b, c or d of paragraph 3 must not be made by the appointor until
- a the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - b the proper officer has notified every member of the executive of the authority of
 - i the name of the person to whom the appointor wishes to make the offer;
 - ii any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

- iii the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - c either
 - i the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
 - ii the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
 - iii the appointor is satisfied that any objection received from the executive leader within the period is not material or is not well-founded.
- 6(1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph a, b, c or d of paragraph 3 must not be given by the dismissor until
- a the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - b the proper officer has notified every member of the executive of the authority of
 - i the name of the person who the dismissor wishes to dismiss;
 - ii any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - iii the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
 - c either
 - i the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
 - ii the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or

- iii the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
- 7 Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by
 - a another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - b a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

b ACCESS TO INFORMATION STANDING ORDERS

1 INTRODUCTION

The Council is committed to the principles laid down in the Freedom of Information Act 2000. In accordance with the Act, it maintains a Publication Scheme approved by the Information Commissioner which is available on the Council's website. It is committed to:

- Promoting a positive attitude to dealing with requests for information
- Maintaining information in an orderly and efficient fashion and disposing of information that is no longer required.
- Increasing awareness and understanding of the implications of the Act, both amongst its employees and amongst members of the public.

These standing orders make provision for access to information relevant to matters set out in this Constitution. They do not affect any additional rights to information contained elsewhere in this Constitution or the law.

2 SCOPE

These standing orders apply to all meetings of the Council, Overview and Scrutiny Committees, Local Committees, Joint Committees, the Standards Committee, Regulatory and Audit Committees and public meetings of the Cabinet (together called meetings).

These rules do not affect any additional rights to information contained elsewhere in this Constitution or granted by law.

3 RIGHTS TO ATTEND MEETINGS

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

4 NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire and on the Internet.

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 days before the meeting. If an item is added to the agenda later, the Head of Legal and Democratic Services shall make each report available to the public as soon as the report is completed and sent to members, and will ensure that it will be open to inspection from the time the item was added to the supplementary agenda.

6 **SUPPLY OF COPIES**

The Council will supply copies of:

- a any agenda and reports which are open to public inspection;
- b any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- c if the Head of Legal and Democratic Services thinks fit, copies of any other documents supplied to members in connection with an item

to any person on payment of a charge for postage and any other costs under the Council's Charging Policy. Under the Freedom of Information Act, information would be supplied free until it goes over the threshold of £450, when a charge of this level would be levied.

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

8 **BACKGROUND PAPERS**

8.1 **List of background papers**

The Head of Legal and Democratic Services 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 Access to Information Standing Order 10) and in respect of Executive reports, the advice of a political advisor.

8.2 Public inspection of background papers

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

8.3 Use of media technology in the Council and Committees

At the discretion of the Chairman of the Council or the Chairman of the Committee, recording of meetings and use of media technology will be permitted provided that it does not release information that the Council has identified as being confidential under the Access to Information Regulations. The Council supports the use of networking sites to disseminate information during their meetings provide that confidential information as outlined above is not deliberately or inadvertently disclosed.

9 SUMMARY OF THE 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 Buckinghamshire County Council, County Hall Aylesbury.

10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from an item at a meeting 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 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 reason of a Court Order or any enactment.

10.3 Exempt information – discretion to exclude public

The public may be excluded from an item at a meeting 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 a decision on an item at a meeting will determine any person's rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the discussion of the item will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of exempt information

Subject to paragraph 10.5 below, and to the test of the Public Interest set out in paragraph 10.6 below, information is exempt information where it falls within any of the following categories:

- 1 Information relating to an individual.
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes including the Companies Act 1985 and the Charities Act 1993.

“Financial or business affairs” includes contemplated, as well as past or current activities.
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority.

“Labour relations matter” means any matter which may be the subject of a trade dispute, or any dispute about any such matter (ie a matter specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.
- 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 to be imposed on a person; or
 - b to make an order or direction under any enactment.
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

10.5 **Planning permission**

Information falling within any of the categories 1-7 in paragraph 10.4 is not thereby exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.6 **Public interest test**

Information falling within any of categories 1-7 in paragraph 10.4, which is not prevented from being exempt because either:

- a it falls within category 3, and is required to be registered under the prescribed enactments; or
- b paragraph 10.5 applies to it

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.

10.7 Freedom of Information Act

In compliance with the Freedom of Information Act, the Council will respond to any requests for information. There is no charge for responding to requests for information other than 'disbursement' costs; however, a charge is made if it exceeds the Government's advisory fee level.

11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

The Head of Legal and Democratic Services may exclude access by the public to a report which, in his or her opinion, relates to an item during which, in accordance with Access to Information Standing Order 10, the meeting is likely not to be open to the public; or, as the case may be, was not 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 STANDING ORDERS TO THE CABINET

Standing Orders 13 – 24 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Standing Orders 1 – 11 unless Standing Order 15 (general exception) or Standing Order 16 (special urgency) apply. The Cabinet and individual Cabinet Members will also comply with the Protocol on Key Decision Making by the Cabinet and by Individual Cabinet Members attached in Part 4 of this Constitution. A key decision is as defined in Article 13.3 of this Constitution.

If the Cabinet meets to discuss a key decision to be taken collectively, with an officer within 28 days of the date according to the Forward Plan by which the matter is to be decided, then it must also comply with Standing Orders 1 – 11 unless Standing Order 15 (general exception) or Standing Order 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution. This requirement does not include meetings, the sole purpose of which is for officers to brief members.

13 PROCEDURE BEFORE TAKING KEY DECISIONS

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

- a a notice (called here a Forward Plan) has been published in connection with the matter in question;
- b at least five clear days have elapsed since the publication of the notice of the decision; and
- c where the decision is to be taken at a meeting of the Cabinet or a Committee, notice of the meeting has been given in accordance with Standing Order 4 (notice of meetings).

14 THE FORWARD PLAN

The Leader will prepare a Forward Plan which must list all Key Decisions which the Cabinet anticipate that they will take during the next four months, together with any particularly significant Key Decisions which they anticipate that they will take within the next four to 12 months. Individual Cabinet Members will also prepare Forward Plans on the same basis. The Chief Executive may also include in the Forward Plan reference to such other decisions, which are to be taken by the Council or any of its Committees or Sub-Committee as he considers appropriate.

The Forward Plan shall include the following information in respect of each Key Decision:

- a the matter in respect of which the decision is to be taken
- b the person or body by whom the decision is to be taken
- c the date on which, or the period within which, the decision is to be taken
- d those persons or bodies whom the decision-taker proposes to consult before taking the decision
- e the means by which such consultation is to be carried out
- f the date by which any representation must be received, and the addressee by whom it must be received, if it is to be taken into account by the decision taker
- g a list of any documents (such as issues papers, previous officer reports or records of previous decisions on the matter) which are available to the public in respect of the decision.

Where the Cabinet anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Cabinet may limit the entry in the Forward Plan to such information as may be disclosed without prejudice. At least 14 clear days before the first day on which the Forward Plan has effect, the Head of Legal and Democratic Services shall arrange for a notice to be published which informs the public of the importance and availability of the Forward Plan.

The Cabinet shall review and update the Forward Plan at least once in every calendar month, and shall make arrangements for the revised Forward Plan to be provided to all members of the Council and available to the public on request.

15 GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Standing Order 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; and/or

- b the Corporate Director People and Policy has informed the Chairman of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made; and/or
- c the Head of Legal and Democratic Services has made copies of that notice available to the public at the offices of the Council; and
- d at least five clear days have elapsed since the Corporate Director People and Policy complied with (a) and (b).

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

16 SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Standing Order 15 (general exception) cannot be followed, or the decision has been on the Forward Plan but the five clear days notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Leader and the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

If a decision needed to be taken that has not had the required notice on the Forward Plan but gives five clear days notice then the Overview and Scrutiny Chairman needs to be informed.

If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.

17 MAJOR EMERGENCIES

- 17.1 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Cabinet Member or, if appropriate, an officer (see Article 13.3) may take any immediate urgent decision required without consultation.
- 17.2 For the purposes of this Standing Order, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.
- 17.3 In a major emergency, the Leader or Deputy Leader shall as soon as practicable appoint an emergency committee, comprising Cabinet Members, local members for the area(s) worst affected and the Chairman of the appropriate Scrutiny Committee. This committee may take decisions to deal with the major emergency until it is practicable for normal constitutional processes to resume.

18 REPORT TO COUNCIL

18.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks that a 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 Chairman, or the Chairman/Vice Chairman of the Council under Standing Order 16; or
- d taken during a major emergency in accordance with Standing Order 17;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Head of Legal and Democratic Services, who shall require such a report on behalf of the Committee when so requested by at least 50% of the members of the Overview and Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

18.2 The Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven 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.

18.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the key decisions taken in the circumstances set out in Standing Order 16 (special urgency) and/or Standing Order 17 (major emergencies) 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.

19 RECORD OF DECISIONS

After any meeting of the Cabinet, the Head of Legal and Democratic Services, or, where no officer was present, the person presiding at the meeting, 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 and, where appropriate, any alternative options considered and rejected at that meeting.

20 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet have decided that meetings relating to matters which are not key decisions will be held in public.

Where a Cabinet Member or Officer takes a decision other than a Key decision he/she shall keep such notes and records of the decision as s/he considers appropriate in the circumstances and taking into account any requirements to produce such information to an Overview and Scrutiny Committee, if requested to do so.

21 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

21.1 Reports intended to be taken into account

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

21.2 Provision of copies of reports to Overview and Scrutiny Committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

21.3 Record of individual decision

As soon as reasonably practicable after any decision has been taken by an individual Member of the Cabinet or after a decision which would, if taken by a Member, be a key decision, has been taken by an officer in the circumstances permitted under Article 13.3, he/she will prepare, or instruct the proper officer to prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Standing Orders 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet, or to a decision taken by an officer in accordance with Article 13.3. This does not require the disclosure of exempt or confidential information, or of advice from a political assistant.

22 OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to paragraph 22.2 below, a relevant Overview and Scrutiny Committee (including its Sub-Committees) will be 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 the Cabinet or its Committees;
or

- b any decision taken by an individual Member of the Cabinet.

22.2 **Limit on rights**

An Overview and Scrutiny Committee will not be entitled to scrutinise:

- a any document that is in draft form and not yet formally available for consideration by the Cabinet or an individual Cabinet Member except when this has been agreed by Cabinet or the Cabinet Member;
- 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 is relevant to a decision which they have given notice of their intention to scrutinise

23 **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

23.1 **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 and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Standing Order 10.

23.2 **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 Standing Order 22.2(a) or (b) above applies.

23.3 **Nature of rights**

These rights of a member are additional to any other right he/she may have.

c BUDGET AND POLICY FRAMEWORK PROCEDURE STANDING ORDERS

1 THE FRAMEWORK FOR EXECUTIVE DECISIONS

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

2 PROCESS FOR DEVELOPING THE FRAMEWORK

- a Before a plan/strategy/budget needs to be adopted, the Cabinet will publish initial proposals for the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Any representations made to the Cabinet may be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where an Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- b The Cabinet's proposals shall be referred to the relevant Overview and Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Lead Officer for Scrutiny who will forward them to the Chairman of the relevant Overview and Scrutiny Committee. If there is no such Chairman, a copy must be sent to every member of that committee. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall agree the timescale for their response to these initial proposals with the Cabinet, taking into account any special factors.
- c Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- d The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from any relevant overview and scrutiny committee.
- e If the Council does not agree the policy in accordance with these rules the provisions of Council Standing Order 21 will apply.
- f The Cabinet may agree to the use of un-earmarked reserves during the financial year so long as it is not proposed to reduce such reserves below 3% of the Council's net budget requirement (or other limits set from time to time by the Council).

- g Any planned use of un-earmarked reserves that would take the level below 3%, or other such limits set by the Council, must be considered and agreed by a full meeting of the County Council.

3 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a Subject to the provisions of the Financial Regulations, the Cabinet, individual members of the Cabinet or any officers, local committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to the budget approved by full Council, then that decision may only be taken by the Council, subject to Standing Order 4 below.
- b If the Cabinet, individual members of the Cabinet or any officers, local committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or 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 Standing Order 4 (urgent decisions outside the budget and policy framework) below shall apply.

4 URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a The Cabinet, an individual member of the Cabinet or officers, local committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - i if it is not practical to convene a quorate meeting of the full Council; and
 - ii if the Chairman of 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 consent of the Chairman of the relevant Overview and Scrutiny Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Overview and Scrutiny Committee the consent of the Chairman of the Council or, in his/her absence the consent of the Vice-Chairman, will be sufficient.

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

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

- a Where an Overview and Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget, 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 made 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/or the Chief Finance Officer's report. It shall prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, or prepare a report 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 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 21 working 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 Finance Officer. The Council may either:
 - i endorse a decision or proposal of the Cabinet 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 members in the normal way; or
 - ii amend the Council's budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all members 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 or Chief Finance Officer.

d EXECUTIVE STANDING ORDERS

1 HOW DOES THE CABINET OPERATE?

1.1 Who may make Executive decisions?

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

- a the Cabinet as a whole;
- b an individual member of the Cabinet;
- c an officer (subject to the Scheme of Delegation to Officers);
- d a local committee;
- e joint arrangements; or
- f another local authority.

1.2 Delegation by the Leader

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

- a the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- b the extent of any authority delegated to Executive members individually as Portfolio holders, including details of the limitation on their authority;
- c the terms of reference and Constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- d 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 Executive members appointed to any Joint Committee for the coming year; and
- e 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.

1.3 **Sub-delegation of Executive functions**

- a Where the Cabinet, or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to an officer.
- b Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to an officer.
- c Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

1.4 **The Council's scheme of delegation and Executive functions**

- a Subject to (b) below the Council's Scheme of Delegation to Cabinet Members will be subject to adoption by the Council and may only be amended by the Council. The Scheme shall be made in accordance with Article 7 and Part 3h of this Constitution.
- b The Leader may amend the Scheme of Delegation to Cabinet Members relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. Where the proposal provides for a change in delegation to a local committee, joint committee or other joint working arrangement the Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader. In all other cases, the appropriate amendments to the Constitution will be made by the Monitoring Officer.
- c Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

1.5 **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 every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- c If the exercise of an Executive function has been delegated to 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 and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 **Executive meetings – when and where?**

The Cabinet shall normally meet at least 12 times a year at such dates and times as shall be:

- a determined by the Leader and notified by the Leader to the Corporate Director People and Policy and the Head of Legal and Democratic Services.
- b determined by the Corporate Director People and Policy where possible after consultation with the Leader (or in his absence, the Deputy Leader), being within 15 days following receipt of a written requisition signed by at least three members of the Cabinet stating the matter or matters to be considered at that meeting, or
- c exceptionally, determined by the Corporate Director People and Policy where in his opinion, where possible after consultation with the Leader (or in his absence, the Deputy Leader), there is an urgent matter or urgent matters which require the consideration of the Cabinet but no convenient meeting of the Cabinet has been arranged.

All meetings of the Cabinet shall be held at County Hall, Aylesbury unless the Leader notifies the Corporate Director People and Policy of an alternative location for a particular meeting.

The Corporate Director People and Policy shall maintain a diary of all future meetings of the Cabinet, and shall as far as possible ensure that the dates of meetings of the Cabinet for the coming months are notified to all members of the Council and made available to the public.

1.7 **Quorum**

The quorum at any meeting of the Cabinet shall be three.

If a quorum is not present within 10 minutes of the scheduled start of a meeting the business of the meeting shall be adjourned until the next meeting of the Cabinet.

1.8 **How are decisions to be taken by The Cabinet?**

Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Standing Orders in Part 4 of the Constitution.

2 HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

The Leader or, in his absence, the Deputy Leader shall preside at meetings of the Cabinet. In the absence of both the Leader and the Deputy Leader, the members of the Cabinet present shall choose a person to preside.

2.2 Who may attend?

The Press and public shall be entitled to admission to all meetings of the Cabinet except:

- a where the Cabinet resolves that the Press and public be excluded for all or part of the consideration of a matter because the discussion of that matter is likely to result in the disclosure of exempt or confidential information, or
- b where the person presiding at the meeting has ordered their removal in order to prevent disruption of the meeting

Any member may attend any meeting of the Cabinet as a member of the public except:

- a where excluded under paragraph (a) above, or
- b where the member would have been required to declare an interest in the matter if it had come before a meeting of the Council at which the member was present.

A member who is not a member of the Cabinet may only speak at the meeting if invited to do so by the person presiding.

Officers' rights of attendance shall be as follows:

- a Strategic Directors shall be responsible for ensuring that they are present or represented at meetings of the Cabinet when necessary in order to assist the Cabinet in the conduct of its business and enable the efficient discharge of the decisions of the Cabinet
- b The Statutory Officers of the Council, or their nominees, shall be entitled to attend all meetings of the Cabinet and to speak on issues affecting their statutory responsibilities

Substitutes are not permitted for Cabinet members. The absence of a Cabinet member for any reason shall not prevent consideration and determination of a matter. If a matter is delegated to a Cabinet member it may be referred to the Cabinet for decision. A Cabinet Member can ask their Lead Spokesperson to speak on their behalf, but they are not able to vote at Cabinet Meetings.

2.3 Deputations

Deputations will not be received at meetings of the Cabinet. Cabinet members will meet deputations from local members, interested members of the public, community groups and other interested parties to discuss matters which are to be considered by the Cabinet or decided by Cabinet members. At least one officer will attend such meetings to give professional advice. The Corporate Director People and Policy will ensure that a note is made of any discussion.

2.4 What business?

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

- a consideration of the minutes of the last meeting;
- b declarations of interest, if any;
- c 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 Standing Orders or the Budget and Policy Framework Standing Orders set out in Part 4 of this Constitution;
- d consideration of reports from Overview and Scrutiny Committees; and
- e matters set out in the agenda for the meeting. The agenda, shall indicate which are key decisions and which are not in accordance with the Access to Information Standing Orders set out in Part 4 of this Constitution and (b) petitions referred to the Cabinet in accordance with the Council's Petitions Scheme, as set out in Part 4 of the Constitution.

2.5 Consultation

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

Reports to the Cabinet will normally appear in the name of the Cabinet Member incorporating advice from appropriate officers. Exceptions will include a report from a Statutory Officer. The originator of a report will ensure that draft reports are the subject of consultation with the Corporate Director People and Policy and any relevant Heads of Service, including in all cases the Chief Finance Officer and the Monitoring Officer.

2.6 Who can put items on The Cabinet agenda?

At least five clear days before any meeting of the Cabinet (unless it is an urgent meeting), the Corporate Director People and Policy shall deliver to Cabinet Members a summons giving the date, time and place of the meeting, the agenda and inviting their attendance.

The Corporate Director People and Policy shall include on the agenda:

- a agenda items notified by the Leader (or in his absence the Deputy Leader) to the Corporate Director People and Policy.
- b matters that the Leader or the Cabinet have decided to review being matters for determination by the Council, or a Committee
- c such matters as the Corporate Director People and Policy, where possible after consultation with the Leader (or in his absence, the Deputy Leader), determines are necessary for the Cabinet to consider for the proper discharge of the Council's functions,
- d matters referred or recommended to the Cabinet by Council, or a Committee
- e matters notified to the Corporate Director People and Policy in a requisition signed by at least three members of the Cabinet
- f reports from Statutory Officers in respect of Executive functions.

2.7 Urgent Meeting

An urgent meeting of the Cabinet may be held without the five clear days' notice to discuss an urgent matter which falls within Rule 16 of the Access to Information Standing Orders.

3 CODES AND PROTOCOLS (Supporting Guidance to Standing Orders)

Protocol A PROTOCOL ON KEY DECISION MAKING BY THE CABINET AND BY INDIVIDUAL CABINET MEMBERS

Subject to the following paragraph, no Key Decision shall be taken before the expiry of five clear days from publication of a written report which shall contain all or any of the matters listed below as appropriate.

The above requirements shall not apply in a case of:

- Special Urgency (ie a case to which Access to Information Standing Order 16 applies) where, in the view of those office-holders agreeing under that Standing Order to the use of the Special Urgency procedure, the risk of prejudice to the interests of the Council or to persons in its area if the decision is not taken before the expiry of five clear days is sufficiently serious that the decision should be taken before the expiry of that period; or
- Major Emergency (ie a case to which Access to Information Standing Order 17 applies).

In any case to which the above paragraph applies, a report of the kind referred to in this Protocol shall be published as soon as practicable before or after the decision has been taken.

The matters to which the first paragraph of this Protocol refers are as follows:

- 1 the officer or Member making the recommendation;
- 2 the person or body which will take the decision;
- 3 the issue to be decided;
- 4 the date on which the decision will be made;
- 5 the date by which representations may be made and to whom they should be addressed;
- 6 the timescale for implementation of the decision;
- 7 confirmation or otherwise that the issue falls within the current four month forward plan;
- 8 where the proposed decision is not included in the current Forward Plan, **and** it is not possible to give five clear days notice, whether the written agreement has been obtained of the Leader and Chairman of a/each relevant Overview and Scrutiny Committee or, if they are unable or unwilling to act, of the Chairman or in his absence the Vice-Chairman of the Council, that the proposed decision cannot reasonably be deferred;
- 9 whether the report contains confidential or exempt information (that is, information which justifies the exclusion of the press and public);
- 10 the reasons for the recommendation and any other options;

- 11 any legal requirements;
- 12 any comments from the Corporate Director People and Policy;
- 13 any County Council policy relating to the issue;
- 14 any relevant national or regional guidance;
- 15 staffing, financial and all other resource implications;
- 16 any comments or recommendations from the relevant Overview and Scrutiny Committee or its Chairman;
- 17 any consultations undertaken, including district, town and parish councils and other organisations and responses received, if any;
- 18 implications for other County Council activities;
- 19 the electoral division(s) affected and confirmation that the local member(s) has been consulted when appropriate (local members will also be sent a copy of the report to be considered by the Cabinet or Cabinet Member);
- 20 any background papers referred to.

“Publication” means the dispatch of the report to all members of any or each relevant Overview and Scrutiny Committee, and the preparation of copies of the report such that the Head of Legal and Democratic Services can make it available to any other member of the Council or to a member of the public on request.

When a politically contentious matter arises or when the Strategic Director or Head of Service does not wish to support the recommendations of the Cabinet member to the Cabinet, the report must contain the professional advice of the relevant officer to enable a fully informed decision to be made, even where the officer’s views may not accord with those of the Cabinet Member.

**Protocol B: A PROTOCOL FOR OVERVIEW AND SCRUTINY COMMITTEE (OSC)
AND CABINET WORKING WHEN AN OSC REPORT IS PRESENTED
TO THE CABINET**

- 1 Should it be decided, on completion of an Overview and Scrutiny review that a report of the review should be presented to the Cabinet, the Cabinet Member(s), Strategic Director(s) and Head(s) of Service shall be notified accordingly and provided with an advance copy of the report.
- 2 If required, discussions should take place between the OSC Chairman and the Policy Support Officer (PSO) for the OSC, the appropriate Cabinet Member(s), Strategic Director(s) and other officers. The discussion should be concerned with correcting factual errors in the report, considering the practicality of recommendations and identifying any areas of disagreement. This would not necessarily lead to the report being changed.
- 3 The PSO will agree the Cabinet date and notify appropriate members and officers.
- 4 Should the date be changed by the OSC the PSO will notify all parties as appropriately.
- 5 Should Cabinet support staff change the date the Chairman of the OSC and the PSO should be notified as soon as possible.
- 6 At the Cabinet meeting the Chairman may be supported by the Vice-Chairman and the PSO.
- 7 There should be designated seats at the Cabinet table for the Chairman and Vice-Chairman.
- 8 If the Cabinet accepts the recommendations in the OSC report the OSC Chairman will report the same to the Committee.
- 9 If the Cabinet considers that the report's recommendations should be amended in any way, then the Chairman may either agree the changes or refer them back to the Committee.
- 10 If the Chairman agrees the changes he should then account to the OSC for the decision.
- 11 If the Cabinet's recommendations are referred back the OSC may decide to accept the Cabinet's decision, partially accept it and refer the report back to the Cabinet, or refer the un-amended report to the County Council.
- 12 The Chairman may also not accept the Cabinet's recommendations and to request that the report stays as presented. The Cabinet may then decide whether to reject or accept the report as submitted or modified. This decision may then be referred back to the OSC.
- 13 If the Cabinet decision is referred back to the OSC under any of the above circumstances it shall decide whether to accept the Cabinet decision or make a report to a meeting of the full Council.
- 14 After consideration by the Council the Cabinet may decide whether to accept any recommendation made by the full Council or to proceed with its original decision.

e OVERVIEW AND SCRUTINY STANDING ORDERS

1 Meeting Frequency

Each Overview and Scrutiny Committee should normally meet approximately once a month. Although additional meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any three Members of the Committee, or by the Proper Officer if he/she considers it necessary or appropriate.

2 Quorum

The quorum for both an Overview and Scrutiny Committee and a Task and Finish Group is one quarter of the total number of voting Members of the Committee, provided that in no case shall the quorum be less than three.

3 Work Programmes

Both Overview and Scrutiny Committees each year formulate an outline annual programme for their work for the year ahead, including any Task and Finish Groups that it wishes to establish. Consideration should be given by the Committees to how the work programme can best contribute to improving the lives of Buckinghamshire's residents, based on the evidence of community needs; views of residents, councillors and partner organisations. Consideration should also be given to how the work programmes contribute to the Council's priorities.

4 Agenda Items

4.1 Any Member of the Council shall be entitled to give notice to the Proper Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for discussion at the next available meeting of the Committee. The Chairman and the appropriate Cabinet Member and any relevant officer may reply to any item added to the agenda in accordance with this provision. In the event of a disagreement the Chairman shall raise the matter at the next available Committee and the Committee shall decide.

4.2 The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if the Committee considers it appropriate, the Cabinet to review particular areas of Council activity including Executive functions. Where they do so, the Overview and Scrutiny Committees shall report their findings and any recommendations back to the Cabinet Member and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it. If appropriate the Overview and Scrutiny Committees may also report to their outside partner organisations.

5 Scope of committee business

- 5.1 In conducting their business both the Overview and Scrutiny Committees, or a Scrutiny Task and Finish Group may:
- Carry out in depth analysis of policy issues;
 - Receive briefings and presentations on issues under consideration;

- Conduct research, community and other consultation particularly in the analysis of policy issues and possible options;
- Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- Hold enquiries and investigations, hold workshops and undertake site visits, conduct public surveys and hold public meetings;
- Invite advisors and assessors to assist them;
- Question Members of the Cabinet and Chief Officers about their views on issues and proposals affecting the County Council's area; or about their decisions and performance, whether generally in comparison with Service Plans and targets over a period of time, or in relation to particular decisions, initiative or projects;
- Liaise with other external organisations operating in the area, whether, national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- As part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet and Chief Officers both in relation to individual decisions and over time;
- Question and gather evidence from any person (with their consent) and invite witnesses;

6 Principles for conducting business

In the conduct of its proceedings, both the Overview and Scrutiny Committees or a Scrutiny Task and Finish Group will have regard to the following principles:

- Whilst conducting its business in a tenacious way, to do so at all times with respect, equity, fairness, dignity and with regard to the principles of natural justice.
- To ensure that all Members will be given the opportunity to ask questions of attendees, and to contribute and speak.
- To strive to conduct its business in a consensual, open, responsible and transparent way across the political divides and will seek to avoid expressing views based purely on political considerations.
- To be conducted so as to maximise its efficiency.
- Not to seek to hold officers and non-councillors accountable for decisions taken as part of Member processes.
- To recognise that any question of officer discipline which may arise, should be dealt with through the existing procedures.
- To ensure that the political whip is not applied to any proceedings of an Overview and Scrutiny Committee or Task and Finish Group.

7 Members and Officers giving account

7.1 As well as reviewing documentation in fulfilling the scrutiny role it may require the following to attend to explain any matters within their remit

- any Member of the Cabinet
- any other elected or co-opted Member
- any representative of an outside partner organisation
- the Head of Paid Service and/or any Senior Officer

Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions including but not exclusively:-

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- the performance of the parties referred to in 17 (a) above
- the advice on which any decision should be based

7.2 Where any Member or Officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that Committee will inform the Lead Officer for Scrutiny. They shall inform the Member or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

7.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance to take place within a maximum of 14 days from the date of the original request or he/she may nominate another Officer or Member, who is able to speak on the topic to attend

8 Attendance by Others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from Residents, Stakeholders and Members and Officers in other parts of the Public Sector and shall invite such people to attend.

9 Finance

The Overview and Scrutiny Committees may exercise responsibility for finances made available to them (if any), in accordance with Financial Regulations set out in Part 4 of the Constitution

10 Chairman and Vice-Chairman of Overview and Scrutiny Committees

10.1 The Chairman of an Overview and Scrutiny Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chairman is to be elected.

10.2 Members of the Committee shall appoint one of their number to preside over the election of Chairman.

10.3 The Chairman of a Committee, once elected shall appoint the Vice Chairman of the Committee.

10.4 The Chairmanship of Task and Finish Groups will be chosen from within the membership of the Overview and Scrutiny Committees.

11 Committee Membership

- 11.1 The Overview and Scrutiny Commissioning Committee will comprise a Chairman, Vice Chairman, eight other Members of the Council and five statutory education co-optees.
- 11.2 The Chairman of the Health Overview and Scrutiny Committee will also be co-opted onto the Overview and Scrutiny Commissioning Committee as a non-voting member.
- 11.3 The Health Overview and Scrutiny Committee will comprise a Chairman, Vice Chairman, eight other Members of the Council, and four voting co-opted members (one from each of the District Councils).
- 11.4 The Chairman of the Overview and Scrutiny Commissioning Committee will also be co-opted onto the Health Overview and Scrutiny Committee as a non-voting member.
- 11.5 The Overview and Scrutiny Committees will be politically proportionate and Group Leaders will appoint members to the committees.
- 11.6 All Members except Members of the Cabinet may be Members of the Overview and Scrutiny Committees or a Scrutiny Task and Finish Group. Cabinet spokesmen may sit on Overview and Scrutiny Committees unless a conflict of interest arises.
- 11.7 *Substitutes*
Whilst members are expected to attend all scheduled meetings of Overview and Scrutiny Committee meetings, substitutes may be permitted to attend meetings of the Committee at the Chairman's discretion.
- 11.8 *Co-optees*
- Overview and Scrutiny Committees may decide to have non-voting co-optees, this is in addition to the statutory education co-optees on the Overview and Scrutiny Commissioning Committee who may vote on education functions and the co-opted Members of District Councils on the Health Overview and Scrutiny Committee.
 - The Health Overview and Scrutiny Committee will have four voting co-opted members, one from each of the District Councils.
 - Both Overview and Scrutiny Committees will co-opt members for a period of up to four years to end after the April meeting of the County Council or for the length of a review or other matter.
 - Experts or other local people may be co-opted onto Task and Finish Groups for their duration.
- 11.9 *Statutory Education Co-optees*
- 11.9.1 The Overview and Scrutiny Commissioning Committee shall include in its membership the following representatives: One Church of England Diocesan representative; One Roman Catholic Diocesan representative; and three Parent Governor Representatives from LA maintained schools (one representing secondary schools, one primary schools and one special schools in the County).

- 11.9.2 Education co-optees will only be able to speak and vote on education issues. Education co-optees will be able to put forward suggestions for scrutinising education issues only.
- 11.9.3 Education co-optees will be invited to every meeting that is scheduled to discuss education issues. This includes meetings where public questions are asked on education issues and Committee consideration of Task and Finish Group reports that relate to education. The Committee Chairman shall retain discretion on what issues are defined as education issues, seeking and acting upon advise of the Monitoring Officer where necessary.
- 11.9.4 Education co-optees will be entitled to access all exempt papers available to other members of the Committee on education issues. Education cooptees will not be entitled to access exempt papers to the Committee on non-education matters. Requests for papers can be made to the Monitoring Officer.
- 11.9.5 The Overview and Scrutiny Commissioning Committee shall hold a minimum of one Committee meeting per year dedicated solely to the scrutiny of education in the County; this will normally be held in the Spring.

12 Meeting conduct

- 12.1 Any power or duty assigned to the Chairman of the Committee relating to the conduct of a meeting may in the Chairman's absence be exercised by the person presiding at the meeting.
- 12.2 Both Overview and Scrutiny Committees shall consider all or some of the following business:
- minutes of the last meeting;
 - declarations of interest;
 - consideration of any matter referred to the committee for a decision in relation to Call-In of a decision;
 - responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
 - the business otherwise set out on the agenda for the meeting.
 - the opportunity for members of the public to ask questions
 - the opportunity to provide a forum for the Councillor Call for Action
 - the business otherwise set out on the agenda for the meeting, including petitions appeals referred to Overview and Scrutiny Committees in accordance with the Council's Petitions Scheme, as set out in Part 4 of the Constitution.
- 12.3 The Overview and Scrutiny Committees or Task and Finish Groups may also ask people to attend to give evidence at Committee meetings, which are to be conducted in accordance with the following principles:
- that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

13 Disorderly Conduct

- 13.1 If, in the opinion of the Chairman of a Committee, any Member of the Committee misbehaves at a meeting by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chairman or a Member may move not to hear the Member further. If the motion is seconded it shall be put to the vote without discussion.
- 13.2 If, in the opinion of the Chairman, the Member persistently misbehaves after such a motion has been carried, the Chairman may require the removal of the Member for such period as the Chairman shall determine. The Chairman may if necessary adjourn or suspend the sitting of the Committee.
- 13.3 If a Member is required to leave a meeting under this Standing Order, the Member shall not be entitled to vote during the period of exclusion.
- 13.4 If a Member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may order the person's removal from the Committee meeting.
- 13.5 In case of general disturbance in any part of the Committee meeting venue the Chairman may order that part cleared. If the Chairman considers it necessary, he may adjourn or suspend the sitting of the Committee.

14 Voting

- 14.1 A decision is taken by a majority of those present and voting
- 14.2 Voting is generally by a show of hands.
- 14.3 A Committee Member may not change his/her vote once he/she has cast it and another Member has been called upon to vote.
- 14.4 If a Committee Member arrives before the casting of votes has been commenced he/she is entitled to vote.
- 14.5 Immediately after a vote is taken any Committee Member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- 14.6 The Chairman of the Committee, or other person presiding, shall have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- 14.7 Where there are more than two persons nominated for any position to be filled by the Committee, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.

15 Rules of Debate

Subject to these Standing Orders and the Protocol on Overview and Scrutiny Committees attached to them, the Chairman or any other person presiding at a Committee meeting shall have all the powers necessary to ensure the orderly transaction of the meeting's business, including power to:

- apply any part of Council Standing Order 9 (Rules of Debate); or
- invite any person present to speak.

16 Rights of Access—the public

16.1 Meetings of Overview and Scrutiny Committees shall be open to the public except when dealing with exempt or confidential information. The Overview and Scrutiny Committee will give at least five clear days notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire and on the Internet. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.

16.2 The public may be excluded from the whole or part of a meeting of any Overview and Scrutiny Committees on the ground that exempt information would be disclosed. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.

16.3 The public must be excluded from any meeting of any Overview and Scrutiny Committee when any information would be disclosed to them which has been provided by a government department on terms which forbid disclosure, or would be prohibited by law or by an Order of the Court.

16.4 The Head of Legal and Democratic Services shall determine which Overview and Scrutiny Committee Reports or parts of Reports are unlikely to be taken in public and shall withhold such papers from public circulation.

16.5 Where an Overview and Scrutiny Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, Members who are not Members of that Committee will generally also be excluded from that meeting or part of the meeting. However, a Member is entitled to attend the meeting and/or inspect any exempt or confidential documents relating to the business of the Committee if he can demonstrate a "need to know".

16.6 A Member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a Member. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a Member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Member to "rove through" a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.

16.7 In the event of a dispute, the Head of Legal and Democratic Services will determine whether a Member has demonstrated a "need to know". The test that will be applied is whether it is reasonable to refuse access given all the

17 Rights of Access to papers or guidance—speakers

- 17.1 Any person required to attend (in accordance with Clause 17) a meeting of the Overview and Scrutiny Committees shall be entitled to see the public papers which have been made available to the Overview and Scrutiny Committee and wherever possible on the same timescale as for a Member of the Overview and Scrutiny Committee.
- 17.2 Anyone asked to speak, shall wherever possible, be given access to statements submitted by people from whom the Overview and Scrutiny Committee has already heard, but not those who have not yet given evidence.
- 17.3 All speakers shall respect the confidentiality of all confidential or exempt information they receive.
- 17.4 Except insofar as exempt information is contained in those papers submitted by speakers all such papers shall become public documents once the speakers have presented their evidence.
- 17.5 Speakers shall be entitled to request a copy of any draft minutes or other record taken of their contribution for comment. Should they feel that such record is not accurate, they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.

18 Rights of Access to papers or guidance—Committee Members

- 18.1 In addition to their rights as Members, Members of the Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Standing Orders in Part 4 of this Constitution.
- 18.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.
- 18.3 The following is a summary of the access to information available to Overview and Scrutiny Committees:
 - An Overview and Scrutiny Committee: May within the limits of its budget (if any), commission research or advice (including from external organisations) to assist in any deliberations and may request that a budget for such work is provided.
 - Shall have access to all relevant papers of the Council. Overview and Scrutiny Committee Members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Committee examination without the permission of the Committee.
 - Overview and Scrutiny Committees will also have access to background information from a range of sources including but not limited to:

- The Corporate Plan
- The four month Forward Programme of work for the Cabinet
- The Policy Framework and Corporate Strategies
- Service plans
- External Audit Management Letters
- Internal and External Audit Plans and Reports
- Legislation and Government guidance
- Government Reports and National Studies
- National performance and comparative information e.g.: CIPFA statistics
- Complaints
- Community plans and processes
- Cabinet or Cabinet Member papers
- Representations from the Community (Individuals, Community Groups,
- Local Members, Area Committees, Residents, Surveys etc)
- Research published by other organisations or commissioned by Overview and Scrutiny Committees
- Evidence from expert witnesses at the Overview and Scrutiny Committees request.

18.4 The right of access to documents rests with the Committee, and not with any individual Member. Accordingly where a Member of an Overview and Scrutiny Committee wishes to have access to particular documents for the purpose of the functions of the Committee, he may request (not require) access directly of the officer who holds the documents. In the alternative, he may:

- Request the Head of Legal and Democratic Services to make arrangements to enable him or her to inspect the documents, or
- Make a request to the Chairman of the Overview and Scrutiny Committee, who may request the Head of Legal and Democratic Services accordingly, or
- Refer the matter for consideration by the Committee and recommend the Committee to instruct the officer concerned to report thereon including copies of relevant documents.

19 Rights of access—Statutory Education Co-optees

Education co-optees will be entitled to access all exempt papers available to other members of the Committee on education issues. Education co-optees will not be entitled to access exempt papers to the Committee on non-education matters.

20 Summons and Agenda procedure

20.1 At least five clear working days before a meeting of a Committee a summons to attend the meeting in the name of the Head of Legal and Democratic Services together with an agenda specifying the business to be transacted shall be delivered to the usual place of residence (or such other address as the Member may specify) of every Member of the Committee, provided that want of service of the summons shall not affect the validity of the meeting.

- 20.2 Any additions or amendments to an agenda that has been served on Members and/or any supplemental agenda must be approved by the Head of Legal and Democratic Services (or delegated officer) or the Chairman of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 20.3 No business may be transacted at a meeting which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the Committee agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the minutes.

21 Task and Finish Groups

- 21.1 As set out in Article 6, both Overview and Scrutiny committees can establish time-limited Task and Finish groups to carry out in-depth scrutiny reviews in accordance with terms of reference agreed by those committees. The Overview and Scrutiny committees may assign other tasks to Task and Finish Groups in pursuance of its functions.
- 21.2 The Chairman of the relevant Overview and Scrutiny Committee will appoint the chairmanship of the Task and Finish Group who will be an elected member of one of the Overview and Scrutiny Committees, normally from the Committee which established the Group.
- 21.3 The Chairman of the relevant Overview and Scrutiny Committee will also appoint the membership of the Task and Finish Group, in line with the proportionality rules which must be complied with, unless exceptional circumstances apply. Any Member of the Council with a particular knowledge, interest, or commitment may be invited to take part in a particular scrutiny task. The Chairman of the relevant Overview and Scrutiny Committee may consider the geographic balance of membership on a Task and Finish Group in appointing members, wherever possible.
- 21.4 Cabinet spokesmen may sit on Task and Finish Groups unless a conflict of interest arises. Any Scrutiny Task and Finish Group may include other non-councillor co-opted persons in a non-voting capacity.
- 21.5 The size of Task and Finish Groups will normally be up to eight but may vary according to the purpose for which they are established and the use of co-optees.
- 21.6 Council members appointed to Task and Finish Groups will not normally be permitted to send substitutes to meetings, unless in exceptional circumstances and with the agreement of the Chairman of the Overview and Scrutiny Committee which established the group.
- 21.7 The terms of reference and scope of Task and Finish Groups will be approved by the relevant Overview and Scrutiny Committee.
- 21.8 Any Member who has formed part of a Task and Finish Group shall be entitled to see all papers considered. A Member will only be able to vote if they are appointed as a voting Member of the relevant Task and Finish Group.

- 21.9 The evidence-gathering meetings will normally be held in public, but the Chairman of the Task and Finish Group may, if he or she thinks appropriate hold the meeting in private. The provisions of the rules on papers, records and confidentiality apply to all Task and Finish Groups as they do to Overview and Scrutiny Committees.
- 21.10 Overview and Scrutiny Committees may hold reviews 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.
- 21.11 Task and Finish Groups will report back to the relevant Overview and Scrutiny Committee which commissioned their work. Reports will only go forward for the consideration of Cabinet or other relevant bodies with the agreement of the Committee which commissioned their work.
- 21.12 If the Scrutiny Task and Finish Group cannot agree on a single final report, then up to one minority report may be prepared and submitted for consideration with the majority report.
- 21.13 All reports submitted to the Overview and Scrutiny Committees for approval shall be made public, subject to the provision of the Access to Information Rules.
- 21.14 The Chairman of a Scrutiny Task and Finish Group will be invited to present its report to the relevant Overview and Scrutiny Committee. The Chairman of the Overview and Scrutiny Committee and/or the Chairman of the relevant Task and Finish Group will present the final report to the Cabinet and may be questioned on it.
- 21.15 A Scrutiny Task and Finish Group may submit interim reports to the relevant Overview and Scrutiny Committee, which may then be submitted to Cabinet as necessary.

22 Reports from Overview And Scrutiny Committees

- 22.1 The Overview and Scrutiny Committees once it has formed conclusions and recommendations will then decide which body to report to. This might include, Cabinet Member, Cabinet, Council, Partnership Bodies such as Health, Police and others as listed in the Local Government and Public Involvement in Health Act 2007. All those to whom the recommendations are addressed will be entitled to see a draft report in order to comment on emerging themes and recommendations before the formal presentation of the report.
- 22.2 Where an Overview and Scrutiny Committee has agreed for a report to go to Cabinet, it will automatically be referred for consideration and resource assessment.
- 22.3 If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet, then up to one minority report may be prepared and submitted for consideration by the Cabinet with the majority report.

- 22.4 The Cabinet shall consider the report of the Overview and Scrutiny Committee at the earliest opportunity and if necessary discuss the report and its recommendations with the Committee before reporting its views to the Council.
- 22.5 All representations, whether made in the form of a report, a letter, other written format or verbally, made by an Overview and Scrutiny Committee to a Cabinet Member in relation to the Cabinet Member's responsibilities, must be reported formally at Cabinet either orally or in writing when the relevant item is being discussed. Each Overview and Scrutiny Committee should clearly identify that it is a formal representation to avoid confusion.
- 22.6 Once it has formed views or recommendations on matters which it has considered and dealt with itself, the Overview and Scrutiny Committees will prepare a report and will give the Cabinet Member with responsibility and the Chief Executive (or delegated officer), an opportunity to see a draft report, as appropriate, in order to allow them to comment on emerging themes and recommendations.
- 22.7 Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within four weeks then the matter will be referred to Council for review, and the Head of Legal and Democratic Services will call a Council meeting to consider the report and make a recommendation to the Cabinet. (*See Executive Standing Orders; Protocol B "Overview And Scrutiny And Cabinet Working When an OSC Report Is Presented To The Cabinet, 4.4 3 B)*
- 22.8 The 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 be able to respond in the course of the Cabinet's consultation process in relation to any key decision.
- 22.9 At the Cabinet meeting under which any scrutiny report and recommendations are discussed, the Cabinet is obliged to provide a written response setting out which recommendations are agreed or not, and how they will be taken forward.
- 22.10 If recommendations are agreed then the lead Cabinet member responsible will be expected to report back to the relevant Overview and Scrutiny Committee on progress in the implementation of those recommendations. An interim written report should be provided 6 months on and a final written report after 12 months, at which point the lead Cabinet member responsible will be expected to attend the relevant Committee meeting to provide a report back on progress.

23 Operational Protocols/Guidance

- 23.1 The Overview and Scrutiny Committees shall be able to adopt guidance and protocols to assist it with the exercise of its functions as set out in the Constitution's Article 6 and standing orders, including in relation to the Call-in process; Councillor Call for Action; Task and Finish Groups; and public questions. The Overview and Scrutiny Commissioning Committee and the Health Overview and Scrutiny Committee are the sole committees responsible for producing guidance and protocols on any scrutiny functions, as set out in these standing orders.
- 23.2 The Overview and Scrutiny Committees should agree one set of guidance/protocols for the operation of Task and Finish Groups and questions to the public to ensure that processes are transparent and accessible.
- 23.3 In preparing guidance and protocols, the Chairmen of the Overview and Scrutiny Committees should ensure that the Chairman of the Regulatory and Audit Committee is consulted on any constitutional matters. If the Regulatory and Audit Committee considers the guidance or protocols are needed relating to overview and scrutiny then it may advise and make recommendations to the Overview and Scrutiny Committees.

24 Call-in and the Decision Making Process

- 24.1 The call-in procedure is a statutory right which can be applied to any decision which has been taken but not yet implemented (Section 21 (3) LGA 2000). Call-In is a procedure whereby Members of the Council may question decisions taken by the Executive in exceptional circumstances and therefore may hold the Executive to account.
- 24.2 When a decision is a Key decision made by the Cabinet or an individual Member of the Cabinet, or a Non Key decision made by an officer with delegated authority, or any committee 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 two days of being made. The Chairman of the Overview and Scrutiny Commissioning Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- 24.3 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 three working days after the decision has been made, unless a call-in request has been received by, at the latest, 5 pm on the third working day after the decision has been made. If a call-in request is received the decision will not be implemented until the call-in process is complete, unless the decision is urgent.
- 24.4 A decision may only be called-in once. Where a decision is taken in accordance with a recommendation contained in a published report the Overview and Scrutiny Commissioning Committee will not normally call-in the decision unless they are satisfied that there are substantial issues which could not reasonably have been raised before the decision was taken.

25 Call-in and urgent decisions

- 25.1 Key decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency. Overview and Scrutiny Commissioning Committee may call-in any decision that is taken under Rule 16 of the Access to Information Standing Orders if they are satisfied that the decision is not genuinely urgent.
- 25.2 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

26 Call-In Procedure

Validity of a Call-in Request

- 26.1 The Monitoring Officer (or delegated officer), in consultation with the Chairman of the Overview and Scrutiny Commissioning Committee, will assess the validity of a call-in request against the following criteria:
- 26.1.1 the decision has not been subject to a previous valid call-in request, unless the original proposal is substantially amended in a way in which the Overview and Scrutiny Commissioning Committee has not considered and could not reasonably have foreseen to the extent that it is a different proposal;
- 26.1.2 the request has been submitted in writing using the template form to the Monitoring Officer (or delegated officer) within five working days of the decision being made (as set out above);
- 26.1.3 the written request is submitted on behalf of at least three members;
- 26.1.4 the request identifies an alleged failure by the decision-taker to comply with any one or more of the Council's principles of decision-making as set out in Article 13.1 of the Constitution and as listed below;
- that all relevant matters were fully taken into account in reaching decisions;
 - proportionality - that in any decision the action was proportionate to the desired outcome;
 - that Council Standing Orders and Contracts Standing Orders and Financial Regulations were complied with;
 - that the decision has taken into account the provisions of the Human Rights Act 1998;
 - that the Cabinet, Chief Executive, Strategic Directors or Cabinet Members had consulted with and taken professional advice from all relevant officers including the Monitoring Officer and the Chief Finance Officer;
 - that any member concerned considered whether he or she had any declarable interest in the particular item and if necessary made a declaration of interest;
 - that the current Schemes of Delegation to Cabinet Members and to Officers (where relevant) had been complied with;

- that the decision was taken in an open and transparent manner;
- that the decision was taken in accordance with the Council's aims and strategies;
- that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers;
- that where appropriate the views of the local member had been sought.

and/or

- the request sets out why the decision is believed to be outside agreed the Council's agreed policy and budget framework; and
- that if a decision has been taken under the urgent action procedure, the submission request must also set out reasons why the decision is believed not to be genuinely urgent.

26.1.5 The Monitoring Officer (or delegated officer) may reject the validity of the call-in request, after consultation with the Chairman of the Overview and Scrutiny Committee, if these criteria are not met and/or insufficient detail has been provided on the submission form on the reasons for the call-in and desired outcomes.

26.1.6 A decision on the validity of the call-in request shall be made within five working days of receipt.

26.2 OSCC Consideration of the Call-in

26.2.1 If the call-in is valid then the OSCC will consider the call-in request within 15 working days from the point at which the Monitoring Officer (or delegated officer) has given notification that it is a valid call-in. The Chairman of the OSCC has the discretion to extend this timeframe in exceptional circumstances with the agreement of those members that have requested the call-in, and in consultation with relevant Cabinet members.

26.2.2 The Overview and Scrutiny Manager will place the item on the agenda of the OSCC at the next regular meeting or convene a special meeting, providing a minimum of five working days notice is given.

26.2.3 The papers that the Committee will consider at the call-in meeting are as follows:

- Call-in request form (no alterations will be accepted to this document after it is submitted, members are not able to amend or circulate additional documents with different reasons for the call-in request)
- Copy of decision in question
- Response from the relevant decision-taker

- The Chairman of the Committee may request and consider requests for the submission of any additional background papers from those members that requested the call-in and the decision-taker.
- The Chairman of the Committee's decision on what papers will be considered is final.
- In any case, papers will only normally be considered if they are submitted within the minimum five working days before the meeting.

26.2.4 Members who made the request for a call-in and the appropriate decision-taker will be invited to address the Committee. If they require support in making their case they may, with the Chairman's discretion, support their case with witnesses.

26.2.5 The Committee may take into account representations received from the public.

26.2.6 At least one member who requested the call-in must be in attendance at the Committee's meeting. If no members who requested the call-in are able to attend then the call-in automatically falls and will not be considered by the Committee. The Chairman of the OSCC has discretion to consider substitutions in exceptional circumstances.

26.2.7 In reaching a view on the call-in the Committee is asked to consider the following issues:

- Is the decision likely to cause significant concern by Buckinghamshire residents?
- Is the decision been adequately consulted on?
- Is it a case where delay will not significantly damage the interests of the Council?
- Are there significant representations against the decision?

26.2.8 The Committee will then decide whether to:

- take no further action and endorse the decision
- refer the decision back to the decision-taker for reconsideration, setting out in writing the nature of its concerns; or
- refer the decision to full Council.

26.3 Referral to decision-taker

26.3.1 If referred back to the decision-taker, he or she shall then reconsider within a further five working days, amending the decision or not. If the decision-taker requires more time to consider the Committee's recommendations, the Chairman of the Committee may extend the time after consultation with the Committee.

26.3.2 If the decision-taker is, after reconsideration, not able to make changes to the decision in accordance with the Committee's concerns the decision-taker will write to the Committee setting out his or her reasons.

26.4 Referral to full Council

26.4.1 If referred to full Council it will be deemed that all Members of the Overview and Scrutiny Commissioning Committee have signed a request to the Chairman of the Council for an extraordinary meeting under Council Standing Orders 1 (4) unless an ordinary meeting of the Council is scheduled within 15 working days.

26.4.2 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. However, if the Council does object, it has no power 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 the decision back to the decision-taker, together with the Council's views on the decision. The decision taker will choose to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened within five working days of the Council request. Where the decision was taken by an individual, the individual will reconsider within five working days of the Council request.

26.5 Decision taking effect

26.5.1 As set out above, decisions that are subject to a call-in request should not be implemented until the call-in process is exhausted. Decisions will immediately come into effect at the completion of the process, where:

- In the event that the call-in request is deemed invalid;
- The Committee has considered the call-in fully and decided not to refer the decision back;
- The Committee has referred the decision back to the appropriate decision-taker and received a written response which sets out a detailed response to the points raised by the Committee.
- The Committee fails to reach a decision on the call-in request at its meeting.
- If the matter was referred to full Council and the Council does not meet, or it does meet but does not refer the decision back to the decision-taker, 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.

26.5.2 At the point at which the process is completed the Overview and Scrutiny Commissioning Committee should ensure that any

27 Councillor Call For Action

- 27.1 Any Member shall be entitled to ask the Lead Officer for Scrutiny in writing without a submission to include any issue of concern to that Member on the agenda of the next meeting of either Overview and Scrutiny Committee.
- 27.2 In normal circumstances such a request must be made at least 10 working days before a meeting of the Overview and Scrutiny Committee.
- 27.3 At that meeting the Member who has put the matter on the agenda may normally address the Committee on the matter.
- 27.4 Members should consider whether the issue in question is best addressed under the call-in or CCfA procedure, the Lead Officer for Scrutiny can advise members on this. In normal circumstances, the same issue will only be considered under one of these procedures.
- 27.5 The following in the order they appear on this list (and if present) shall then respond:
- the relevant Cabinet Member
 - another Cabinet Member
 - a Senior Officer with functional responsibility for the matter. All may address the Committee for a maximum of 4 minutes in total unless otherwise agreed by the Chairman
- 27.6 The Chairman shall then invite Members of the Committee to discuss the matter to question and to consider any recommendation which has been submitted by the Member as part of the agenda item.
- 27.7 The Committee may:
- resolve not to consider the matter further;
 - resolve to take no further action as the issue is one where individual or body has a statutory right to a review or appeal (including matters relating to a planning decision);
 - resolve to take no further action but at the meeting advise the Member raising the matter what further action, if any, the Member should take to resolve the matter;
 - establish a Task and Finish Group to consider the matter;
 - place the item on its agenda for consideration by the full committee at a later meeting;
 - refer the matter to the Cabinet Member or Officer with Function responsibility for the matter to ask what can be done to resolve the matter;
 - make a report or recommendation to the Cabinet or Full Council of the Authority or to the appropriate executive body of any partner organisation; and/or
 - recommend that the issue is taken forward by the County Council under the Sustainable Communities Act.

f COMMITTEE STANDING ORDERS

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1 SCOPE

1 The Council will from time to time appoint such Committees as it considers appropriate for the discharge of its functions, in accordance with Council Standing Order 12 and Part 3 of this Constitution. A duly constituted Committee acting in the exercise of its delegated powers and in accordance with its terms of reference shall be entitled to take all necessary action to fulfil its duties.

2 The Committee Standing Orders apply to meetings of all Committees and Sub-Committees, with the exception of Overview and Scrutiny Committees and Sub-Committees, and Joint Committees and Sub-Committees.

2 ELECTION OF CHAIRMEN OF COMMITTEES

1 Every Committee shall, at its first meeting after appointment and at its first meeting after the annual meeting of the Council or as soon as practicable thereafter, elect a Chairman and appoint a Vice-Chairman, who shall hold office for a year or until their successors are elected or appointed.

2 If both Chairman and Vice-Chairman are absent from a meeting a Chairman for the meeting will be elected.

3 Except on the Standards Committee, no person shall hold the office of Chairman or Vice-Chairman unless he/she is a member of the Committee in question and is also a Member of the Council.

4 A Member of the Council can be voted to be a Chairman of a Committee in his/her absence, provided that he/she remains a member of that Committee, ie that the member has not been substituted for that meeting.

3 MEETINGS OF COMMITTEES

1 Committees will hold ordinary meetings as necessary and appropriate for the discharge of their functions.

2 The Chairman of a Committee or the Chairman of the Council may summon a special meeting of a Committee. A special meeting will also be summoned on the request in writing of a quarter of the members of the Committee. The summons shall set out the business to be considered at the special meeting and no other business than that set out shall be considered at that meeting.

3 Subject to these Standing Orders and the general law, the Chairman of a Committee has the power to regulate the procedure of the Committee Meeting in such a manner as he/she considers appropriate for the effective discharge of the Committee's functions.

4 Any power or duty assigned to the Chairman of the Committee relating to the conduct of a meeting may in the Chairman's absence be exercised by the person presiding at the meeting.

5 The quorum for a Committee is one quarter of the total number of members of the Committee but shall not be less than three voting members.

- 6 If during any meeting of a Committee the number of members present does not form a quorum, then the Chairman of the Committee must adjourn the meeting and arrange a meeting for another date and time. If no date and time are fixed by the Chairman, any unfinished business before the Committee must be considered at the next ordinary meeting of the Committee.

4 MINUTES OF MEETINGS

- 1 The Minutes of a Committee Meeting will be submitted to the next ordinary meeting for approval as “a correct record”.
- 2 Minutes of any Committee Meeting that is open to the public will be published and available to all members and interested parties on request, on the basis that the minutes remain unconfirmed until the next meeting.
- 3 No motion or discussion will take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by moving a formal amendment to the minutes.
- 4 The Chairman will sign the minutes once their accuracy has been agreed.

5 MOTIONS

- 1 Any member of a Committee may propose a motion by giving reasonable notice of it. Notices of motion must be framed in appropriate language and must not be abusive, defamatory, frivolous or vexatious.
- 2 The following motions may be moved without notice:
- a To appoint a Chairman for that meeting
 - b To amend the minutes
 - c To approve the minutes as a correct record
 - d To refer a Sub-Committee’s report or any item in it, or any other item, back to a Sub-Committee
 - e To appoint Sub-Committee Members if this arises from an item in the agenda of the meeting
 - f To adopt a report or recommendation of the Cabinet, another Committee, a Sub-Committee or an officer
 - g To take an action recommended in an officers’ report, or other report, submitted to the committee
 - h To amend a motion
 - i To withdraw a motion or amendment
 - j To suspend any standing order capable of being suspended
 - k To exclude the public

- l Not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
- m To invite a member to remain at the meeting where he has declared a personal interest in the subject matter under discussion
- n To amend the time limit for speeches
- o To proceed to the next business
- p To postpone consideration of a motion
- q To put a question to the vote (otherwise known as a motion “that the question be put”)
- r To adjourn the debate
- s To adjourn the meeting
- t To vary the order of business

6 RULES OF DEBATE

- 1 Members must at all times show respect for the Chairman. Whenever the Chairman speaks during a debate the member then speaking and all other Members of the Committee shall be silent.
- 2 The Chairman's interpretation and application of these Standing Orders shall be final for the purposes of a particular Committee Meeting.
- 3 A member may raise a point of order or personal explanation:
 - a A point of order may only relate to an alleged breach of these Standing Orders or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken.
 - b A personal explanation shall consist of the right to correct any statement concerning the member made about him/her by another member during a previous speech in the course of the same debate.

The decision of the Chairman on the admissibility of a point of order or a personal explanation shall be final.
- 4 Where a member raises a point of order or a personal explanation, he or she shall be entitled to be heard immediately and the speaker shall give way.
- 5 Speeches shall be relevant to the question under discussion or to a point of order or to a personal explanation.
- 6 With the exception of speeches by the Chairman of the Committee, no speech shall exceed four minutes except with the consent of the Chairman.
- 7 A motion or amendment shall not be discussed or put to the meeting until it has been moved and seconded. Unless notice has been properly given or the motion is one which may be moved without notice under Standing Order 5, the motion shall be put in writing and handed to the Chairman before it is discussed or put to the meeting. The Chairman's decision as to whether the motion may be proposed without due notice shall be final.

- 8 A member when seconding a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.
- 9 A member may with the consent of his/her seconder and of the Committee, signified without discussion, alter his/her motion if the alteration is one which could be made as an amendment.
- 10 A motion or amendment may be withdrawn by the mover with the agreement of the seconder and the Committee, signified without discussion. No member shall debate a motion after the mover has asked permission to withdraw it unless such permission has been refused.
- 11 Any amendment must be relevant to the motion and must be either
 - a to leave out words
 - b to insert or add words.
 - c to leave out words and insert or add others.
- 12 An amendment may not be contrary to the motion before the Committee or have the effect of introducing a new proposal.
- 13 Only one amendment may be moved and discussed at a time, and no further amendment may be moved until the amendment under discussion has been dealt with.
- 14 If an amendment is rejected, a further amendment may be proposed 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 motion on which any further amendment may be moved.
- 15 The mover of a motion has a right to reply at the end of the debate on the motion. The original motion or the motion as amended shall then be put to the vote. No amendment shall be proposed on the motion after the mover of the motion has exercised his/her right of reply.
- 16 A member exercising a right of reply must not introduce any new matter.
- 17 When a motion is under debate no other motion shall be moved except the following:
 - a to amend the motion
 - b to withdraw a motion or amendment
 - c to postpone consideration of the motion
 - d to adjourn the meeting
 - e to adjourn the debate
 - f to proceed to the next business
 - g to put the question to a vote

- h not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
 - i to refer the subject of debate back to a sub-committee
 - j to exclude the public
 - k to amend the time limit for speeches
 - l to suspend any standing order capable of being suspended.
- 18 A member may move without comment at the conclusion of a speech of another member to proceed to the next business or to put the question to a vote or to adjourn the debate or to adjourn the meeting. If such a motion is seconded, the Chairman shall proceed as follows:
- a On the motion to proceed to the next business:

Unless in the Chairman's opinion the matter before the meeting has not been sufficiently discussed, the Chairman shall first give the mover of the original motion the right to speak against the closure motion, and then put to the vote without debate the motion to proceed to the next business.
 - b On a motion to put the question to a vote:

Unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, the Chairman shall first put to the vote without debate the motion that the question be put to a vote and if it is passed then give the mover of the motion under debate a right of reply before putting the motion or amendment to the vote.
 - c On a motion to adjourn the debate:

If in the Chairman's opinion the matter before the meeting cannot reasonably be discussed on that occasion, the Chairman shall put the adjournment motion without debate to the vote, without giving the mover of the original motion the right of reply. If the motion is passed, consideration of the matter under discussion shall stand adjourned to the next ordinary meeting of the Committee.
 - d On a motion to adjourn the meeting:

A member may move at any time to adjourn the meeting. The mover and one other speaker replying on the invitation of the Chairman may speak for four minutes each and the question shall then be put to a vote. If the motion is carried the meeting shall stand adjourned with unfinished business held over to the next ordinary meeting of the Committee, unless an extraordinary meeting is called to deal with it.
- 19 If any question arises at a Committee Meeting concerning a particular person employed or formerly employed by the Council, and it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosure to members of the public of exempt information if they were present during that item, the Chairman shall move a motion that shall immediately and without debate be put to the vote, to exclude the public under Section 100A(4) of the Local Government Act 1972.

7 DISORDERLY CONDUCT

- 1 If, in the opinion of the Chairman, any member misbehaves at a Committee Meeting by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chairman or a Member may move not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.
- 2 If, in the opinion of the Chairman, the member persistently misbehaves after such a motion has been carried, the Chairman may require the removal of the member for such period as the Chairman shall determine. The Chairman may if necessary, adjourn or suspend the sitting of the committee.
- 3 If a member is required to leave a meeting under this Standing Order, the member is not entitled to vote during the period of exclusion.
- 4 If a member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may order the person's removal from the Committee Meeting.
- 5 In case of general disturbance in any part of the Committee Meeting venue open to the public the Chairman may order that part cleared. If the Chairman considers it necessary, he may adjourn or suspend the sitting of the Committee.

8 VOTING

- 1 Voting is generally by a show of hands.
- 2 A member may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- 3 If a member arrives before the casting of votes has been commenced he/she is entitled to vote.
- 4 Immediately after a vote is taken any member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- 5 The Chairman, or other person presiding, will have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- 6 Where there are more than two persons nominated for any position to be filled by the Committee, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.
- 7 Where a vote is taken for the election of the Chairman of the Committee and the current Chairman is present in the room and not seeking re-election, the current Chairman will preside over the election of a new Chairman.

- 8 The Chairman of a Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chairman is to be elected.
- 9 Members of the Committee shall appoint one of their number to preside over the election of Chairman.
- 10 The Chairman of a Committee, once elected shall appoint the Vice-Chairman of the Committee.
- 11 Officers shall not call for nominations for the election of the Chairman.

9 RIGHTS OF ACCESS TO COMMITTEE MEETINGS

- 1 Meetings of committees shall be open to the public except where it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt or confidential information would be disclosed to them. Committees will give at least five clear days notice of any meeting by posting details of the meeting at County Hall, Aylesbury, Buckinghamshire and on the internet. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 The public may be excluded from the whole or part of a meeting of any Committee on the ground that exempt information would be likely to be disclosed. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.
- 3 The public must be excluded from any item at a meeting of any Committee when any information would be disclosed to them which
 - a has been provided by a government department on terms which forbid disclosure, or
 - b would be prohibited by law or by an order of the court.
- 4 The Head of Legal and Democratic Services shall determine which Committee reports or papers, or parts of reports or papers are unlikely to be taken in public and shall withhold such papers from public circulation.
- 5 A Member who is not a Member of a Committee may attend a meeting of the Committee to make a statement on behalf of his/her constituents where an item under discussion directly affects the member's division. The Member must obtain the prior consent of the Chairman of the meeting, which shall not be unreasonably withheld.
- 6 Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, members who are not members of that Committee will generally also be excluded from that meeting or part of the meeting. However, a Member may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the committee if he can demonstrate a "need to know".

- 7 A Member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a Member. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a Member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Member to "rove through" a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.
- 8 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Overview and Scrutiny Committees where they are relevant to that Committee's remit. This presumption may be disapplied in exceptional circumstances.
- 9 In the event of a dispute, the Head of Legal and Democratic Services will determine whether a Member has demonstrated a "need to know". The test that will be applied is whether it is reasonable to refuse access given all the circumstances. For example, if a Member is motivated by improper or ulterior reasons, it would be appropriate to refuse access.

10 SUMMONS AND AGENDA PROCEDURE

- 1 At least five clear working days before a meeting of a Committee a summons to attend the meeting in the name of the Head of Legal and Democratic Services together with an agenda specifying the business to be transacted shall be delivered to the usual place of residence (or such other address as the Member may specify) of every Member of the Committee, provided that want of service of the summons shall not affect the validity of the meeting.
- 2 Any additions or amendments to an agenda that has been served on Members and/or any supplemental agenda must be approved by the Head of Legal and Democratic Services or the Chairman of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 3 No business may be transacted at a meeting of a Committee which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the Committee agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the minutes.

11 INSPECTION OF DOCUMENTS

- 1 Agendas and reports relating to Committee Meetings, except those marked "Not for Publication", will be available for inspection on request by the public at County Hall during normal office hours and at the major reference libraries in the County. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 All documents which are open to public inspection, will normally be available at least five clear days before the relevant meeting. If it is not reasonably

practicable to make a particular document available five days prior to the meeting, it will be made available as soon as possible thereafter.

- 3 Members of the public may submit comments in writing about any published report, within five days of its publication. Where practicable, such comments will be attached to the report.
- 4 Any document in the possession of the Council which relates to an item on the agenda of a meeting of a Committee shall be open to inspection by members of the Council, but this right of access does not extend to documents containing confidential information, nor to documents containing exempt information except in the following circumstances. A Member may inspect a document containing exempt information where (or to the extent that) the information in question:
 - a relates to the financial or business affairs of any particular person, including the authority holding the information, except to the extent that the information relates to any terms proposed, or to be proposed, by or to the authority in the course of negotiations for a contract; or
 - b reveals that the authority proposes to give a notice, or make an order or direction.
- 5 Members of the Council who can satisfy the "need to know" test will be entitled to inspect papers in the possession of the Council not otherwise open to members. The "need to know" test is explained in Committee Standing Order 7.
- 6 Members of the Council shall not knowingly inspect or call for a copy of any document in the possession of the Council on any matter in which they are professionally interested or in which they have any prejudicial interest as defined in the Code of Conduct for Members.
- 7 The Head of Legal and Democratic Services may refuse to allow inspection of any document in the possession of the Council which is, or in the event of legal proceedings would be, protected by legal privilege.
- 8 The Head of Legal and Democratic Services will decide which documents cannot automatically be disclosed to members.
- 9 A Member shall not disclose or quote in public the contents of any agenda, report or other document which is marked "Confidential" or "Not for Publication" unless the document has already been made available to the public or the press on behalf of the Council.
- 10 A Member shall not disclose to a Non-Member or quote in public any unpublished matter disclosed to the Member in his/her capacity as a member of the Council where such disclosure would, or would be likely to, prejudice the interests of the Council.

g FINANCIAL REGULATIONS

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Approved by full Council on 16 February 2012

FINANCIAL REGULATIONS

INTRODUCTION

The Purpose of Financial Regulations

These Financial Regulations are a part of the overall governance framework within which Buckinghamshire County Council operates. They are designed to provide a robust framework for managing the Council's financial affairs. The objective of this document in conjunction with others is to ensure that the Council:

- manages its available resources (which includes all resources – monetary, physical assets, human resources, etc) to ensure financial stability in both the short and medium term
- in conjunction with key partners plans its finances effectively to deliver its strategic priorities
- achieves value for money in the delivery of services and in the management of its asset base
- complies with financial and external reporting requirements on a timely basis and meets the needs of stakeholders
- has a pro-active approach to managing its risks including partnership risks together with a sound system of internal control

The status of Financial Regulations

These Financial Regulations apply to all members and officers of the Council and anyone acting on its behalf.

The financial control framework can be seen as a hierarchy as set out below:

Financial Regulations	Approved by the County Council
Financial Instructions	Approved by the Service Director (Finance and Commercial Services)
Schemes of Delegation	Approved by Strategic Directors and Service Director (Finance and Commercial Services)

Additionally, there is a separate scheme for maintained schools as required by the School Standards and Framework Act 1998.

The Service Director (Finance and Commercial Services) is responsible for:

- reviewing Financial Regulations;
- the submission of any additions or changes to the Full Council for approval;
- carrying out duties in accordance with s.151 Local Government Act 1972;
- reporting, where appropriate, breaches of the Financial Regulations to the Regulatory and Audit Committee, the Council and/or to the Cabinet.

Further Assistance and Feedback

Finance staff provide advice and support to service managers on all aspects of financial management and financial control. In particular, service managers must seek advice if they are intending to create a new financial procedure, or amend an existing one.

The Service Director (Finance and Commercial Services) welcomes feedback on the operation of Financial Regulations and Financial Instructions to ensure they remain relevant and effective.

The Corporate Finance Business Partner (01296 387867) should be contacted if you have comments on the application or operation of particular regulations; also if further interpretation of regulations is required.

A: FINANCIAL MANAGEMENT RESPONSIBILITIES

Importance of this area

Financial management includes all financial accountabilities relating to the running of the Council, including the policy framework and budget. The main areas of responsibility are set out below:

A1 The Full Council

A1.1 The Full Council is responsible for adopting and changing the principles of Cabinet governance and for approving or adopting the policy framework and budget within which the executive operates.

A1.2 The Constitution allows decisions to be taken as follows:

- Strategic Decisions – decisions regarding policy or resource allocation are reserved by law as matters which must be determined by the Council.
- Reserved Decisions – decisions which are delegated by the Council to a Committee of the Council, whether in the terms of reference of committees or otherwise.
- Key Decisions – decisions which are allocated to the Leader and individual Members by the Constitution, and are therefore subject to consultation, referral and reporting requirements.
- Administrative Decisions – decisions which are delegated by the Cabinet to officers.
- Council Delegated Decisions (Non Executive) - decisions which are delegated from the Council or a Committee to officers.

All decisions must outline the financial implications of decisions being made.

A2 The Leader and Cabinet

A2.1 The Leader and Cabinet are responsible for directing the Council's affairs within the policy framework and budget.

A2.2 Cabinet Members are responsible for the overall financial management and value for money within their political portfolio.

A3 Committees

A3.1 Overview and Scrutiny Committee

There are two Overview and Scrutiny Committees, which support the work of the Cabinet and the Council. They hold reviews into matters of local concern. These lead to reports and recommendations on policies, budget and service delivery. These committees also monitor the decisions of the Cabinet. The Cabinet or the Council may also consult the Overview and Scrutiny Committees on forthcoming decisions and the development of policy.

A3.2 The Regulatory and Audit Committee

The Regularity and Audit Committee is a decision making body which reports to the Full Council. The Committee is responsible for reviewing the reports of the external auditor, the annual audit letter and reports from Internal Audit together with the Annual Audit Plan. It is also responsible for approving the Annual

Statement of Accounts and hearing appeals regarding Community asset transfers.

A3.3 The Standards Committee

The Standards Committee is appointed by the Full Council. Its role is to promote and maintain high standards of conduct amongst councillors and to assist the members to observe the Code of Conduct for Members.

A4 Statutory Officers

A4.1 The Head of Paid Service (Chief Executive)

The Head of Paid Service is the Chief Executive. He/she may report to Full Council on the manner in which the discharge of the Council's functions is coordinated.

A4.2 The Monitoring Officer (Service Director (Legal and Democratic Services))

The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct through provision of support to the Standards Committee. He/she is also responsible for reporting any actual or potential breaches of the law or maladministration to the Full Council and/or to Cabinet.

A4.3 The Chief Finance Officer (Service Director (Finance and Commercial Services))

The Council has designated the Service Director (Finance and Commercial Services) (see below) as the Chief Finance Officer. 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, Local Government Act 1972
- The Local Authorities Goods and Services Act 1970 and 1988
- Section 114, Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Acts 2000 and 2003
- The Accounts and Audit Regulations 2006
- The Local Government Pension Scheme Regulations 1974 and 1997
- The Local Government Pension Scheme Regulations (Management and Investment of Funds) 1998

A4.4 The Money Laundering Reporting Officer

The Service Director (Finance and Commercial Services) is appointed as the Money Laundering Reporting Officer and the Service Director (Legal and Democratic Services) as the Deputy Money Laundering Reporting Officer. The Council has an Anti-Money Laundering Policy and Procedures in place. The Money Laundering Reporting Officer is the officer responsible for reporting disclosures to the Serious Organised Crime Agency (SOCA).

A5 The Service Director (Finance and Commercial Services)

- A5.1** The Service Director (Finance and Commercial Services) shall, for the purposes of Section 151 of the Local Government Act 1972, be responsible for the proper administration of the Council's financial affairs and report to the Council, the Cabinet, Chief Executive and Cabinet Member for Finance & Resources on the performance of this responsibility.
- A5.2** The Service Director (Finance and Commercial Services) is responsible for advising committees on all financial matters. All reports to Full Council, Council Committees, Cabinet Members, Cabinet, and any Board with decision making powers, must contain a financial appraisal setting out the full financial implications arising from the proposals contained within the report. The financial appraisal must be agreed with the Service Director (Finance and Commercial Services). He/she must be consulted on all financial matters and given sufficient opportunity to provide written comments on any report with financial implications.
- A5.3** The Service Director (Finance and Commercial Services) is responsible for advising the Cabinet on whether a decision is likely to be considered contrary or not wholly in accordance with the budget. An example of a decision that may be 'contrary to the budget' may include committing expenditure in future years to above the budget level.
- A5.4** The Service Director (Finance and Commercial Services) has a statutory responsibility for ensuring that adequate systems and procedures exist to account for all income due and expenditure incurred on behalf of the Council and that controls operate to protect the Council's assets from loss, waste, fraud or other impropriety. The Service Director (Finance and Commercial Services) shall carry out that responsibility in part by the issue and maintenance of Financial Instructions with which all employees of the Council must comply.

A6 Strategic Directors

- A6.1** Strategic Directors are responsible for setting the strategic priorities of Services as directed by members.
- A6.2** As part of the Council's Performance Management Framework, Strategic Directors are responsible for ensuring the effective financial management of resources within their Services and within political portfolios, including Value for Money and resource management.

A7 Service Directors

- A7.1** These Financial Regulations are designed to facilitate effective financial management, whilst maintaining a strong internal control environment. Hence Service Directors may manage budgets across the political portfolios:
- in accordance with the strategic priorities of the Council;
 - in accordance with the strategic priorities set for Services by Strategic Directors as directed by members; and
 - subject to the requirements of these Financial Regulations.
- A7.2** Each Service Director is responsible for ensuring compliance with Financial Regulations and Financial Instructions; also to ensure the training of staff is

carried out to enable them to comply with Financial Regulations and Financial Instructions.

A7.3 Each Service Director is responsible for:

- the proper financial management of resources allocated to his/her service through the budget making process;
- for the identification of income arising from activities within his/her service;
- ensuring that he/she provides all required information to the Service Director (Finance and Commercial Services) so that the Council's external reporting duties can be effectively met;
- the control of staff and the security, custody and management of assets including plant, equipment, buildings, materials, information, cash, stores and occupation of office space to deliver New Ways of Working objectives relating to his/her service, within the framework established by members; and
- the maintenance of a Scheme of Financial Delegation, in accordance with the requirements as set out by the Service Director (Finance and Commercial Services).

A7.4 Service Directors are responsible for ensuring that:

- financial implications in both current and future years are identified for all reports and that the financial implications are agreed by the Service Director (Finance and Commercial Services) (Regulation A5.2). Sufficient time needs to be allowed for this;
- where reports impact on other services or have financial implications for corporate resources, details of those implications are agreed with the services(s) concerned and the Service Director (Finance and Commercial Services). Sufficient time needs to be allowed for this prior to reporting deadlines;
- all financial implications referred to in reports are reflected within the current budget or the Medium Term Plan.

A7.5 Service Directors may delegate responsibilities to their staff but in doing so must ensure that:

- delegated responsibilities are clearly documented and reviewed, in accordance with the requirements set out by the Service Director (Finance and Commercial Services) (See A7.3);
- all staff who have delegated responsibilities are specifically informed of these responsibilities and are adequately trained to carry out these roles;
- the competence and diligence of staff in undertaking these matters is assessed as part of the Council's performance management framework.

A8 Other Financial Responsibilities

A8.1 The Service Director (Finance and Commercial Services) shall determine the nature and format of all accounting procedures and financial records.

A8.2 The Service Director (Finance and Commercial Services) will ensure that accounting procedures reflect recommended professional practice, comply with appropriate accounting principles and legislative requirements. He/she will review accounting procedures as necessary in consultation with Service Directors to ensure that the necessary information is available without duplication of records.

A8.3 The Service Director (Finance and Commercial Services) is responsible for:

- ensuring that the Annual Statement of Accounts is prepared by the statutory date in accordance with relevant legislation and accounting standards and that the accounts present a true and fair view of the financial position of the Council and its expenditure and income;
- liaising with External Audit on the completion of the Statement of Accounts and the arrangements for the audit of these;
- ensuring procedures are in place to provide adequate documentation to support the Statement of Accounts. This will include reconciliations with financial ledgers, copies of grant claims and other working papers which demonstrate the substantive basis for the data within the Statement of Accounts.

B: FINANCIAL PLANNING AND CONTROL

Importance of this area

Financial planning enables the Council to deliver its priorities through the allocation of resources to services.

- **The revenue budget provides an estimate of the annual income and expenditure requirements for all services and sets out the financial implications of the Council's policies. It provides Service Directors with authority to incur expenditure and a basis on which to monitor the financial performance of the Council.**
- **Capital expenditure is an important element in the development of the Council's services since it represents major investment in new and improved assets.**

B1 The Financial Planning Process

B1.1 The Council's objective is to ensure that the financial and corporate planning processes are integrated, are risk assessed and managed and incorporate strategic planning for all other resources such as assets and human resources.

B2 The Policy Framework including Consultation

B2.1 The Full Council is responsible for agreeing the Council's policy framework and the budget which is proposed by the Cabinet. The policy framework includes the Local Area as well as the many statutory plans that the Council must prepare.

B2.2 The key elements of financial planning are:

- The Corporate Plan
- The Medium Term Plan, including the formal approval of the annual revenue budget
- The Capital Strategy
- The Capital Programme
- The Treasury Management Strategy
- The Corporate Property Strategy

B2.3 The Council involves external stakeholders and partners in the financial planning process in order to help shape and deliver its organisational and shared objectives.

B2.4 The Council consults local people and communities on spending decisions and charging policies as appropriate. The Council develops opportunities to engage in processes such as participatory budgeting are available through the Localities Programme.

B3 The Medium Term Plan

B3.1 Annually each Service Director shall review and develop his/her three year medium term plan (capital and revenue), as directed by Cabinet members. This is a statement of the resources required to deliver the planned service outcomes over a three year period. It should be developed in consultation with the Service Director (Finance and Commercial Services) and in accordance

with guidance prior to being submitted to the appropriate Cabinet Member(s), to Cabinet and Full Council. Such forecasts should be developed as an integral part of the Council's overall service planning process.

B3.2 The Service Director (Finance and Commercial Services) will determine the format of the medium term plan and the timing of reports, subject to any overriding requirements of the Cabinet.

B3.3 Each Service Director shall include the financial effects of:

- all known commitments
- efficiency savings
- the scope for additional income generation
- the delivery of Council priorities; and
- any service reductions

B3.4 The Service Director (Finance and Commercial Services) is responsible for providing advice and support to Service Directors on the form of financial information to be included in the plans.

B3.5 Service Directors are responsible for:

- the identification of risks that may impact on business objectives and assessment of the best ways to manage them;
- contributing to the development of corporate and service targets and objectives and performance information;
- ensuring that service plans are clearly aligned with budgets for the purpose of delivery of service priorities;
- ensuring that targets identified within the service plans are included in service business plans and as performance management targets for the relevant staff.

B4. The Annual Revenue Budget

B4.1 Revenue expenditure incurred against the revenue budget approved by Council will be subject to **Regulation B7**.

B4.2 In the event that new unringfenced revenue funding of £0.5 million or below becomes available after the Annual Revenue Budget has been set by Council, approval for the use of that funding within the revenue budget and the incorporation into the Medium Term Plan can be made by the Cabinet Member for Finance and Resources, following advice from the Service Director (Finance and Commercial Services), having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with Service Directors. The use of funding allocations above £0.5 million is to be approved by Cabinet.

B4.3 If in the opinion of the Service Director (Finance and Commercial Services) and/or the Cabinet Member for Finance and Resources the decision on the use of new unringfenced funding requires consideration by Full Council, they may waive the rule in B4.2 and refer the matter to Council.

B5. The Capital Programme

B5.1 The Council's Capital Programme will be developed in accordance with the Council's Capital Strategy and Financial Instructions. The strategy will ensure that capital investment is targeted to achieve best value and maximum effect on priorities, needs and outcomes for local communities.

B5.2 Full Council shall approve the Capital Programme annually and amendments to it during the financial year, subject to the provisions of B5.3 & B8.4.

B5.3 In the event that new unringfenced capital funding of £1 million or below becomes available after the Annual Capital Programme has been set by Council, approval for the use of that funding within the capital programme and the incorporation into the Medium Term Plan can be made by the Cabinet Member for Finance and Resources, following advice from the Service Director (Finance and Commercial Services), having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with Service Directors. The use of funding allocations above £1 million is to be approved by Cabinet.

B5.4 If in the opinion of the Service Director (Finance and Commercial Services) and/or the Cabinet Member for Finance and Resources the decision on the use of new unringfenced funding requires consideration by Full Council, they may waive the rule in B5.3 and refer the matter to Council.

B5.5 Service Directors will ensure that financial plans support the delivery of asset strategies, either through investment, disposals, transfers, and rationalisation or by more efficient asset use.

B5.6 The Service Director (Finance and Commercial Services) is responsible for advising on the setting of prudential indicators required by the CIPFA Prudential Code for Capital Finance in Local Authorities and ensuring that all matters necessary to be taken into account in setting the prudential indicators are reported to the Council.

B5.7 The Service Director (Finance and Commercial Services) is responsible for:

- procedures under which capital expenditure proposals are evaluated and appraised to ensure that value for money is being achieved and service and asset management objectives are met.
- procedures for the corporate monitoring of external sources of capital funding
- ensuring that expenditure treated as capital expenditure in the Statement of Accounts is in accordance with best accounting practice.

B5.8 Service Directors are responsible for:

- ensuring that capital proposals reflect agreed service plans,
- capital proposals are prepared in accordance with guidance issued and are realistic
- ensuring that risks have been identified and assessed
- developing business cases and undertaking option appraisals in accordance with Financial Instructions.

B6 The Treasury Management Strategy

B6.1 The Council keeps the Treasury Management Strategy under review and monitors and annually reports performance against it. (**Financial Regulation C7**).

B7 Financial Control

B7.1 Expenditure may only be incurred if it is within the budget approved by the Council and for the purposes for which the budget was established. This is subject to any other requirements of the Cabinet or the Council.

B7.2 Service Directors must monitor income and expenditure against budgets for which they are responsible and provide forecast outturn information on a regular basis. The Service Director (Finance and Commercial Services) will provide financial advice to assist Service Directors fulfil their responsibilities.

B7.3 Service Directors are responsible for ensuring that expenditure and income are correctly coded and that budget profiles are accurate. All expenditure, income and forecasts must be recorded on the Council's financial management system (SAP), as a minimum in summary form.

B7.4 At the start of each financial year, the Service Director (Finance and Commercial Services) will set out the budget monitoring process. It will include timescales and the responsibilities of all officers involved in the process. Service Directors are responsible for ensuring that they meet the timescales so that prompt and accurate information can be provided to Members.

B7.5 If net expenditure exceeds an approved budget for a project or service the Service Director will as soon as possible report it to the relevant Cabinet Member(s) and Service Director (Finance and Commercial Services) and take all appropriate mitigating action. This also applies if expenditure in excess of the approved budget is incurred due to an emergency.

B8 Budget Movements

B8.1 Virement

B8.1.1 Definition

A virement is a movement of budget either within or between budget headings. A budget heading relates to an agreed division of a Service, i.e. activity, project, service department.

B8.1.2 Virements may be necessary under a number of circumstances, for instance:

- where the organisation or management of services has been restructured;
- where the political portfolio priorities and objectives have changed;
- where significant budget pressures arise which can be offset by other budget underspends or contingencies;
- where income projections change, matched by changes in expenditure.

B8.2 Budget Adjustments

B8.2.1 Definition

A budget adjustment is defined as:

- a budget movement required in order to better reflect in budget terms a policy decision agreed and documented in accordance with the Council's Constitution; or
- A budget movement over which the Council has no control, for example where statutorily or through the requirements of Government grant conditions, the Council is obliged to make a budget adjustment; or
- A budget movement required to correct an error, i.e. where the budget showing in the financial management system does not match the Budget agreed by Council.

B8.2.2 For the avoidance of doubt, any budget movement which does not meet the definition in B8.2.1 (or where there is uncertainty about whether the movement meets the definition), will be deemed to be a virement and Regulations B8.3 & B8.4 will apply.

B8.2.3 A budget adjustment can be implemented by the Service Director (Finance and Commercial Services) without need for further approval via the virement provisions in Regulations B8.3 and B8.4. All budget adjustments must be reported as part of the monthly budget monitoring process.

B8.3 Revenue Virements

B8.3.1 The approval of the Cabinet and the Service Director (Finance and Commercial Services) is necessary in advance if virements:

- involve resources not being used for the purposes approved by the Council; or
- result in an addition to commitments in future years beyond any agreed allocations; or
- are over £1 million (in aggregate within a financial year) for revenue budgets; or
- in the opinion of the Service Director (Finance and Commercial Services), require approval by Cabinet

B8.3.2 Formal approval of the relevant Cabinet Member(s) and the Service Director (Finance and Commercial Services) is necessary in advance if virements:

- are between £100,000 and £1 million (in aggregate within a financial year) (cross portfolio or otherwise) for revenue budgets; or
- in the opinion of the Service Director (Finance and Commercial Services), require approval by Cabinet Member(s).

B8.3.3 The relevant Service Director (either directly or through delegated powers) can approve revenue budget virements under £100,000, in consultation with their Cabinet Member(s) and subject to the overriding provisions above.

B8.3.4 Service Directors are encouraged to minimise the number of virements through effective budget profiling and management. All virements must be reported as part of the monthly budget monitoring process.

B8.4 Capital Virements

B8.4.1 Consideration by the Business Investment Group (BIG) and subsequent approval by the Cabinet Member for Finance & Resources and the Service Director (Finance and Commercial Services), in consultation with the relevant Cabinet Member(s) is necessary in advance, if virements:

- involve a change to the approved use of resources detailed in the Capital Programme;
- result in an addition to the Capital Programme in the current or future years;
- result in a movement between capital “project blocks”. A project block being a block of schemes approved for entry into the Capital Programme;

or

- in the opinion of the Cabinet Member for Finance & Resources and/or the Service Director (Finance and Commercial Services), require consideration by BIG.

B8.4.2 The relevant Service Director (either directly or through delegated powers), following discussion with the relevant Cabinet Member(s) is responsible for the splitting of an approved project block and can approve capital virements within an approved project block, provided the approved allocation for the block remains unchanged, subject to the overriding provisions above.

B8.4.3 Service Directors are encouraged to minimise the number of virements through effective budget profiling and management. All virements must be reported as part of the monthly budget monitoring process.

B9 Year End Balances/ Carry Forwards

B9.1 The provision for carrying forward of year end balances is set out below, but is subject to the overriding needs of the Council, as advised by the Service Director (Finance and Commercial Services).

B9.2 Revenue

B9.2.1 If the political portfolio underspend at Outturn is equal to or lower than the forecast in the monitoring report to the end of September, then a carry forward of 50% of the Outturn underspend will be available to the political portfolio, subject to Regulation B9.1 above.

B9.2.2 If the political portfolio underspend at Outturn is higher than the forecast in the monitoring report to the end of September, the carry forward amount will still be calculated as in B9.2.1, i.e. 50% of the reported forecast at the end of September, and subject to Regulation B9.1..

B9.2.3 Any subsequent approval made to earmark a reserve from part of the underspend reported in the September monitoring report, shall be deducted from that underspend for the purposes of calculating any carry forward amount.

B9.2.4 The political portfolio Cabinet Member shall decide how any carry forward should be used, following discussion with relevant Service Directors, and the Strategic Director.

B9.2.5 All revenue budget overspending will be carried forward to the following year on a political portfolio basis..

B9.2.6 The final decision on carry forwards, including decisions to waive or change the value of the carry forward amount as calculated under clauses B9.2.1 to B9.2.5 above shall be made by Cabinet based on the Outturn report of the Service Director (Finance and Commercial Services).

B9.3 Capital

B9.3.1 Service Directors will annually report the outturn of expenditure on individual schemes within the Capital Programme for each financial year.

B9.3.2 Underspends on schemes/projects/blocks must be returned to the overall capital funds available. Slippage of capital spends on projects within the overall project allocation will be carried forward between financial years.

B9.3.3 Overspends on capital budgets must be managed within the capital approvals for the political portfolio approved capital programme within year or future years. If overspends cannot be managed within approvals then the political portfolio should request a virement from its revenue resources or apply for a supplementary capital approval via BIG.

B10 **Maintenance of Reserves**

B10.1 Definition

Reserves are monies set aside in one year's accounts, which can be spent in later years, for future policy purposes or to cover contingencies. Some types of reserve (earmarked) can only be spent if the conditions which created them are met.

B10.2 The Service Director (Finance and Commercial Services) is responsible for advising the Council on a prudent level of reserves for the Council as part of the annual budget setting process. The advice provided will have regard to the assessment of the financial risks facing the Council.

B10.3 The Medium Term Plan should ensure the Council achieves or maintains the recommended level of reserves.

B10.4 Requests for earmarked reserves are subject to the approval of the Service Director (Finance and Commercial Services), who will provide advice and guidance on the setting up and maintenance of such reserves,

B11 **Contingent Liabilities**

B11.1 Definition

A contingent liability arises where an event has taken place that gives rise to a possible financial obligation, the existence of which will only be confirmed by the occurrence of uncertain future events or where a provision would otherwise be made but either it is not probable that an outflow of resources will be required or the amount of the obligation cannot be measured reliably.

B11.2 The Service Director (Finance and Commercial Services) is responsible for reviewing at least annually together with Service Directors the existing contingent liabilities and ensuring that a balance sheet provision is made where necessary in accordance with accounting standards.

B11.3 Service Directors are responsible for:

- reviewing at least annually his/her service for contingent liabilities;
- informing the Service Director (Finance and Commercial Services) of any new contingent liabilities and of any changes in the circumstances in relation to existing contingent liabilities.

B12 Pension Fund Strategy

B12.1 The Members of the Pension Fund Committee are responsible for approval of the Pension Fund Strategy, having taken appropriate professional advice.

B13 Trading Accounts

B13.1 Definition

A trading account is a statement bringing together for a separately costed area of activity:-

- on the income side, charges to users;
- on the expenditure side, the cost of providing the service including overheads.

The key characteristic of a trading account is that providers do not hold direct budgets but must earn income to fund their expenditure.

B13.2 The approval of the Service Director (Finance and Commercial Services) is required before the establishment of a new trading accounts. All trading accounts will be operated in accordance with guidance provided by the Service Director (Finance and Commercial Services).

B13.3 Only trading accounts agreed by the Service Director (Finance and Commercial Services) will qualify for:

- the specific trading account carry forward rules; and
- for the relaxation of normal virement rules (Regulation B8)

B13.4 Annual surpluses and deficits will be reported in the Council's annual Statement of Accounts. In the case of surpluses on trading accounts, up to 3% of the trading account gross expenditure can be carried forward. This will be taken into account when calculating any cumulative deficit on a trading account.

B13.5 The Service Director (Finance and Commercial Services) is responsible for the maintenance of records within the financial management system to allow monitoring of in-year and cumulative surpluses and deficits achieved.

B13.6 Each Service Director operating a formal trading account is responsible for:

- the recovery of any cumulative deficit within the two subsequent financial years;
- submitting monthly budget monitoring statements including a forecast for the full financial year as agreed by the Service Director (Finance and Commercial Services) to the appropriate Cabinet Member(s);

- submitting before the end of the financial year to the appropriate Cabinet Member(s) a draft trading account for the next financial year which has been prepared in consultation with the Service Director (Finance and Commercial Services).

C: RISK MANAGEMENT AND CONTROL OF RESOURCES

Importance of this area

It is fundamental that robust, integrated systems are in place and maintained for the identification and evaluation of all significant strategic and operational risks to the Council. It is essential that those responsible for the planning and delivery of services proactively participate in this.

C1 Risk Management & Insurance

C1.1 The Regulatory and Audit Committee are responsible for approving on an annual basis the Council's Risk Management Strategy. The Cabinet and Regulatory and Audit Committee will review the effectiveness of the strategy to ensure that corporate business risks are being identified and effectively managed by the Executive.

C1.2 Reports to support strategic policy decisions and initiation documents for all major projects will require a risk assessment including a sustainability impact appraisal.

C1.3 Service Directors are required to comply with the Risk Management Strategy.

C1.4 Service Directors are also required to ensure that:

- procedures to ensure assessment of all risks are operating effectively within their services and that their risk register(s) and management action plans are regularly updated;
- managers are aware which risks they are responsible for managing and receive the relevant information;
- an ongoing monitoring process is in place to review the effectiveness of risk reduction strategies;
- prompt notification is given to the Principal Insurance Officer of all new risks, including financial, property, equipment or vehicles, which may require to be insured and of any new activities or changes, including contractual or partnership risks, which may impact upon the Council's existing risk profile, in accordance with financial instructions.

C2 Internal Control

Internal Control relates to the systems of control implemented by management to help ensure achievement of the Council's objectives in a way that ensures economical, efficient and effective use of resources. In addition, the systems of control ensure that the Council's assets are kept secure and interests are protected.

C2.1 The Accounts and Audit Regulations 2006 require every local authority to conduct a review at least once a year of the effectiveness of its system of internal control and shall publish an Annual Governance Statement, prepared in accordance with proper practices. The Council has delegated this responsibility to the "Responsible Financial Officer" (the Service Director (Finance and Commercial Services)).

C2.2 Service Directors are responsible for ensuring effective systems of internal control exist within their service. These arrangements must ensure compliance

with all relevant statutes and regulations and other relevant statements of best practice. The Service Director (Finance and Commercial Services) is responsible for advising on effective systems of internal control.

- C2.3** It is the responsibility of Service Directors to establish arrangements for ensuring a sound internal financial control within his/her service in order to:
- manage its risks;
 - achieve continuous improvement, economy, efficiency and effectiveness;
 - achieve their financial and operational performance targets.
- C2.4** As part of his/her responsibility for sound systems of internal financial control, Service Directors will:
- ensure compliance with Council policy, Standing Orders for Contracts, Financial Regulations, Financial Instructions & procedures, Codes of Conduct and any statutory requirements;
 - provide assurances for the Annual Governance Statement that financial and operational control processes are in place in order to achieve objectives and manage significant risks;
 - have a business continuity plan in place which is reviewed and tested on a regular basis; and
 - maintain up-to-date documented procedures for key systems.

C3 Audit Requirements

The Accounts and Audit Regulations 2006 require every local authority to maintain an adequate and effective internal audit. The following regulations apply:

- C3.1** The Internal Audit team have authority to enter any premises or land used by the Council at any time and have access to all Council correspondence, documents, books, property or other records related to Council business. The Service Director (Finance and Commercial Services) shall be entitled to receive explanation as he/she considers necessary to establish the correctness of any matter under examination.
- C3.2** The Internal Audit Team will comply with standards outlined in the CIPFA Code of Practice for Internal Audit in Local Government (2006) and the Auditing Practices Board of the Consultative Committee of Accountancy Bodies.
- C3.3** The Accounts and Audit Regulations 2006 require that at least once a year a review should be conducted of the effectiveness of the system of internal audit.
- C3.4** The Chief Internal Auditor, or Service Director (Finance and Commercial Services), or the Service Director (Legal and Democratic Services), should be notified immediately of any financial irregularities or suspected irregularities, or any circumstances which may suggest the possibility of irregularities in any of the Council's functions. Any investigation should be undertaken in accordance with the Council's Anti-Fraud & Corruption Strategy (which incorporates the Fraud Response Plan) and the Whistle Blowing Policy.
- C3.5** The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.

C3.6 The Council may be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

C4 Separation of Duties

Financial procedures must be undertaken whenever possible using different members of staff to undertake different parts of a sequence of operations in order to ensure that no one individual authorises the whole of one transaction. Where possible at least two, if not three people should be involved in parts of the operation.

C5 Retention of Records

Accounting and other related records including contract documentation must be retained for periods which comply with all relevant legislation and any funding requirements, and in accordance with the Council's Retention Schedule.

C6 Prevention of Fraud and Corruption

C6.1 The Chief Internal Auditor is responsible for the maintenance of the Council's Anti-Fraud and Corruption Strategy. The Service Director (Policy, Performance and Communications) together with the Chief Internal Auditor are jointly responsible for the maintenance of the Council's Whistle blowing Policy.

C6.2 It is the responsibility of every Council employees, member and external stakeholder (e.g. suppliers, contractors, service providers, agencies, and partner Councils) with whom the Council deals:

- to act with integrity at all times;
- to comply with legal requirements, rules, procedures and good practice to minimise the risk of fraud; and
- to report suspected fraud, corruption or other irregularity in accordance with these Financial Regulations, the Whistle Blowing Procedure and the Anti-Fraud and Corruption Strategy.

C6.3 Service Directors must follow the Council's Fraud Response Plan which provides detailed guidance in relation to dealing with irregularities and suspected fraud.

C6.4 The Council's counter fraud arrangements and performance will be assessed against professional guidance, best practice and the findings of internal reviews. Service Directors are responsible for strengthening systems and procedures in response.

C6.5 Each Service Director shall take steps to minimise the risks of financial irregularities occurring. In addition they will review and monitor compliance with codes and procedures, and report any material findings in accordance with **Regulation C3.4**. Findings of a less significant nature should be reported as part of the Annual Governance Statement self assessments.

C7 Investments and Treasury Management

- C7.1** The Service Director (Finance and Commercial Services) is responsible for the arrangements for managing the Council's cash flow, its borrowing activities and its lending activities, in accordance with policies agreed by the Council. This regulation places a duty on the Service Director (Finance and Commercial Services) to keep these arrangements under review. Any loan proposals, whether borrowing, or lending, must be submitted to the Service Director (Finance and Commercial Services) at an early stage. No loan arrangements may be entered into on behalf of the Council, without the prior written consent of the Service Director (Finance and Commercial Services).
- C7.2** The Service Director (Finance and Commercial Services) shall undertake Treasury Management activities in accordance with the CIPFA Code of Practice on Treasury Management in the Public Services.
- C7.3** The Service Director (Finance and Commercial Services) will submit an Annual Investment Strategy for approval by the Council on at least an annual basis.
- C7.4** The Service Director (Finance and Commercial Services) shall maintain the Treasury Management Practices document setting out the framework for Treasury Management within the Council.

C8 Security of Council Property

- C8.1** The Service Director (Place Services) will maintain an up-to-date register of land and buildings owned by the Council.
- C8.2** The Service Director (Place Services) will maintain an up-to-date record of infrastructure assets owned by the Council.

C9 Assets

- C9.1** Service Directors will ensure that there are comprehensive records and information on assets, which support the Council's Corporate Property Strategy and decision making on investment and disinvestment.
- C9.2** Service Directors will ensure that within their service the assets are properly maintained and are securely held.
- C9.3** Service Directors should only enter into lease agreements in accordance with procedures defined in Financial Instructions.
- C9.4** Service Directors must ensure that contingency plans for the security of assets and for continuity of service in the event of disaster or systems failure have been established and that these plans have been tested.

D: SYSTEMS AND PROCEDURES

Importance of this area

Sound systems and procedures are essential to an effective framework of accountability and control.

D1 General

- D1.1** The Service Director (Finance and Commercial Services) is responsible for the form of accounts and supporting financial records.
- D1.2** Service Directors are responsible for the proper operation of financial processes in their own departments, and for ensuring they comply with these Financial Regulations and any Financial Instructions, guidance or procedures provided by the Service Director (Finance and Commercial Services).
- D1.3** Service Directors must also ensure that staff are aware of their responsibilities under freedom of information legislation.

D2 Systems

- D2.1** The Service Director (Transformation Service) is responsible for the operation of the Council's accounting systems according to the requirements of the Service Director (Finance and Commercial Services).
- D2.2** Any proposed changes by Service Directors to the existing financial systems or the implementation of new systems must be approved by the Service Director (Finance and Commercial Services) prior to any new developments or changes.
- D2.3** The Service Director (Transformation Service) is responsible for ensuring that IT systems are managed to provide reliable information with controlled and secure access, to support decision making.
- D2.4** Service Directors must ensure that where appropriate, computer and other systems are registered in compliance with data protection legislation.
- D2.5** Information is an asset and all staff are responsible for ensuring compliance with the Corporate Information Security Policy.

D3 Procurement

- D3.1** Service Directors must ensure that the Council obtains value for money from procurement and that it is in compliance with the Council's Commercial Services Strategy and Value for Money Strategy. The most effective method of procurement must be used, including use of the Council's corporate contracts where appropriate.
- D3.2** Service Directors should also ensure continuous effective contract management, in accordance with the Contract Management Framework, in order to deliver ongoing efficiency savings and to ensure continued high quality service provision.

D3.3 The Service Director (Finance and Commercial Services) must ensure that electronic purchasing processes incorporate security and integrity for electronic transactions and must approve the introduction of such systems.

D4 Payroll

D4.1 The Strategic Director of Resources and Business Transformation, with the exception of schools using alternative payroll providers, is responsible for:

- arranging and controlling secure and reliable payment on the due date of salaries, compensation payments or other emoluments and expenses in accordance with documented procedures;
- making arrangements for recording and for the accurate and timely payment of PAYE Taxes, National Insurance and all other statutory and non-statutory payroll deductions;
- ensuring the accurate and timely production of statutory returns to the HMRC, particularly in respect of the financial year-end and the declaration of employee taxable benefits.

D4.2 The Service Directors are responsible for ensuring that:

- all appointments are made in accordance with the Council's Framework for Managing People and the Council's policies and procedures;
- adequate budget provision exists for:
 - all appointments of employees;
 - all permanent and temporary variations in relation to staff employment;
 - all engagement of self-employed persons.

D5 Income & Banking

D5.1 The Service Director (Finance and Commercial Services) is responsible for ensuring adequate systems are available, and are maintained, for the recording of all income received by, and due to the Council.

D5.2 Service Directors must ensure that all income due to the Council is identified, and charged for correctly and on a timely basis. They must also have regard to the Council's Charging Policy in reviewing existing and implementing new charging arrangements.

D5.3 Service Directors must also ensure that all income due to the Council is invoiced correctly, collected, receipted and banked in a timely manner in accordance with the Council's Debt Management Strategy.

D6 Creditors and Debtors

D6.1 The Service Director (Finance and Commercial Services) is responsible for ensuring the operation and maintenance of effective systems for the payment of creditors and the collection of monies from debtors across the range of Council Services.

D7 Taxation

D7.1 The Service Director (Finance and Commercial Services) is responsible for:

- with the exception of PAYE (as above), maintaining the Council's tax records, making tax payments, receiving tax credits and submitting tax returns by their due date;
- advising Service Directors on all taxation issues that affect the Council in the light of relevant legislation as it applies and guidance issued by appropriate organisations;
- Service Directors are responsible for consulting with and seeking advice from the Service Director (Finance and Commercial Services) on the potential tax implications of any new initiatives for the delivery of Council services.

E: EXTERNAL ARRANGEMENTS

Importance of this area

The Council has a leadership role within the community, bringing together contributions from the various stakeholders, maximising funding opportunities and promoting the economic, social and environmental well-being of the area.

This may involve the establishment of partnership agreements, joint ventures, community transfer of assets, pooled budgets, externally funded projects or local authority companies. It is necessary to ensure in the interests of good governance that the responsibilities, obligations and commitment for such arrangements are properly managed and accounted for.

E1 Voluntary Funds

The Council does not own voluntary funds. However, it is reasonable that contributors to these funds do not distinguish between them and official monies. Therefore, it is appropriate that standards of accounting and propriety are the same as those for official funds.

E1.1 A voluntary fund is any fund which, although not officially owned by the Council, is controlled or administered solely, or in part, by an employee by reason of his or her employment by the Council. The fund is set up for a specific purpose but generated by funds independent of the Council's official resources.

E1.2 Employees of the Council who maintain voluntary funds as part of their duties must inform the Service Director (Finance and Commercial Services) of the purpose and nature of all voluntary funds. The accounts must be audited annually by a competent, independent person and be submitted with an audit report to the appropriate body within 6 months of the accounting year end. The Service Director (Finance and Commercial Services) is entitled to verify that this has been done and to carry out such checks on the accounts as he/she considers appropriate.

E1.3 Voluntary funds must be operated in accordance with any guidance notes issued by the Service Director (Finance and Commercial Services). The Council accepts no liability for non-compliance with Financial Regulations, Financial Instructions and current legislation.

E2 Trust Funds

The Council does not own trust funds. Trust funds have a formal legal status governed by a Deed of Trust. Employees acting as trustees must ensure that they are conversant with the requirements of the Trust Deed and the law and comply fully with them.

E2.1 All employees acting as trustees by virtue of their official position must ensure that accounts are audited as required by law and submitted annually to the appropriate body. The Service Director (Finance and Commercial Services) is entitled to verify that this has been done.

E2.2 Trustees must comply with accounting standards and procedures laid down in the Charities Act 2006 and in regulations issued by the Charity Commission.

E3 Partnerships, Joint Ventures, Pooled Budgets, External Funding, Work for Third Parties and Companies

E3.1 Where Council Services are to be delivered through a contractual arrangement using Council systems or through shared services by an integrated workforce, detailed financial procedures and Financial Instructions must be prepared and agreed in advance of the contract start by the Service Director and the Service Director (Finance and Commercial Services), that comply with accounting standards, ensure proper financial stewardship and are consistent with the principles of financial management as set out in these Financial Regulations.

E3.2 Once approved the financial procedures and Financial Instructions referred to in E3.1 above, will form part of the Council's Regulatory Framework and compliance must be a contractual obligation.

E3.3 *Partnerships, Joint Ventures and Pooled Budgets*

E3.3.1 The Cabinet is responsible for approving the Council's participation in all significant partnerships / joint working arrangements (including pooled budget arrangements) with other local public, private, voluntary and community sector organisations.

E3.3.2 Service Directors must ensure that the Council's Partnership Strategy is complied with.

E3.3.3 Service Directors following advice provided by the Service Director (Finance and Commercial Services) should advise the Cabinet on the key elements of arrangements for significant partnerships/ joint working arrangements as follows:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

E3.3.4 Service Directors are also responsible for:

- seeking advice from the Service Director (Finance and Commercial Services) and Service Director (Legal and Democratic Services) at an early stage;
- ensuring that the approval of the Cabinet is obtained before any negotiations are concluded;
- ensuring that all agreements and arrangements are properly documented;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation;
- providing information to the Service Director (Finance and Commercial Services) required for the Council's Statement of Accounts.

E3.4 *External Funding*

E3.4.1 The Service Director (Finance and Commercial Services) must be consulted on the financial and governance implications of all projects involving funding from external sources e.g. Lottery grants etc.

E3.4.2 Service Directors must ensure that:

- all funding received from external organisations or associated parties is properly recorded in the Council's accounts;
- key conditions of funding and any statutory requirements are met;
- any match-funding requirements and future liabilities are given due consideration prior to entering into long term agreements.

E3.5 *Work for Third Parties*

E3.5.1 Service Directors should ensure that:

- proposals should be costed properly before an agreement is reached to do work for a third party;
- a formal contract or a memorandum of understanding is drawn up prior to any work commencing;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation.

E3.6 *Local Authority Companies*

E3.6.1 Service Directors must ensure that:

- at an early stage and prior to taking an interest in a company on behalf of the Council (e.g. membership, share holding or directorship), advice is sought from the Service Director (Legal and Democratic Services) and the Service Director (Finance and Commercial Services);
- any clauses required by the Service Director (Legal and Democratic Services) and / or the Service Director (Finance and Commercial Services) to safeguard the Council's position are included in the company's Memorandum and Articles of Association;
- the approval of the Cabinet is obtained before any negotiations are concluded;
- all agreements and arrangements are properly documented;
- information is provided to the Service Director (Finance and Commercial Services) as required.

E3.6.2 Service Directors must ensure that:

- effective governance arrangements are in place including arrangements for exit if necessary;
- risk management processes are in place to identify and assess all known risks;
- business continuity plans are in place and reviewed and tested on a regular basis.

E3.6.3 The Service Directors should advise the Cabinet on the following key elements:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

h Standing Orders relating to Contracts

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Definitions

For the purposes of these Orders:

Approved List	means a list of suppliers that have met certain specified criteria to allow them to provide particular goods and services;
Best Value	means the optimum combination of whole life costs and quality (or fitness for purpose) to meet the Council's requirements assessed in accordance with the Commercial Services Toolkit and Value for Money Strategy;
Commercial Agreement	means an agreement in which goods, services or other tasks are undertaken for some form of consideration typically monetary;
Commercial Services	BCC's centre of excellence which has functional accountability for the policies, procedures and risk management practices as they relate to procurement and commercial activity;
Contract	<p>means an agreement which:</p> <ul style="list-style-type: none">• may be oral, written, partly oral and partly written or implied from conduct between the Council and another person;• gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and• commits the Council to paying or doing something; <p>and, where the context requires, a reference to a contract means a contract to which the Orders apply and a "Call-Off Contract" means an order made/call-off contract entered into under a Framework Agreement;</p>
EU Procurement Regulations	means the Agreement on Government Procurement (GPA) entered into under the auspices of the World Trade Organisation; the European Community Treaty (EU Treaty) and any relevant regulations, directives or decisions of the European Community; any Acts of Parliament or statutory instruments implementing the aforementioned for the time being in force in the United Kingdom; and any relevant judgements or the European Court of Justice or UK courts;
Framework Agreement	means a contract with a supplier(s) which establishes the terms and conditions under which Call-off Contracts can be made during the length of the Framework Agreement;

Officers	means those Officers of the Council identified as such by Head of Service in their Financial Schemes of Delegation and approved by the S151 Officer to undertake procurement and contracting on behalf of the Council (including authorisation of expenditure, preparing and/or negotiating contract documentation, awarding and signing contracts and/or managing contracts and any Agents acting on behalf of the Council;
Partnerships	may be used to deliver community strategies and in help to promote and improve the well-being of the area. Local authorities may engage with public agencies, community groups and voluntary organisations. Formal partnerships require robust underlying governance procedures to ensure effective outcomes;
Section 151 Officer	means the Chief Finance Officer appointed under S151 of the Local Government Act 1972 and Officers to whom the S151 Officer has delegated his/her functions in accordance with the relevant Financial Scheme of Delegation;
SMEs	means businesses defined according to the number of employees they have and their financial position as to turnover/balance sheet: Micro-businesses are those with 0-9 employees with <€2m turnover and <€2m balance sheet total; small businesses have 0-49 employees and <€10m turnover and <€10m balance sheet total; medium-sized businesses have 50-249 and employees <€50m turnover and <€43m balance sheet total.

1. Introduction

- 1.1 As a public sector organisation it is important that we, as a Council, comply with all relevant legislation, are open and transparent and ensure value for money is demonstrated through a competitive environment for all business opportunities, and that ongoing robust contract management is in place to ensure ongoing value for money is achieved.
- 1.2 The purpose of these Orders, which are part of the Council's Constitution, is to provide clarity as to the requirements for commercial decisions in order to safeguard the Council from potential claims which put into question the integrity of the Council and its staff.
- 1.3 These Orders should be read in conjunction with other policy or procedure documentation.
- 1.4 The Section 151 Officer and the Head of Legal & Democratic Services are joint custodians of these Orders and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.

2. Basic Principles

- 2.1 These Orders apply to all Council contracts with the exception of employment contracts.
- 2.2 They are required by law and failure by an Officer to comply may result in disciplinary action being taken against them.
- 2.3 They lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract.
- 2.4 A contract includes the following:
 - any contract for goods, works or services, including disposals;
 - any order for goods, works or services;
 - a grant given or received by the Council;
 - a contract managed by consultants;
 - a contract appointing consultants;
 - any partnership arrangement;
 - any commercial agreement;
 - contracts relating to the disposal or purchase of land and buildings.
- 2.5 Purchasing and disposal procedures must:
 - achieve best value for public money spent;
 - be consistent with the highest standards of integrity;

- ensure fairness in allocating public contracts;
- comply with legal requirements;
- ensure that non-commercial considerations do not influence any contracting decision;
- support the Council's corporate and service aims and policies including the Sustainable Procurement Strategy;
- comply with the Council's Commercial Services Strategy and Value for Money Strategy;
- comply with Financial Regulations and Health and Safety requirements;
- be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

2.6 The Council will use its eSourcing System for all competitive tendering activities and for quotations valued between £10k and £50k. The Council's eSourcing System is an online solution for managing the entire procurement and quotation process, allowing electronic tendering and contract management.

3. Responsibilities of Officers

3.1 Officers:

- (a) Officers responsible for purchasing and disposal must comply with these Standing Orders relating to Contracts, the Financial Regulations, and the Code of Conduct together with all UK and European Community legal requirements;
- (b) Officers must comply with the instructions issued by Commercial Services in relation to commercial and contracting activities;
- (c) Officers must use any relevant Corporate Contract which is already in place;
- (d) Officers must keep the records to show a clearly documented audit trail as set out in instructions issued by Commercial Services. The Officer has a duty to produce such records when requested to do so by an Authorised Officer;
- (e) Officers must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Standing Order 3.1(a) above. Such agents or consultants must not make any decision as to whether to award a contract or who a contract should be awarded to;
- (f) Officers must take all necessary legal, financial and professional advice;
- (g) Officers must comply with the Officer's Code of Conduct;

3.2 Heads of Service

Heads of Service must:

- (a) have authority to continue in accordance with the Scheme of Delegation for decision making;
- (b) ensure that there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the contract process;
- (c) ensure that expenditure is fully contained within the approved budget/cash limit unless prior approval has been obtained from the Committee, Cabinet or Cabinet Member;
- (d) maintain an up to date financial scheme of delegation in accordance with requirements as set out by the S151 Officer, defining the Officer's who have been given the necessary authority to perform the responsibilities set out in 14.2 and 15.2;
- (e) ensure that Officers comply with these Standing Orders relating to Contracts;
- (f) ensure that each contract has a named contract manager;
- (g) ensure that all contract documentation including any variations is kept in accordance with the retention schedule. Sealed and high risk contracts must be kept electronically in accordance with the retention schedule.

4. Partnerships

Officers considering a partnership arrangement must before starting the contract process obtain professional advice from Legal & Democratic Services and Finance & Commercial Services. They will advise on the partnership options available to ensure a workable partnership including appropriate governance arrangements.

5. Exemptions

- 5.1 Exemptions are subject to the requirements set out in this Order and the Exemption Procedure. An exemption allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with Order 8. Exemptions under this Order cannot be granted if EU Regulations apply.

Contracts with a value of less than £50,000:

- 5.2 An Officer may seek an exemption from one or more Orders for a contract with a total value of less than £50,000 from the relevant Head of Service, together with the S151 Officer.

- 5.3 An exemption will only be granted where the Head of Service together with the S151 Officer are satisfied that the exemption is justified on its own special circumstances and have given their consent in writing.
- 5.4 Copies of signed exemptions must be retained in the eSourcing system and/or attached to a shopping cart in the Council's finance management system SAP.

Contracts with a value in excess of £50,000 but below EU thresholds:

- 5.5 A Head of Service may seek an exemption from one or more Orders from:
- 5.5.1 the Cabinet or Portfolio Holder acting under delegated powers; or
 - 5.5.2 the Chief Executive acting under delegated powers.
- 5.6 In order to request an exemption the Head of Service must prepare a report setting out:
- 5.6.1 the reasons why the exemption is being requested and which Order(s) the exemption is being requested from;
 - 5.6.2 the process which is intended to be followed instead;
 - 5.6.3 a financial and commercial appraisal from the S151 Officer;
 - 5.6.4 a legal appraisal from the Group Solicitor.
- 5.7 In cases of emergency, a Head of Service may verbally authorise and record in writing an exemption from one or more Orders for supplies, services or works provided that:
- the emergency was brought about by events which were not reasonably foreseeable by, or attributable in any way to, the Council (e.g. flood); and
 - if the supplies, services or works are not received immediately, there is a significant risk of:
 - danger to life; or
 - damage to property; or
 - a major impact on the Council or its service users.
- 5.7.1 In such cases only supplies, services or works necessary or appropriate to safeguard the Council's position or to protect life and property can be procured before formal approval is obtained.
- 5.7.2 Heads of Service must at the earliest opportunity inform the S151 Officer and Group Solicitor of the action taken in dealing with the emergency. Heads of Service must also submit a report to the Cabinet Member that details the circumstances of and

justifications for granting exemptions made in accordance with these Orders.

5.8 Commercial Services will maintain a register of exemptions on behalf of the S151 Officer.

6. Requirements for all Contracts

6.1 Every contract must be in writing and must clearly state:-

- the goods, works or services to be provided;
- the agreed programme of delivery;
- the price and terms of payment;
- all other terms that are agreed;
- exit procedures, for when the contract comes to its natural end; and
- termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.

6.2 Every contract must comply with [Financial Regulations](#) and instructions issued by Commercial Services, including EU Procurement Regulations, where necessary.

7. Requirements to Ensure Competition

7.1 Where the total value of the contract is less than £50,000, Officers may identify potential bidders using the most cost-effective and reasonable methods. This may include searching for registered suppliers via the eSourcing System, catalogues, business directories etc. Additionally, Officers may use an existing Framework Agreement providing the Council is legally entitled to use it. Officers are encouraged to consider the use of local SME's when selecting potential suppliers.

7.2 Where the estimated value of a contract is:

Less than £10,000:

One written quotation is required. This can be a written confirmation by an Officer of an oral quotation. The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council. Use of the eSourcing System is recommended but not mandated.

Between £10,000 and £50,000:

Three written quotations must be requested. The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council. Quotations must be sought using the eSourcing System.

Between £50,000 and the European Union thresholds:

The Officer responsible for the contract must comply with one of the following options:-

- (i) follow a publicly advertised competitive tender process (**See Standing Order 8**); or
- (ii) select a contractor from an approved list of contractors by inviting bids from at least three (**See Standing Order 9**); or
- (iii) use an existing Framework Agreement providing the Council is legally entitled to use it.

In both (i) and (ii) the Officer must use the Council's conditions of contract or appropriate professional institute conditions of contract or a contract which has been approved by an Officer in Legal & Democratic Services and Commercial Services.

Over the EU Procurement thresholds:

Contracts must be advertised according to EU Procurement Regulations (further instructions can be found on the Finance & Commercial Intranet pages). The exception to this is where it is proposed to use suitable Framework Agreement which the Council is legally entitled to use. In any instance the Officer responsible for the contract must before starting the contract process obtain advice from an Officer in both Commercial Services and Legal & Democratic Services.

The thresholds that apply for the period 1st January 2012 to 31st December 2013 are:

Works - £4,348,350

Supplies - £173,934

Services - £173,934

8. Short-listing Suppliers and Pre-Qualification Requirements

8.1 Where the total value of the contract is more than £50,000, Officers must ensure that potential bidders are asked to provide sufficient detail to:

- (a) ensure that they are financially stable;
- (b) ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
- (c) check their health and safety record.

Officers must be able to demonstrate documentary evidence that (a) to (c) above have been checked.

8.2 Where approved lists are used, the Officer and the relevant Head of Service may undertake the short-listing in accordance with the relevant criteria as stated when the approved list was advertised.

9. Creation and Maintenance of an Approved List

9.1 As an alternative to advertising contracts, Officers may use approved lists to select tenderers. However, approved lists cannot be used where the total value of the contract exceeds the EU procurement threshold.

9.2 When the list is first created, and every three years afterwards, an advertisement must be placed on the Council's website and at least one appropriate journal. The relevant Service Area is required to publicise the Council's intention to create an approved list using the eSourcing System.

9.3 Potential bidders for the list must be asked to provide details, which will enable the Council to:

- (a) ensure that they are financially stable;
- (b) ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
- (c) check their health and safety record.

9.4 The list will be the responsibility of the appropriate Head of Service.

9.5 An accredited government scheme subject to approval by Commercial Services is also considered to be an approved list for the purpose of these Standing Orders relating to Contracts.

10. Invitations to Tender/Quotations

10.1 All invitations to tender and quote must:

- clearly specify the goods, services or works that are required. The specification must describe the requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared;
- not disadvantage suppliers in favour of a particular supplier;
- specify the award procedure on which tenders/quotes will be evaluated;
- state that the contract will be on the Council's conditions of contract which must be enclosed with the invitation to tender;
- include a requirement for suppliers to complete fully and sign all tender documents;
- state that the Council is not bound to accept any quotation or tender;
- be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the

11. Evaluation Criteria and Evaluation of Tenders

- 11.1 Officers must ensure that the evaluation criteria on which tenders are to be assessed takes into consideration all factors relevant to the requirement.
- 11.2 Officers must ensure that technical/financial evaluation is conducted by suitably qualified Officer's and in accordance with the published evaluation criteria.
- 11.3 The arithmetic in compliant tenders must be checked. If arithmetical or clerical errors are found they should be notified to the tenderer. The tenderer will be requested to confirm the correct figures/wording or withdraw its tender.
- 11.4 Tenders must be compared against the pre-tender estimate within the signed-off business case. All differentials must be considered. For tendered prices where the value exceeds £50,000 and where the differential is more than 20% above or below the pre-tender estimate must be reported to the Head of Service and the S151 Officer for a decision.
- 11.5 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 11.6 In situations whereby one part of the Council is tendering for a contract with another part of the Council, there must be a clear division between the two parties, with no advantage ensuing for the internal tenderer.
- 11.7 Officers who are responsible for evaluating the tenders should complete and sign a tender evaluation report recording the details of the tenders and the process for selecting the successful tenderer. This process should be completed by someone other than the person who is going to sign the contract.
- 11.8 Authorisation to award the contract must be given in writing by an Officer who has written delegated authority to do so.

12. Submission, Receipt and Opening of Tenders/Quotations

- 12.1 Bidders invited to bid must be given adequate time in which to submit a quotation or tender. Unless the EU Procurement Regulations apply at least four weeks must be allowed for submission of tenders.
- 12.2 Invitations to Quote and Invitations to Tender must be issued and received by electronic means using the corporate eSourcing system in accordance with paragraph 2.6.

12.3 Tenders and quotations submitted in the corporate eSourcing System will not be considered until the deadline for receipt has lapsed. Tenders will not be accessible until Legal & Democratic Services have removed the secure seal on the electronic tender box.

13. Clarification Procedures

13.1 After the tender opening, it may become apparent that one or more of the potential contractors that have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification, the responsible Officer must consult the Commercial Services and the Group Solicitor as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

13.2 No material changes must be made to the proposed arrangements and terms and conditions post-tender.

14. Award of Contract

14.1 Contracts may only be awarded by the Council if the process followed fully complies with these Orders and [Financial Regulations](#).

14.2 Tenders may be evaluated and recommended for acceptance by the following Officers:

Goods and Services:

Contract value £	Acceptance by
Less than £50,000	Authorised Officer in accordance with the Service Area's Financial Scheme of Delegation
£50,000 but not exceeding £100,000	Head of Service
£100,000 and above	Head of Service and S151 Officer

Works:

Contract value £	Acceptance by
Less than £100,000	Authorised Officer in accordance with the Service Area's Financial Scheme of Delegation

£100,000 but not exceeding £500,000	Head of Service
£500,000	Head of Service and S151 Officer

14.3 Where a key decision is required to authorise the creation of a contract the contract must not be awarded unless the Council's decision procedure has been fully complied with. This order applies even if a key decision was not required at the outset prior to commencing procurement,

15. Sealing a Contract

Contracts which are not Call-Off Contracts:

15.1 Contracts let under EU Procurement Regulations may only be signed after the mandatory standstill period has elapsed without a challenge from an unsuccessfully tenderer.

15.2 Contracts may only be signed by Authorised Officers with delegated powers in accordance with the table below:

Contract value £	Signed by
Less than £10,000	Authorised Officer in accordance with their written delegated contract limits under the Service Area's Financial Scheme of Delegation
£10,000 but not exceeding £100,000	Two Authorised Officers in accordance with their written delegated contract limits under the Service Area's Financial Scheme of Delegation
Above £100,000 but less than £500,000	Head of Service and S151 Officer
£500,000 and above	Head of Legal & Democratic Services, Group Solicitor or Senior Solicitor under seal

15.3 Any Contract (irrelevant of value) requiring the additional limitation of 12 years rather than 6 years for court proceedings in the event of a default must be sealed as a deed by the Group Solicitor. This is particularly relevant to construction contracts in the case of latent defects.

Call-Off Contracts:

- 15.4 *Council Framework Agreement with no new terms:* where a Call-Off contract is entered into under a Framework Agreement which has been set-up by the Council and no new terms are being introduced (e.g. under mini-competition) the resulting Call-Off contract does not have to be signed or sealed (unless required in accordance with the terms of the Framework Agreement).
- 15.5 *Council Framework Agreement with new terms:* where a Call-Off contract is entered into under a Framework Agreement which has been set up by the Council and new terms have been introduced (e.g. following a mini-competition), the resulting Call-Off contract must be signed or sealed as set out in Order 15.2 unless otherwise advised by Commercial Services or the Group Solicitor.
- 15.6 *Third Party Framework Agreements:* where a Call-Off contract is entered into under a Framework Agreement which has been set up by a third party, the resulting Call-Off contract must be signed or sealed in accordance with Order 15.2 of these Orders unless otherwise advised by Commercial Services or the Group Solicitor.

16. Commencement of Contracts

- 16.1 No supply of goods, services or works, unless otherwise approved by the Group Solicitor, must commence until all contract documentation is duly completed except:
 - 16.1.1 in cases of emergency falling under Order 5.6 in which case the contract must be completed at the earliest opportunity;
 - 16.1.2 where there has been a tender for works (but not goods or services) and the contract price only holds for a limited period or there is some other circumstance beyond the Council's control delaying completion of the formal contract documentation. In such circumstances a contract may be formed by letter (which details all the provisions of the contract and is signed in accordance with the Order 15). Formal contract documentation must be completed at earliest opportunity and signed or sealed as appropriate depending on its value. Advice from the Group Solicitor in drafting the letter must be obtained. This procedure must not be used if there are any outstanding or unresolved contract provisions unless this is agreed by the Group Solicitor.

17. Post Contract Monitoring

- 17.1 Throughout the duration of a contract, the designated Contract Manager must monitor the contract/contractor in line of the Contract Management Framework.

17.2 Officers must seek advice from Finance & Commercial Services and Legal & Democratic Services if significant non-compliance or performance issues occur during the life of the contract.

18. Changes to Contracts

18.1 Before any changes can be implemented it is important to understand the implications of the proposed change.

18.2 Where provided for in the contract the change control procedure must be followed.

18.3 Changes to contracts falls into one of two categories:

Operational changes will:

- not increase the costs incurred by either party, or will only do so to an immaterial extent i.e. up to an amount that could be fixed by the parties;
- not impact the scope of the contract;
- not impact or require amendments to the terms of the contract;
- not affect the risk profile of either contracting party.

Contractual changes include:

- new service obligations;
- anything impacting existing pricing;
- anything requiring new pricing;
- anything impacting on the scope of the contract;
- anything impacting or requiring amendments to the terms of the contract;
- anything impacting the risk profile of either contracting party.

18.4 Advice must be sought from Finance & Commercial Services and the Group Solicitor when considering contractual changes to contracts.

19. Contract Extensions

19.1 Where an Officer wishes to exercise an option to extend a contract an options appraisal must first be undertaken to assess the benefits against other courses of action.

19.2 The Officer must ensure that appropriate Service Area or other technical and financial Officer's are involved in appraising extension options.

- 19.3 If the original value of the contract plus the value of the extension exceeds £100,000 the Officer must first seek advice from Commercial Services.

20. Termination of Contract

- 20.1 An Officer shall not terminate a contract over £50,000 prior to its expiry date without first obtaining advice from Commercial Services and Legal & Democratic Services.

21. Technical Amendments

- 21.1 The S151 Officer has the authority to make technical amendments when necessary, to ensure that these Standing Orders relating to Contracts remain consistent with legislation, the Council's organisation and structure and generally with best practice. These amendments shall be subject to consultation with the Head of Legal & Democratic Services and the Chief Internal Auditor.

22. Land and Property

- 22.1 This Standing Order relates to the acquisition and disposal of land and property including leases which are for a fixed term of more than seven years.
- 22.2 All valuations and negotiations shall be the responsibility of the Head of Property Services. Anyone undertaking the negotiations on his/her behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors or equivalent professional competence.
- 22.3 All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, or if possible evidence of recent, similar transactions carried out the Council.

Acquisitions:

- 22.4 No purchase of land or property (freehold or leasehold) may be made without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. In order to do this the information detailed below must be provided for this Officer:
- (a) a complete description of the land or property that is being considered for purchase,
 - (b) the reason for the purchase,
 - (c) any information that may affect the value of the property or land, including structural and environmental reports,

- (d) the proposed purchase price or rental value together with evidence of the prices for similar properties in the location, and
- (e) any other terms and conditions.

The Officer must retain all of this evidence for six financial years after the acquisition has been completed.

Disposals:

- 22.5 Land and buildings owned by the Council shall not be disposed of without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, a decision on the sale will need to be made by Members through the key decision process.
- 22.6 Whichever authority is being sought, the following information must be provided:
- (a) a complete description of all the land and/or property to be included in the disposal;
 - (b) confirmation from the Head of Legal and Democratic Services that the title of the land and/or property is owned by the Council;
 - (c) the reason for the sale and any restrictions which this may impose;
 - (d) a report on any information which is held by the Council in the previous use of the land which may affect its value (e.g. if the site were contaminated);
 - (e) the estimated value of the land and/or property;
 - (f) recommendations on the following:
 - (i) issues that need to be resolved before marketing the land and/or property can commence;
 - (ii) the preferred method of disposal (private treaty/public auction/formal tender);
 - (iii) the title to be transferred;
 - (iv) steps that need to be undertaken to maximise the value of the asset prior to disposal e.g. planning applications;
 - (iv) the minimum price that the Council is prepared to receive together with an asking price.

22.7 Where it has been decided that the disposal of the land and/or property will be by formal tender, **Standing Order 8** above relating to tenders shall be applied.

23. Asset Disposals (other than Land or Property)

- (a) A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the IT Section). If a policy or contract is in place, this should be used.
- (b) Office equipment and furniture should first be advertised on the "Office Equipment" section of the Intranet, and communicated to Schools and other establishments of the County Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- (c) Where the estimated value of the goods is no more than £2,500 the disposal can be authorised by the Head of Service. If the estimated value is more than £2,500 then the Strategic Director needs to approve the disposal.
- (d) Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- (e) The Officer responsible for the disposal must ensure that the Council is receiving value for money, and that the contractor used is reputable. Evidence of this must be retained by the responsible Officer.

i OFFICER EMPLOYMENT STANDING ORDERS

1 Recruitment and appointment

a Declarations

- i** The Council will draw up a statement requiring any candidate for appointment as a senior officer, as defined by Council Standing Order 18, to state in writing whether they are the parent, grandparent, husband, wife or partner, child, stepchild, stepfather or stepmother, adopted child, grandchild, brother, sister, son-in-law or daughter-in-law, uncle, aunt, nephew or niece or close personal friend of an existing member or senior officer, or of the partner of any such person.
- ii** No candidate so related to a member or an officer will be appointed without the authority of the relevant Head of Service or an officer nominated by him/her.

b Seeking support for appointment.

- i** The Council will disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii** No member will seek support for any person for any appointment with the Council or give a reference for any person for any appointment with the Council.
- iii** However this shall not prevent a member from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment

2 Recruitment of Head of Paid Service and Strategic Directors and Statutory Officers

Where the Council proposes to appoint a Head of Paid Service, a Strategic Director or a Statutory Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- a** draw up a statement specifying:
 - i** the duties of the officer concerned; and
 - ii** any qualifications or qualities to be sought in the person to be appointed;
- b** make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c** make arrangements for a copy of the statement mentioned in sub-paragraph (a) to be sent to any person on request.

3 **Appointment of Head of Paid Service, Strategic Directors and Statutory Officers**

The Senior Appointments and Bucks Pay Award Committee will appoint to these posts.

4 **Other Appointments**

The appointment of officers below Strategic Director (except statutory officers) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by members.

5 **Disciplinary Action**

a **Suspension.** In accordance with Council Standing Order 18, the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged gross misconduct. That suspension will be on full pay.

b **Independent person.** No other disciplinary action may be taken in respect of any officers identified in (a) except in accordance with a recommendation in a report made by a designated independent person, conducted in accordance with Council Standing Order 18.

c Members will not be involved in disciplinary action against any officer below Strategic Director (except in the case of the statutory officers) other than where such involvement is necessary for any related investigation or inquiry. The Council's disciplinary, capability, redundancy and grievance procedures, as adopted from time to time, may allow a right of appeal or representation to members in respect of action which has been taken.

6 **Dismissal**

Members will not be involved in the dismissal of any officer other than the Chief Executive, Strategic Directors or the Statutory Officers. Members will hear any appeal made against dismissal of any employee of the Council.

j LAND AND PROPERTY STANDING ORDERS

- 1.1 These Land and Property Standing Orders shall apply to all service areas of the County Council.
- 1.2 Each Head of Service is responsible for the observance of these Standing Orders within his or her service area, and for the training of staff to enable them to comply with these Regulations.
- 1.3 All reports to Committees, Cabinet Members or the Cabinet, or for consideration beforehand by senior officers, which concern or may concern the creation, acquisition, disposal or modification of any legal or other interest in the land or building, shall contain an appraisal agreed with the Head of Property Services, setting out the implications in terms of property rights and interests arising from the proposals contained within the report.
- 1.4 Officers shall, wherever practicable, seek the approval of the Head of Property Services to any such proposals at a consultative stage prior to the preparation of the report for submission to Members.
- 1.5 With reference to the Corporate Landlord: all property assets (land and buildings) to be held for the corporate good, managed by the Head of Property Services on behalf of the Council, regardless or not if they are declared "surplus". All property management acquisition and disposals should be negotiated by Property Services.

Buckinghamshire County Council Petitions Scheme

How you should submit your petition and what happens next

1 Petitions

We particularly welcome petitions as one way in which you can let us know your concerns. We set out below how the authority will respond to petitions which you send us.

1.1 What is a petition?

We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 20 signatories or petitioners before we treat it as a petition. We would like to hear from people who live, work or study in Buckinghamshire.

1.2 What should a petition contain?

A petition should include:

1.2.1 A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether they would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;

1.2.2 The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an email address;

1.2.3 The names of at least 20 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You may include the addresses of petitioners, which may be useful to the authority, for example, in assessing the degree of local support or opposition to a planning application, but this is not essential. If you want your petition to be debated at a meeting of the Council (a Petition for Debate), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report (a Petition to hold an Officer to Account), your petition will need to contain a higher number of signatories or petitioners (see below);

1.2.4 If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

1.3 Who should you send a petition to?

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

We have appointed a Petitions Officer who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to:

The Petitions Officer (the Head of Legal and Democratic Services)
Buckinghamshire County Council
County Hall
Walton Street
Aylesbury
Buckinghamshire
HP21 IUA

or to <http://www.buckscc.gov.uk/moderngov/mgepetitionlistdisplay.aspx>

The Petitions Officer will ensure that your petition is acknowledged to the petition organiser and entered on the authority's petitions website (<http://www.buckscc.gov.uk>) and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 01296 38 3650

2 Types of Petition

There are five different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit:

2.1.1 Ordinary Petitions

These are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards Referrals Sub-Committee, rather than considered under this Petitions Procedure.

2.1.2 Consultation Petitions

These are petitions in response to an invitation from the authority for representations on a particular proposal or application, for example on planning applications or proposals for parking restrictions or speed limits. Consultation petitions which are received by the response date in the consultation invitation will be reported to a meeting of the person or body which will be taking the decision on the application or proposal.

2.1.3 Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

2.1.4 Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 5000 (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than two electoral wards within the authority's area).

2.1.5 Petitions to Hold an Officer to Account

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 5000 names. The authority has determined that such petitions must relate to the Chief Executive, a Strategic Director or a Head of Service of the authority. Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.¹

2.2 The Petitions Website

The authority maintains a petitions website at www.buckscc.gov.uk

When a petition is received, within ten working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if they so request.

¹ Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within ten working days of that consideration.

Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for keywords to identify all petitions relating to a particular topic. All petitions are kept on the website for two years from the date of receipt.

2.3 The role of County Councillors

2.3.1 When a petition is received which relates to a local matter (particularly affecting specific electoral division), the Petition Officer will send a copy of the petition to each relevant County Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

2.3.2 When the petition is reported to the person or body within the authority who can take a decision on the matter to which it relates, the relevant County Councillor/s will be invited to meet the decision taker and address the decision-taker for no more than four minutes (or four minutes each), immediately after the petition organiser.

2.4 What happens when a petition is received?

Whenever a petition is received:

2.4.1 Within ten working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

2.4.2 In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant Cabinet Member or officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether they consider that the matter is resolved.

2.4.3 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within fifteen working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to four minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights that may exist for that meeting.

2.4.4 Whilst we are committed to dealing with petitions promptly, a petition will normally need to be received at least ten working

days before a relevant meeting if it is to be reported to that meeting. Where it is necessary to undertake a significant amount of work to collect information and advice to enable the matter to be properly considered, it may be necessary for the Petitions Officer to decide that the petition will be held over until the following meeting of the relevant body.

- 2.4.5 At the same time as responding to the petition organiser, the Petitions Officer will notify County Councillors of receipt of the petition.
- 2.4.6 Within ten working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if they so request.
- 2.4.7 At each stage of the consideration of the petition, within ten working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.
- 2.4.8 The process after this stage differs for the various types of petitions – see below.

2.5 What happens to a Consultation Petition?

- 2.5.1 Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning application or a proposed traffic regulation order.
- 2.5.2 The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees. However, all planning applications are determined by the Development Control Committee (with one exception), and traffic regulation orders are determined by the Cabinet Member for Transport. The one exception in respect of planning applications is that the Head of the Planning function has delegated power to determine some planning applications where no objection has been received. So, where a petition has been received objecting to the grant of planning permission, the application would be reported to the Development Control Committee for decision. Where the petition supports the planning application, it may be determined by an officer.
- 2.5.3 Where the petition relates to a matter which is within the delegated power of an officer, they will not exercise those delegated powers but will automatically refer the matter up to the relevant Cabinet Member for decision.

2.5.4 Where the petition relates to a matter which is within the delegated powers of an individual Cabinet Member, they may decide not to exercise those delegated powers but to refer the matter to Cabinet for decision.

2.6 What happens to a Statutory Petition?

2.6.1 Particular Acts of Parliament require the Council to consider petitions, for example a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

2.7 What happens to Petitions for Debate?

2.7.1 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council, at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition or when the Council is sitting as the ceremonial council.

2.8 What happens to a Petition to Hold an Officer to Account?

2.8.1 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.

2.8.2 In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which they would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will have the discretion to rule out questions that are clearly irrelevant to the issue raised by the petition, and to the officer concerned, who will answer the questions at the meeting.

2.8.3 At the meeting, the Chairman will invite the petition organiser to address the Committee for a maximum of four minutes on the issue², and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer.

2.9 What happens to an Ordinary Petition?

2.9.1 The Petitions Officer will arrange for each Ordinary petition to be reported to the next convenient meeting of Cabinet, of Council or of a Committee or Sub-Committee of Council which has the power to take a decision on the matter. If the petition relates to a Cabinet Member decision, this will be submitted to the Cabinet Member to take into account before they take the decision.

² Note that the 2009 Act does not give the petition organiser a right to speak at the Committee meeting, but the Council has decided that they should be invited to set out the petitioners' concerns in relation to the subject matter of the petition.

2.10 At the meeting, when the matter to which the petition relates is considered:

- 2.10.1 Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting³, and will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise⁴. A maximum of 30 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will be deferred until the next meeting.⁵
- 2.10.2 Any petitions relevant to particular items of business, such as petitions relating to planning applications or proposed traffic regulation orders, will be taken together with that item of business, in the normal order of business.
- 2.10.3 The decision-taker or the Chairman of the meeting may invite a relevant officer to set out the background to the issue. The Chairman may then ask questions of the petition organiser, and will then invite any relevant County Councillors present to address them on the matter for up to four minutes (each). The Chairman will then invite a relevant officer(s) to advise the meeting, after which the matter will be open for debate among members of the decision-making body. Where the matter is to be determined by a Cabinet Member, they will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of Council, Cabinet or a Committee of the Council for determination.
- 2.10.4 Within ten working days of the consideration of the petition by the relevant Cabinet Member, the Petitions Officer will notify the petition organiser of the Cabinet Member's decision and advise them that if they is not satisfied with that decision, they may require the matter to be reported to the next convenient meeting of the appropriate Overview and Scrutiny Committee for review.
- 2.10.5 At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

2.11 Appeal to an Overview and Scrutiny Committee

- 2.11.1 If the petition organiser is not satisfied with the outcome of the authority's consideration of their petition, they may appeal to an Overview and Scrutiny Committee by notifying the Petitions

³ This may require that the procedure rules for Council, Cabinet, Committees and Sub-Committees be amended.

⁴ In practice, where one person has submitted more than one petition, their second petition will be taken after consideration of the first petition submitted by each other person, and so on.

⁵ Note that the Local Democracy, Economic Development and Construction Act 2009 does not provide for a limit on the time allowed for debating petitions, but it is included here to ensure that the authority can continue to discharge its other functions effectively.

Officer of their intention to appeal within twenty working days of being notified of the authority's decision on the petition.

2.11.2 Within ten working days of receipt of intention to appeal, the Petitions Officer will determine which is the relevant Overview and Scrutiny Committee and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee for up to four minutes on why he considers that the authority's decision on the petition is inadequate.

2.11.3 At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and County Councillors to make their representations and to explain why they consider that the Cabinet Member's response was insufficient. The Overview and Scrutiny Committee may not over-ride the Cabinet Member, but the Cabinet Member must consider any recommendations made by the Overview and Scrutiny Committee, in accordance with the Council's Overview and Scrutiny Standing Orders as set out in the constitution.

2.12 The role of the Petition Organiser

2.12.1 The petition organiser will receive acknowledgement of receipt of the petition within ten working days of its receipt by the authority.

2.12.2 Where the petition is not accepted for consideration (see paragraph 3.16 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

2.12.3 Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within fifteen working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to three minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

2.12.4 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

2.12.5 The petition organiser will be informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within ten working days of such decision.

2.12.6 The petition organiser may notify the Petitions Officer of their intention to appeal to an Overview and Scrutiny Committee against the decision of the authority relating to the petition within twenty working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee for up to four minutes as to why they consider that the authority's decision on the petition was inadequate.

2.13 Petitions which will not be reported

2.13.1 Duplicate Petitions

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

2.13.2 Repeat Petitions

A petition will not normally be considered where it has been received within six months of another petition being considered by the authority on the same matter.

2.13.3 Rejected Petitions

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the authority, or over which the authority has some influence.

3 Appeal to an Overview and Scrutiny Committee

If a petition organiser is not satisfied with the outcome of the authority's consideration of their petition, they may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of their intention to appeal within 20 working days of being notified of the authority's decision on the petition.

PART 5

CODES AND PROTOCOLS

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5.1 MEMBERS

a Code of Conduct

- Appendix 1 – Principles of Public Life
- Appendix 2 – Supplementary Guidance
- Appendix 3 – Gifts and Hospitality

b Protocol on Member Officer Relations

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d Planning and Lobbying

5.2 OFFICERS

a Code of Conduct

5.1 MEMBERS

a Code of Conduct

Part 1

General Provisions

1 INTRODUCTION AND INTERPRETATION

- 1.1 This Code applies to **you** as a member of an authority.
- 1.2 You should read this Code together with the general principles prescribed by the Secretary of State.
- 1.3 It is your responsibility to comply with the provisions of this Code.
- 1.4 In this Code:
 - "meeting" means any meeting of:
 - a the authority;
 - b the executive of the authority;
 - c any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

- 1.5 In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

2 SCOPE

- 2.1 Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:

- a conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- b act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- 2.2 Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- 2.3 In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

- 2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

- 2.5 Where you act as a representative of your authority:

- a on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
- b on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3 GENERAL OBLIGATIONS

- 3.1 You must treat others with respect.

- 3.2 You must not:

- a do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- b bully any person;
- c intimidate or attempt to intimidate any person who is or is likely to be:

- i a complainant,
- ii a witness, or
- iii involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

- d do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

3.3 In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4 You must not:

4.1 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:

- a you have the consent of a person authorised to give it;
- b you are required by law to do so;
- c 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
- d the disclosure is:
 - i reasonable and in the public interest; and
 - ii made in good faith and in compliance with the reasonable requirements of the authority; or

4.2 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:

6.1 must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

6.2 must, when using or authorising the use by others of the resources of your authority:

- a act in accordance with your authority's reasonable requirements;

- b ensure that such resources are not used improperly for political purposes (including party political purposes); and
- 6.3 must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7

- 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.
- 7.2 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

8 PERSONAL INTERESTS

- 8.1 You have a personal interest in any business of your authority where either:
- a it relates to or is likely to affect:
 - i any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - ii any body:
 - aa exercising functions of a public nature;
 - bb directed to charitable purposes; or
 - cc one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
 - iii any employment or business carried on by you;
 - iv any person or body who employs or has appointed you;

- v any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - vi any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - vii any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - viii the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - ix any land in your authority's area in which you have a beneficial interest;
 - x any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - xi any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- b a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
- i (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - ii (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - iii (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

8.2 In sub-paragraph (1)(b), a relevant person is:

- a a member of your family or any person with whom you have a close association; or
- b any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

- c any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- d any body of a type described in sub-paragraph (1)(a)(i) or (ii).

9 DISCLOSURE OF PERSONAL INTERESTS

- 9.1 Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 9.2 Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 9.3 Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 9.4 Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 9.5 Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 9.6 Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 9.7 In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10 PREJUDICIAL INTEREST GENERALLY

- 10.1 Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 10.2 You do not have a prejudicial interest in any business of the authority where that business:
 - a does not affect your financial position or the financial position of a person or body described in paragraph 8;

- b does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- c relates to the functions of your authority in respect of:
 - i housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - ii school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - iii statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - iv an allowance, payment or indemnity given to members;
 - v any ceremonial honour given to members; and
 - vi setting council tax or a precept under the Local Government Finance Act 1992.

11 PREJUDICIAL INTERESTS ARISING IN RELATION TO OVERVIEW AND SCRUTINY COMMITTEES

- 11.1 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
- a that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - b at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

12 EFFECT OF PREJUDICIAL INTERESTS ON PARTICIPATION

- 12.1 Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
- a you must withdraw from the room or chamber where a meeting considering the business is being held:
 - i in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

- ii in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- b you must not exercise executive functions in relation to that business; and
- c you must not seek improperly to influence a decision about that business.

12.2 Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

13 REGISTRATION OF MEMBERS' INTERESTS

13.1 Subject to paragraph 14, you must, within 28 days of:

- a this Code being adopted by or applied to your authority; or
- b your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

13.2 Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

14 SENSITIVE INFORMATION

14.1 Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

14.2 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

14.3 In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

PRINCIPLES OF PUBLIC LIFE

Selflessness

- 1 Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

- 2 Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

- 3 Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

- 4 Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

- 5 Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

Personal Judgement

- 6 Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

- 7 Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the Authority's Statutory Officers, and its other employees.

Duty to Uphold the Law

- 8 Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

- 9 Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

- 10 Members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

SUPPLEMENTARY GUIDANCE AND INFORMATION

Part 1

1 INTRODUCTION AND INTERPRETATION (Section 1 of the Code)

- 1.1 This Code defines the standards of conduct which will be required of all members of the Authority (including co-optees and independent members) in carrying out their duties, and in their relationships with the Authority and the Authority's officers.
- 1.2 "Co-opted member" means a person who is not an elected member of the Authority but who –
- a is a member of any committee or sub-committee of the Authority, or
 - b represents the Authority as a member, or at a meeting, of any joint committee or joint sub-committee of the Authority.
- 1.3 All members are required on accepting office to declare in writing within two months, that they will observe the Code.
- 1.4 The Code represents the standard expected of members against which the public, their fellow members, the Standards Board and the Authority's Standards Committee will judge their conduct. The Local Ombudsman may also regard a breach of the Code as incompatible with good administration, and may make a finding of maladministration by the Authority in these circumstances.
- 1.5 Each member should make sure that he/she is familiar with the requirements for personal conduct set by the law and by the Authority's Standing Orders, and the requirements contained in this Code. It is his/her responsibility to make sure that what he/she does complies with these requirements and this Code. He/she should regularly review his/her personal circumstances with this in mind, particularly when those circumstances change. If in any doubt, he/she should seek advice from the Authority's Monitoring Officer or from his/her own legal adviser. In the end however, the decision and the responsibility are those of the member.
- 1.6 Where a member is required to comply with the code of conduct of another body, he/she will, nonetheless, be expected to have regard to the general principles of conduct and the requirement not to bring the office of the member or the Authority into disrepute.
- 1.7 Buckinghamshire County Council has decided to apply the rules on disclosure of interests and withdrawal from a meeting to both formal and informal meetings with other members and/or with officers relating to the discharge of the authority's functions.

2 SCOPE (Section 2 of the Code)

The Code of Conduct applies when members act, or give the impression of acting, in an official capacity but also at any other time, where that conduct constitutes a criminal offence for which the member has been convicted. However, the current Local Government and Public Involvement in Health Bill proposes to re-apply the Code of Conduct to events in a member's private life.

3 GENERAL OBLIGATIONS (Section 3 – Section 7 of the Code)

Section 3

- 3.1 Every elected member has an over-riding duty to the whole County, and to act in the public interest.
- 3.2 Elected members have a special responsibility to their constituents, including those who did not vote for them.
- 3.3 Both elected members and officers are servants of the public, and they are indispensable to one another, but their responsibilities are distinct. Elected members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council through the Chief Officer, to whom they are accountable. Their job is to give advice to members and the Authority, and to carry out the Authority's work under the direction and control of the Council, its committees and sub-committees and the Executive.
- 3.4 Mutual respect between members and officers is essential to good local government. Close personal familiarity between individual members and officers can damage this relationship and prove embarrassing to other members and officers.
- 3.5 The law and standing orders lay down rules for the appointment, discipline and dismissal of staff. Members must ensure that they observe these scrupulously at all times. If a member is called upon to take part in appointing an officer (other than a political assistant) the only issue which he/she should consider is which candidate would best serve the whole Authority. Members should not let their political or personal preferences influence their judgment and, in consequence, should not provide references in support of applications for employment by their Authority.
- 3.6 Members shall not provide or offer to provide a reference for any candidate for appointment or promotion as an officer of the authority.

Section 4

- 4.1 As a councillor or a committee or sub-committee member, members necessarily acquire information that is confidential to the Authority or to individuals, is commercially confidential or has not yet been made public. It is a betrayal of trust to breach such confidences.
- 4.2 Section 22 of the Local Government Act 2000 permits the Secretary of State to make regulations which govern access to information provisions in authorities operating Executive arrangements under the 2000 Act. On 9 January 2001, the Local Authorities (Executive Arrangements Access to Information) Regulations

- 4.3 In these regulations “executive decision” is defined as a decision made or to be made by a decision maker, in connection with the discharge of a function which is the responsibility of the executive of a local authority.

Section 5

- 5.1 Clearly, acting or causing the Authority to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking which the Authority has given, or for the advantage of any particular person or interest rather than in the public interest, would be likely to bring the member, his/her office or the Authority into disrepute.

Section 6

- 6.1 A member may have dealings with the Authority on a personal level, for instance as a ratepayer or council taxpayer, as a tenant, or as an applicant for a grant or a planning permissions. A member should never seek or accept preferential treatment in those dealings because of his/her position as a councillor or a committee or sub-committee member or a member of the Executive. He/she should also avoid placing himself/herself in a position that could lead the public to think that he/she was receiving preferential treatment. Likewise, a member should never use his/her position as a councillor or a committee or sub-committee member or a member of the Executive to seek preferential treatment for friends or relatives, or any firm or body with which he/she is personally connected.
- 6.2 Members must ensure that the Council’s resources:
- a are not made available to a registered political party except upon commercial terms upon which they are available to any other registered political party.
 - b are not used improperly for their own private purposes, or by their family, friends or persons with whom they have a close personal association.
- 6.3 Members should always make sure that any facilities (such as transport, stationery, or secretarial services) provided by the Council for their use in their duties as a member are used strictly for those duties and for no other purpose, except where the Authority has specifically permitted limited private use in circumstances which do not cause significant additional cost to the Authority.
- 6.4 Members must, when using or authorising the use by others of the resources of your authority or of resources the use of which are controlled or influenced by your authority.
- a act in accordance with the authority’s reasonable requirements and
 - b ensure that such resources are not used improperly for political purposes (including party political purposes).

Section 7

- 7.1 When reaching decisions on any matters members must
- a do so on the basis of the merits of the circumstances and in the public interest
 - b have regard to any relevant advice provided to you by the authority's officers – in particular by:
 - i your authority's Chief Finance Officer, particularly where that officer is acting pursuant to his or her statutory duties
 - ii your authority's Monitoring Officer, particularly where that officer is acting pursuant to his or her statutory duties
 - iii your authority's Chief Legal Officer, who should be consulted whenever there is any doubt as to the authority's powers to act, or as to whether the action proposed lies within the policy framework agreed by the authority, or where the legal consequences of action or failure to act by the authority might have important repercussions.

Part 2

PERSONAL INTERESTS (Section 8 of the Code)

- 8.1 A member should never do anything as a member which he/she could not justify to the public. The member's conduct, and what the public believes about his/her conduct, will affect the reputation of the Authority, (and of any party to which the member belongs).
- 8.2 It is not enough to avoid actual impropriety. A member should at all times seek to avoid any occasion for suspicion and any appearance of improper conduct.
- 8.3 Although references in the Code of Conduct refer to the nominal value of share capital, members are reminded that the traded value of shares is often greatly in excess of their nominal value. Members may feel that they need to declare a personal interest in a matter where they hold shares traded at a substantial value in a company under discussion. If a member is in any doubt about whether he/she should declare an interest, he/she should:
- a consider whether the public would regard that interest as so closely connected with the matter in question that the member could not be expected to put his/her interest out of his/her mind. If he/she thinks that they would, the member should never take part in a discussion of, or a vote on, the matter in question;
 - b consider any guidance which the Authority and its Standards Committee has issued on this matter; and
 - c take advice from the Monitoring Officer as to whether the situation justifies such a step.

- 8.4 Each member should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the council, or may be applying to the council for planning permission or some other kind of decision
- 8.5 There are no hard or fast rules about the acceptance or refusal of hospitality or tokens of goodwill: working lunches may be a proper way of doing business, provided that they are approved by the Authority and no extravagance is involved. Likewise, it may be reasonable for a member to represent the Authority at a social function or event organised by outside persons or bodies. Invitations to sporting or cultural events, as well as trips and holidays, proffered by organisations doing business with, or seeking to do business with, the Council should definitely be declined.
- 8.6 Each member is personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government.
- 8.7 A member should also notify the Authority's Monitoring Officer of any offer of any gift or hospitality, whether or not the member accepts that offer, which a member of the public with knowledge of the relevant facts might reasonably regard as intended to influence his/her discharge of his/her responsibilities as a member.
- 8.8 Such notification should be made as soon as reasonably practicable after the member is aware of the offer and in any case within 28 days of such offer.
- 8.9 Gift or hospitality includes any opportunity to acquire goods or services at a price or on terms at which they are not readily available to the general public.

Membership of Committees and Sub-Committees

- 8.10 Members, or some firm or body with which they are personally connected, may have professional, business or other personal interests within the ambit of the Authority's responsibility. Such interests may be substantial and closely related to the work of one or more of the Authority's committees or sub-committees. A member should not seek, or accept, membership of any such committee or sub-committee if that would involve him/her in disclosing an interest so often that he/she could be of little value to the committee or sub-committee, or if it would be likely to weaken public confidence in the ability of the committee or sub-committee to work solely in the general public interest.

Leadership and Chairmanship

- 8.11 A member should not seek, or accept, a position of leadership within the Authority, such as the position of Leader, membership of the Executive or Chairmanship of the Council or of one of its committees, if he/she, or any body with which he/she is associated, has a substantial financial interest in, or is closely related to, the business or affairs of the Authority.

DISCLOSURE OF PERSONAL INTERESTS (Section 9 of the Code)

9.1 Executive decisions by single members:

- a In relation to a matter which a member has delegated authority to decide, the member will have a personal interest if a member of the public might reasonably perceive a conflict between the member's role in taking that decision on behalf of the Authority as a whole and the member's role in representing the interests of constituents in the member's ward.
- b A member with a personal interest in a matter which that member has delegated authority to decide must disclose the existence and nature of the interest, must withdraw from involvement in the decision, and refer it to the Executive for determination. Any such declaration made must be included in the record of the decision.
- c Members must exercise personal responsibility in deciding whether they have a personal interest such that they should disclose it. They may seek advice from the Authority's Monitoring Officer and must have regard to any given by the Authority's Standards Committee.

10 PREJUDICIAL INTEREST GENERALLY (Section 10 of the Code)

In terms of Paragraph 10(2) the determining of any approval, consent, licence, permission or registration shall include the amendment, modification, of any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or the revoking of any approval, consent, licence, permission or registration.

11 EXPENSES AND ALLOWANCES

Part 6 of the Council's Constitution contains rules enabling members to claim expenses and allowances in connection with their duties as a councillor or a committee or sub-committee member. These rules must be scrupulously observed.

12 CO-OPERATION WITH REGULATORY FUNCTIONS

A member shall co-operate fully with the Authority's Chief Finance Officer and Monitoring Officer, and with the Authority's Overview and Scrutiny and Standards Committees.

13 PROTOCOLS

- 13.1 Various protocols will be adopted by the Council as supplementary guidance for members. These protocols do not form part of the Code, but members are required by the Council to comply with them. The Council has authorised the Standards Committee to take appropriate action and apply appropriate sanctions to any member who acts in breach of these protocols and, for this purpose, this supplementary guidance shall itself be regarded as a protocol.
- 13.2 The Council has authorised the preparation of the following protocols to provide additional guidance in relation to:

- Member / Officer Relations (attached)
- Questioning and Human Rights
- Planning and Lobbying (attached)
- Member involvement in Commercial Transactions
- The Use of IT by Members (attached)

13.3 The protocols are attached to the County Council's Constitution and can be accessed via the following link:
<http://www.buckscc.gov.uk/constitution>

GIFTS AND HOSPITALITY

A CODE OF CONDUCT FOR COUNCILLORS

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Prevention of Corruption Acts. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

This Code of Conduct sets out:

- a the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality
- b a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it
- c a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

1 General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

- a **Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer (declination to offer what might otherwise be offered) of any inducement or reward for discharging those duties in a particular manner.

The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you

commit a criminal offence carrying a maximum term of imprisonment of 7 years

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

b You should only accept a gift or hospitality if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

c Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- i occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.

- ii determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
- iii funding decisions, when the authority is determining a grant application by any person or organisation.

d Never accept a gift or hospitality which puts you under an improper obligation

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

e Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

a General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- i civic hospitality provided by another public authority
- ii modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- iii tickets for sporting, cultural and entertainment events which are sponsored by the authority
- iv small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- v a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, cafe or

bar. In such cases, you should make reasonable efforts to return the offer where this is practicable

- vi a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party (or premises hired by that party) with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head
- vii modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- viii Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- ix other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Head of Legal and Democratic Services together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the - Chairman's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

b Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- i the nature and your estimate of the market value of the gift or hospitality
- ii who the invitation or offer has been made by or on behalf of

- iii the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- iv any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- v any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

3 Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

4 Gifts to the authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the

acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

5 Definitions

- a "Gift or hospitality" includes any:
 - i the free gift of any goods or services
 - ii the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
 - iii the opportunity to obtain any goods or services which are not available to the general public
 - iv the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

- b References to the "value" or "cost" of any gift or hospitality are references to the higher of:
 - i your estimate of the cost to the person or organisation of providing the gift or consideration
 - ii the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

To:

Declaration of Receipt of Gifts or Hospitality

Name	
Post	
Department	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your job with the person or organisation providing the gift or hospitality?	
Signed	Date

b Protocol On Member/Officer Relations

1 INTRODUCTION

- 1.1 A good relationship between Members and Officers is characterised by mutual respect and trust, and is essential to the successful working of the organisation. Member and Officers speak to each other openly and honestly. Nothing in this Protocol is intended to change this relationship.
- 1.2 The purpose of this Protocol is to help Members and Officers perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Chief Executive of the Council and the Monitoring Officer.
- 1.3 The Protocol must be read and operated in the context of all relevant legislation, national and local Codes of Conduct, the Council's Complaints and Whistleblowing procedures and any other procedure for confidential reporting.

2 ROLES OF ELECTED MEMBERS AND OFFICERS

- 2.1 The respective roles of elected Members and Officers can be summarised as follows:

Elected Members and Officers are servants of the public and they are indispensable to one another. Their responsibilities are distinct. Elected Members are responsible to the electorate and set policy and direction. Officers are responsible to the Council. An Officer's job is to give advice to the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees, etc.

Mutual respect and co-operation between Members and Officers is essential to good local government.

- 2.2 Elected Members

Elected Members have four main areas of responsibility:

- contributing to determining the policy of the Council and giving it leadership,
- monitoring and reviewing the performance of the Council in implementing that policy and delivering services,
- representing the Council in their local areas and externally,
- acting as advocates on behalf of their constituents.

All Elected Members should respect the impartiality of Officers' information and advice, must not ask them to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

Elected Members should recognise that no Officer should be expected to give political advice, and those that are in 'politically restricted' posts are specifically debarred from engaging in active political work.

When dealing with Council business, Members should be mindful of the provisions relating to interests in the Local Code of Conduct, and avoid involvement in matters that could be deemed to be breaches of these provisions. Members should also be aware of legislative constraints on their behaviour. For example, they should not visit certain Council establishments without the appropriate checks having been completed.

2.3 Members of the Executive and Chairmen.

Members of the Executive and Chairmen and Vice Chairmen of Committees, Boards, Panels etc. have additional responsibilities and their relationships with Officers may be different from, and more complex than those of Members without those responsibilities. A list of these Members current responsibilities, which were accepted in principle by the County Council at its meeting on 18 July 2002, is attached for information at Appendix A of this protocol.

2.4 Officers

An Officer's role is:

- to give advice and information to all Members on an impartial basis and
- to implement the policies determined by the authority, provided the policies are within the law.

In all advice, including reports, it is the responsibility of the Officer to express his/her own objective advice in a professional manner, and make recommendations based on these. An Officer may report the views of individual Members on an issue. If the Member wishes to express a view contrary to the recommendation, he/she must not pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Officers eg Chief Executive of the Council, Monitoring Officer and Head of Finance (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and to individual Members. These obligations should be respected. These Officers must not be obstructed in the discharge of these responsibilities, and/or be victimised for discharging these responsibilities.

3 EXPECTATIONS

3.1 Members can expect from Officers:

- a A commitment to the Council as a whole, and not to any political group
- b A working partnership
- c An understanding of and support for respective roles, workloads and pressures
- d Timely response to enquiries and complaints

- e Objective advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers
- f Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- g Awareness of and sensitivity to the political environment
- h Respect, courtesy and dignified behaviour appropriate to the occasion
- i Training and development in order to carry out their role effectively
- j A high level of integrity and confidentiality, appropriate to the situation
- k Not to have Officers' personal issues raised with them outside the agreed procedures
- l That they will not attempt to influence improperly any Member to advance Officers' personal interests, those of others, or influence improperly a decision
- m At all times compliance with the Code of Conduct for Officers
- n Support for the role of elected Members as the local representatives of the Council, within any scheme of support for Members, which may be approved by the authority.

3.1.2 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the divisional Members should be notified at the outset of the exercise.

3.1.3 Correspondence between an individual Member and an Officer should not be copied by the Officer to any other Member without that Members' consent. Officers should not be copied into political group correspondence.

3.2 Officers can expect from Members:

- a A working partnership
- b An understanding of and support for respective roles, workloads and pressures
- c Leadership and direction
- d Respect, courtesy and dignified behaviour appropriate to the occasion
- e A high level of integrity and appropriate confidentiality, appropriate to the situation
- f Not to be subject to bullying

- g Not to have Members' personal issues raised with them outside the agreed procedures
- h Not attempt to influence improperly any Officer to advance their personal interests, or those of others, or influence improperly a decision
- i That Members will at all times comply with the Council's local Code of Conduct for Members
- j Members not to comment adversely on the conduct or capability of an individual Council employee at meetings held in public

3.3 Limitations upon Behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a Close personal relationships between Members and Officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment. Where close personal relationships do exist it is necessary to ensure that confidential knowledge is respected and not discussed inappropriately.
- b The need to maintain the separate roles means that there are limits to the matters on which Officers should be expected to give advice. Officers are unlikely to be able to give advice on personal matters and should not give advice on party political matters.
- c Relationships with particular individuals or party groups should not be such as to give cause for suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered below.

4 POLITICAL GROUPS

4.1 The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the Council. It is in the interests of the Council to support an effective operation of political groups, but the operation of political groups can pose particular difficulties in terms of the impartiality of Officers.

4.2 Officer Attendance

- a Any political group may request the Statutory Officers, Strategic Directors and Corporate Directors, or Heads of Service to attend a meeting of the group to advise on any particular matter relating to the Council.
- b An Officer may decline a request to attend if he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

- c Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council. Advice will not deal with any political implications of the matter or any option, and Officers will not make any political recommendation to a political group.
- d Where an Officer attends a political group, the Chief Executive of the Council will advise all other groups that the Officer has attended and the subject upon which he/she has advised, and ensure that other groups are afforded the same opportunity.
- e Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee where the matter in question is concerned.
- f Officers will respect the confidentiality of any lawful matter, which they hear in the course of attending a political group meeting.

5 WHEN THINGS GO WRONG

5.1 From time to time the relationship between Members and Officers may break down or become strained. If this is the case, matters may be resolved informally, or through conciliation by an appropriate senior manager or Member. It is hoped that most issues will be dealt with informally where possible.

5.2 Procedure for Officers

Before an Officer commences formal proceedings such as the Grievance Procedure, he/she should consider raising their concerns about the relationship with a given Member with the Leader or Deputy Leader of the County Council. Officers also have recourse to the Grievance Procedure, Whistleblowing, or to the Council's Monitoring Officer, as appropriate to the circumstances. Should a grievance or complaint be upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will decide on the course of action to be taken, following consultation with the Chairman and Vice Chairman of the Standards Committee.

5.3 Procedure for Member

Prior to a Member approaching the Head of Service, the Member should consider discussing the issue with the Deputy Leader of the Council or an appropriate Officer. In the event that a Member remains dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Head of Service. Where the Officer concerned is a Head of Service, the matter should be raised with the appropriate Strategic Director. Where the Officer concerned is a Strategic Director, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Corporate Director of Organisational Development and Human Resources. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

CHAIRMAN OF THE COUNCIL

Responsibilities:

- 1 To preside over all meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community.
- 2 To chair major consultation meetings organised by the Council.
- 3 To set an example of the standard of conduct to be expected from all Members.
- 4 To help represent the Council in the community and in discussions with regional, national, European and international organisations and others.
- 5 To respond to correspondence received on behalf of the Council and to initiate correspondence on behalf of the Council as appropriate.
- 6 To attend functions appropriate to the position of Chairman of the Council.
- 7 To act as host to visiting royalty, civic dignitaries and other important visitors.
- 8 To host major receptions and other functions.
- 9 To promote public interest in the Council's activities.
- 10 To ensure that if he or she is unable to attend any event, that the Vice-Chairman of Council attends if possible.
- 11 To maintain regular contact with all Members, community representatives and other local partners and to take account of their views.
- 12 To undertake relevant training and development in order to keep up to date with new developments and practices.

VICE-CHAIRMAN OF THE COUNCIL

Responsibilities:

- 1 To support and assist the Chairman of the Council in the ceremonial business of the Council.
- 2 To chair meetings of the Council or major consultation meetings organised by the Council in the absence of the Chairman.
- 3 To assist the Chairman in setting the standard of conduct to be expected from all Members.
- 4 To help represent the Council in the community and in discussions with regional, national, European and international organisations and others.
- 5 To attend functions appropriate to the position of Chairman of the Council if requested to do so by the Chairman.
- 6 To assist the Chairman of the Council in hosting major receptions and other functions as necessary.
- 7 In the absence of the Chairman of the Council, to act as host to visiting royalty, civic dignitaries and other important visitors.
- 8 Wherever possible, to attend any event that the Chairman of the Council is unable to attend.
- 9 To promote public interest in the Council's activities.
- 10 To assist the Chairman of the Council in maintaining regular contact with all Members, community representatives and other local partners and to take account of their views.
- 11 To undertake relevant training and development in order to keep up to date with new developments and practices.

LEADER OF THE COUNCIL

Responsibilities:

- 1 To provide leadership to the Council and its administration.
- 2 To lead the development and delivery of the policy framework, to reflect agreed Council priorities, and the views of the people of Buckinghamshire.
- 3 To guide the Cabinet, and ultimately the Council, in the development of objectives and strategies, including the budget planning framework, the Medium Term Plan and the Corporate Plan, setting out standards and targets for improvement.
- 4 To represent the Council externally, in leading community planning arrangements within the County and furthering the Council's interests in the south-east region, nationally and in Europe.
- 5 To allocate Cabinet portfolios, ensuring that there is proper opportunity for the scrutiny of Cabinet decisions.
- 6 To act as principal spokesman for the Council, or to appoint another member of the Cabinet to do so.
- 7 To undertake any key responsibilities of the Deputy Leader in the absence of the latter.
- 8 To seek to ensure that the Council obtains value for money from its services.
- 9 To provide policy direction for the Chief Executive and his team.
- 10 To meet regularly with the Chief Executive, Strategic Directors, Corporate Directors or Heads of Services and other relevant senior Officers.
- 11 To keep up to date on key issues and delegated decisions and to enable changes to be proposed to strategies and policies as necessary.
- 12 To maintain regular contact with non-executive Members, community representatives and other local stakeholders and to take account of their views in order that decisions are well informed and that the Council's policies are widely understood and positively promoted.
- 13 To maintain good working relationships and a climate of mutual respect with all Members and Officers.
- 14 To maintain the principles of collective and individual responsibility within the Cabinet.
- 15 To promote good working relationships across the political groups that make up the Council.
- 16 To develop effective communication with Chairmen of relevant Overview and Scrutiny Committees and to attend meetings of Scrutiny Committees to answer questions on specific issues within the portfolio.

- 17 To demonstrate propriety and high standards of conduct and ensure decisions taken by Cabinet Members individually and the Cabinet collectively are properly recorded in accordance with legislation and agreed procedures.
- 18 To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
- 19 To undertake relevant training and development necessary to fulfil the above responsibilities effectively.

DEPUTY LEADER OF THE COUNCIL

Responsibilities:

- 1 To support and assist the Leader in the formal processes and procedures arising from the Leadership role, making decisions on the Leader's behalf when the Leader is not available.
2. To carry out the function assigned to the Deputy Leader by the Leader.
- 3 To assist the Leader in management of the Cabinet and to take the Chairmanship of Cabinet meetings in the Leader's absence.
- 4 To represent the Council as required by the Leader.
- 5 To assist the Leader and, as Cabinet Member, to share in the Executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews.
- 6 To seek to ensure that there is proper opportunity for the scrutiny of Cabinet decisions.
- 7 To participate in reviews of services as appropriate.
- 8 To ensure that the Council obtains best value for its services.
- 9 To set up and lead Policy Advisory Groups as appropriate.
- 10 To meet regularly with the Chief Executive, Strategic Directors, Corporate Directors or Heads of Services and other relevant senior Officers, to be briefed on key issues and to enable changes to be proposed to strategies and policies as necessary.
- 11 To maintain regular contact with Non-Executive Members, community representatives, other local partner organisations and the media, and to take account of their views in order to ensure that decisions are well informed and that Council policies are widely understood and positively promoted.
- 12 To keep up to date on key issues and delegated decisions and to enable changes to be proposed to strategies and policies as necessary.
- 13 To promote good working relations across the political groups that make up the Council.
- 14 To maintain good working relationships and mutual respect with all Members and Officers.
- 15 To maintain the principles of collective and individual responsibility within the Cabinet.
- 16 To develop effective communication with the chairmen of the relevant Overview and Scrutiny Commissioning Committee and the Health Overview and Scrutiny Committee or of any Task and Finish Group and to attend when requested meetings of the above Committees, and any other Committees, as appropriate, to answer questions on specific issues within the portfolio.

- 17 To demonstrate propriety and high standards of conduct and ensure that decision making by Cabinet and by Cabinet Members is properly carried out.
- 18 To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
- 19 To undertake relevant training and development necessary to fulfil the above responsibilities effectively.

CABINET MEMBER

Responsibilities:

- 1 To participate fully in the work of the Cabinet.
- 2 To implement agreed policies by taking responsibility individually and/or collectively for any assigned portfolio.
- 3 To take the lead in proposing new policy, strategy, budget and service standards for his/her portfolio as appropriate.
- 4 To act as the principal spokesman for his/her portfolio.
- 5 As a Cabinet Member, to share in the executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews.
- 6 To seek to ensure that there is proper opportunity for the scrutiny of individual and Cabinet decisions relevant to his/her portfolio.
- 7 To keep Cabinet colleagues, portfolio spokesmen and other Members of the Council, informed of current key issues within his/her portfolio.
- 8 To pursue service improvement, including through best value performance reviews.
- 9 To meet regularly with appropriate Strategic Directors and Heads of Services and other relevant Officers, to keep up to date on key issues and to enable changes to be proposed to strategies and policies as may be necessary.
- 10 To be briefed/advised by Officers before taking key Cabinet and Cabinet Member decisions.
- 11 To seek to ensure, as appropriate, that all decisions taken are recorded in accordance with agreed procedures.
- 12 To set up and lead the Policy Advisory Group of the portfolio.
- 13 To maintain regular contact with Non-Executive Members, community representatives, other local partner organisations and the media (in relation to portfolio specific issues) and to take account of their views in order to ensure that decisions are well informed and that Council policies are widely understood and positively promoted.
- 14 To maintain good working relationships and mutual respect with all Members and Officers.
- 15 To represent the Council in the community and elsewhere as required by the Leader.
- 16 To develop effective communication with Chairmen of relevant Overview and Scrutiny Committees and to attend meetings of Scrutiny Committees to answer questions on specific issues within the portfolio.

- 17 To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
- 18 To undertake relevant training and development that may be necessary to enable effective discharge of the above responsibilities.

PORTFOLIO SPOKESMAN

Responsibilities:

- 1 To support and assist the Cabinet Member in the particular area of interest.
- 2 To chair Policy Advisory Group meetings and other meetings as required, when asked by the Cabinet Member.
- 3 To represent the Cabinet Member at meetings including outside bodies.
- 4 To communicate to staff, Non-Executive Members, partner agencies and service users the policies of the Council and the decisions that the Cabinet Member has taken.
- 5 To attend meetings of the Leader's Advisory Group and the Cabinet, when the Cabinet Member is not available, participating in the discussion and giving the views of the Cabinet Member as appropriate.
- 6 To meet regularly with appropriate Strategic Managers and Heads of Services and other relevant Officers, to keep up to date on key issues.
- 7 To maintain good working relationships and mutual respect with all Members and Officers.
- 8 To comply with Standing Orders and all other relative regulations, processes and procedures adopted by the Council.
- 9 To undertake relevant training and development that may be necessary to enable effective discharge of the above responsibilities.

CHAIRMAN OF OVERVIEW AND SCRUTINY COMMITTEE

Responsibilities:

- 1 To be the Chairman of the (named) Overview and Scrutiny Committee.
- 2 To keep the Vice-Chairman of the Committee adequately briefed on all relevant issues.
- 3 To develop and maintain a working knowledge of the practices, procedures, services and functions which fall within the Committee's terms of reference.
- 4 Within the overall work programme determined by the Council, to be responsible for the preparation of an annual programme of work areas, drawn up in consultation with the Cabinet and senior Officers, designed to achieve a balance of service and community concerns.
- 5 To maintain regular contact with all members, Officers, community representatives and local partner organisations to inform effective scrutiny of policies, strategies, budgets and performance as appropriate.
- 6 To lead the consideration of any draft policy proposals, which may be referred to the Committee by the Cabinet.
- 7 To develop effective communication with the appropriate Cabinet Member(s) responsible for those service areas within the Committee's remit.
- 8 To be fully aware of the Cabinet Forward Programme and to ensure that the Committee is able to consider all relevant issues within the timescale set by the Council.
- 9 To take a lead role in scrutinising policy decisions taken by the Cabinet, and Officer decisions taken under delegated powers, within his/her Committee's terms of reference.
- 10 To meet regularly with relevant senior Officers of the Council to ensure the receipt of appropriate "independent" advice to inform effective scrutiny.
- 11 To ensure the Committee is able to give effective advice to the Cabinet as required, within the framework of policies set by the Council and the Cabinet.
- 12 To undertake such meetings as may be necessary for the effective and efficient functioning of the Committee within its terms of reference.
- 13 To liaise with the Chairman of other Overview and Scrutiny Committees in order to ensure effective co-ordination of the scrutiny function and to avoid duplication of effort and unnecessary proliferation of meetings.
- 14 To undertake relevant training and development that may be necessary for the effective discharge of the above responsibilities.

CHAIRMAN OF (NAMED) STANDING COMMITTEE

Responsibilities:

- 1 To chair meetings of the Committee.
- 2 To keep the Vice-Chairman of the Committee adequately briefed on all relevant issues.
- 3 To ensure that all matters before the Committee are investigated in accordance with current legislation and the principles and policies of the Council currently in force.
- 4 To develop and maintain a working knowledge of the practices, procedures, services and functions which fall within the Committee's terms of reference.
- 5 To maintain regular contact with all members to ensure that the Committee is aware of any issues which may be relevant to its work.
- 6 To meet regularly with the relevant senior Officers to ensure the receipt of appropriate independent advice.
- 7 To undertake such other meetings as may be necessary for the effective and efficient functioning of the Committee within its terms of reference.
- 8 To undertake relevant training and development that may be necessary for the effective discharge of the above responsibilities.

c Members Protocol on the Use of ICT Supplied by the Council

- 1. Introduction:**
- 2. Security for the Computer**
- 3. Use for Council Business**
- 4. Use for Private Purposes**
- 5. Bringing the Council into Disrepute**
- 6. Associated Policies**
- 7. Inspection and Audit**
- 8. Costs**
- 9. Return and Recovery of the computer**
- 10. Confidentiality**
- 11. Restriction of Use**
- 12. Acceptance**

This policy should be read carefully and strictly adhered to at all times.

PROTOCOL ON MEMBERS USE OF ICT

1 INTRODUCTION

The Council provides Members with computers to facilitate the performance of their duties as Members. The Council is committed to the development of 'e-solutions' and will be working over the coming years to increase the range of information that is available to Members electronically and to enable Members to conduct more of their business remotely. The use of these computers can make Members much more effective, but there are risks associated with such use. This protocol sets out the conditions on which such computers are provided, in order to minimize those risks both to the Council and to individual Members.

Each Member is required to sign a copy of this protocol as a condition of being provided with the computer and must comply with the terms of this protocol. For this purpose, 'computer' means the computer provided to the Member by the Council for use, together with any equipment, software or materials provided for use with the computer.

2 SECURITY FOR THE COMPUTER

- a The Member shall make reasonable arrangements for the safekeeping of the computer.
- b Access to the Council's information systems via the computer is subject to password security. The Member shall ensure that no one other than the Member is given access to those Council information systems and shall not reveal any such password to any other person.

3 USE FOR COUNCIL BUSINESS

- a The computer is provided to the Member specifically to facilitate the discharge of the Member's functions as an elected Member of Buckinghamshire County Council. The Member must therefore not use the computer in any manner that will prevent or interfere with its use for that purpose.
- b Accordingly, the **Member must not:**
 - i Misuse the computer in such a manner as to cause it to cease to function;
 - ii Install or use any equipment or software that may cause the computer to malfunction.
- c The **Member must:**
 - i Ensure that the computer is maintained in a working condition;
 - ii Report any faults promptly to the ICT Help Desk on 01296 383388;
 - iii Provide regular access to Council officers to service, maintain and repair the computer.

- d The Council provides the computer together with ancillary equipment and materials required to support the Member's functions as an elected Member of Buckinghamshire CC. Accordingly, the Council may decline to provide further equipment or material beyond a certain allowance where the use of such equipment or material appears to the Council to be required for private (non-Council) use.

4 USE FOR PRIVATE PURPOSES

- a The Member may use the computer for private and family purposes and may permit members of his/her immediate family to use the computer for private purposes, but is then responsible for their use of the computer.
- b The Council is prohibited from publishing any material of a party-political nature. If the Member uses the computer for the preparation of any material of such nature, he/she must make it clear that such material is published in a private capacity and not by or on behalf of the Council, and that no costs have been incurred by the Council as a consequence of its publication.
- c The Council has obtained the necessary software licenses for the use of the computer by the Member in a private capacity, but not for any additional non-Council business use of the computer. If a Member wishes to use the computer for any non-Council business use, it is the Member's responsibility to request this and if agreed, to obtain any necessary software licenses.
- d The Council accepts no responsibility for such private use of the computer or any loss, costs or liability, which the Member or any other person may suffer as a result of the use of the computer.

5 BRINGING THE COUNCIL INTO DISREPUTE

- a The Member shall not use the computer, or permit its use, in any manner that may bring the Council or the Member into disrepute.
- b Specifically, where the Council provides web sites for Members, the Council reserves editorial control of such websites and the right to remove or require the removal of any material that is unlawful, defamatory or likely to cause offence or bring the Council into disrepute.

6 ASSOCIATED POLICIES

The following policies relating to the use of computers are currently in force:

- a Electronic Mail Acceptable Use Policy
- b Internet Acceptable Use Policy
- c Data Protection Act

7 INSPECTION AND AUDIT

The Council reserves the right to inspect the computer at any time. The Member is required to give the Council officers access at any reasonable time for such inspection and audit, which may be undertaken remotely. Members are advised that the computer includes a history file that records its use and particularly any websites that it has accessed.

8 COSTS

- a The Council will meet the cost of providing the computer, together with a limited supply of paper and printer cartridges and provides a freephone link for the Member to dial in to the Council offices to access the central systems for information, e-mail or internet access.
- b Each Member is responsible for his/her own electricity bill. When turned on, the computer consumes about the same amount of electricity as a 100-Watt light bulb.
- c If the Member wishes to make use of the computer for extensive private e-mail or Internet access, he/she should take out a personal subscription to an Internet Service Provider. Any such telephone time will then be on the Member's own telephone bill and will not be reimbursed by the Council.

9 RETURN AND RECOVERY OF THE COMPUTER

- a The computer remains the property of the Council.
- b The Council reserves the right to require the Member to return the computer at any time and the right to recover the computer from the Member.
- c The Member is required to return the computer to the Council upon ceasing to be a Member.

10 CONFIDENTIALITY

- a The Member will be able to access confidential Council information using the computer. The Member is responsible for ensuring the continued security of any such confidential information that he/she receives, including the security of any storage of such information on the computer. The Member is reminded of his/her obligations under the Council's Code of Conduct for Members not to disclose such confidential information to any third party.
- b Some of this information will be personal information relating to individuals. The unauthorised processing or disclosure of such information is prohibited under the Data Protection Act and the Member is responsible for ensuring that there is no such unauthorised disclosure from the computer.

11 RESTRICTION OF USE

The Council reserves the right to restrict the use of the computer if it has reason to believe that the use of the computer is likely to offend any provision of the Protocol. In particular, the Council reserves the right to:

- a Remove or disable any software or equipment;
- b Remove any information stored on the computer.

12 ACCEPTANCE

Signed by the Member on receipt of the computer:

Date:

MEMBERS PROTOCOL ON THE USE OF ICT SUPPLIED BY THE COUNCIL

Please return to IT Unit, Old County Offices, HP20 1YQ

The purpose of this protocol is to agree the level of the ICT service that Councillors can expect from the IT Unit.

THE IT UNIT AGREE:

- **TO PROVIDE TRAINING** in the use of the ICT systems tailored for use by Buckinghamshire County Councillors. The IT Unit will provide an introductory session followed by another refresher session upon installation of the equipment. Further ICT training will be provided as and when necessary to develop Councillors' ICT skills.
- **TO ENSURE THAT ANY CONTACT TO THE ICT SERVICE DESK** will be dealt with promptly and politely between the hours of 8.00am and 5.30pm Monday to Friday (excluding public and bank holidays). Outside these hours an answering machine will take the call, which will be dealt with on the next day of business.
- **TO GIVE A SERVICE DESK CALL REFERENCE NUMBER** that a Councillor can quote in any further correspondence on the call.
- **TO ACKNOWLEDGE** any non telephone query within two hours of it being logged and to provide regular updates until the fault is fixed.
- **TO RESOLVE FAULTS IN THE TIMESCALES STATED** wherever possible. If a major fault on a PC/laptop cannot be fixed within four working days, the IT Unit will provide an alternative PC or laptop until the fault is fixed.
- **TO GIVE AT LEAST FIVE DAYS WRITTEN NOTICE** (via e-mail) of planned service interruptions, unless an urgent need arises.*
- **TO NOTIFY AS SOON AS POSSIBLE** of any emergency service interruptions.
- **TO ENSURE THAT DOCUMENTS ARE HELD SECURELY** in the network storage folders and that my confidentiality is protected in line with the IT Unit's Data Protection and Freedom of Information obligations.

***PLEASE NOTE:** There will be occasions when the IT Unit will decide to take the ICT system off line for urgent maintenance necessary to safeguard the entire network. The IT Unit will provide as much notice as possible but the priority will have to be the needs of the Council as a whole rather than those of individual users. The IT Unit undertakes to ensure that this will only happen where it is unavoidable and apologies in advance for any inconvenience caused.

IN RETURN IT AGREE:

- **TO KEEP THE NETWORK SECURE BY NOT DISCLOSING** my login password to anyone.
- **NOT TO USE THE COMPUTER OR PERMIT ITS USE IN ANY MANNER** that may bring the Council into disrepute.
- **NOT TO ALTER THE EXISTING SETTINGS** on the PC/laptop or install additional software/hardware.
- **TO MY EMAIL AND INTERNET USAGE** being monitored in line with the IT Unit Security Policy.
- **TO ALLOW ICT SUPPORT STAFF** to visit my home by appointment to maintain my PC/laptop as required.
- **TO USE** the PC/laptop, Internet access and email in line with the Members Code of Conduct, the Data Protection Act and the following Buckinghamshire County Council's policies available on the Intranet:
 - Electronic Mail Acceptable Use Policy
 - Internet Acceptable Use Policy
- **TO REPORT FAULTS** or problems to the ICT Service Desk by phone or email and to tell the Service Desk how and when contact in response can be made.
- **TO SAVE ALL DOCUMENTS** to the network storage folders that have been given to me so that the IT Unit can protect and back them up regularly.
- **TO ONLY USE** the supplied telephone service for business purposes.
- **TO PAY ANY** electricity costs in connection with the use of the computer.
- **THAT THE IT UNIT CANNOT ACCEPT** any responsibility for loss of any files that I store on the hard disk of my PC instead of in the network storage folders.
- **NOT TO CONNECT** any unauthorised equipment to the BT phone connection provided by the IT Unit or to the IT Unit PC/laptop or printer.
- **TO DELETE WITHOUT OPENING** any suspicious email from unknown sources or to contact the ICT Service Desk before opening them, if I am not sure.
- **WHEN I CEASE TO BE A COUNTY COUNCILLOR:**
 - I will remove from my PC/laptop any personal documents that I have stored
 - I will make the PC/laptop and printer available for collection by the IT Unit within four weeks
 - I will make arrangements with the IT Unit for the removal of any phone line supplied.

I acknowledge that I have read and agree to this protocol. I understand that the *PC/laptop, software, [printer and phone line remain the property of the Council at all times.

Signed by Councillor:
(Print Name)

.....
(Signature)

Date:

*Delete as appropriate

POLICY ON MEMBER'S PERSONAL WEBSITES

Members will be responsible for their own Websites and must adhere to the policy below if their Web Pages are to be accessed as part of the Council's Website. Their Websites should be used to publish information that supports their official role and is of interest to the general public. Democratic Services will provide assistance where required. Any concern over any material published will be referred to the Head of Legal and Democratic Services in the first instance.

- a To avoid any liability for the County Council, Members must not use their Websites to publish defamatory statements or material.

- b **Publicising Political Parties**
Members have the facility to link to their own party's website. This is acceptable as long as it is clear that the visitor is now leaving the County Council website and entering another relating to party politics. As the Web Pages are part of the Council's Website, Members will not be able to:-
 - Promote political campaigns or political parties
 - Advocate political stances on issues
 - Member Websites will be suspended during the purdah period before an election.

- c Section 40 of the Code of Recommended Practice on Local Authority Publicity states that:-

“Publicity should not be ... party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward his/her justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party, or directly attacking policies and opinions of other parties, groups or individuals.”

- d **Bias**
Members must exercise care to keep an open mind on issues where he or she may be required to make a decision. If a Member uses their website to provide a personal view this could provide evidence of bias or a closed mind. Members must provide an accurate account of Council business which must not be one-sided.

- e **Using Personal Data**
If any personal information is obtained using the Website e.g. list of names and addresses, Members may not use this list unless they have the consent of the individuals concerned. When using personal information Members should refer to the eight enforceable principles of good practice provided for in the Data Protection Act. Individuals have the right to access information held about them and have it corrected or erased.

- f Code of Conduct
There are many principles in the Code of Conduct that relate to Member Websites. These should be borne in mind at all times and must not be breached e.g. any confidential information must not be disclosed.

- g Links to other sites
Any link must not be inappropriate or offensive. Some sites may require you to obtain permission to make the link.

d Buckinghamshire County Council Local Code of Conduct for Elected Members and Officers Involved in the Consideration of Planning Matters

Interpretation of this Code

- a. "County Councillor" means an elected member of Buckinghamshire County Council.
- b. "Committee" means any Committee or Sub-committee of the County Council which determines any planning matter or is involved with a decision relating to any planning matter.
- c. "Planning matter" means any matter in relation to which a decision is to be taken by a Committee or an officer under delegated powers under the Planning Acts and which is defined as a Council function under the Constitution.
- d. "The Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990 and any subordinate legislation made hereunder and any subsequent legislation and consolidating acts.
- e. "Council development" means any development proposed by the County Council which requires planning permission.
- f. "The Member Codes" means the County Council Code of Conduct for Members included in section 5.3 of the County Council's Constitution and the Local Code of Conduct for Members included in Appendix 1 of the County Council's Constitution.
- g. The meaning of "Prejudicial Interests or Personal Interests" is in accordance with the appropriate paragraphs in the Buckinghamshire County Council's Local Code of Conduct for Members
- h. "The Officer Code" means the County Council code of conduct for Officers of the County Council included in section 5.4 of the County Council's Constitution.
- i. "Person" includes body corporate or unincorporated.

General

- 1. All County Councillors involved in reaching decisions on planning matters or consulted regarding planning applications to be decided by officers shall declare that they will be bound by this Code.
- 2. This code is supplementary to the provisions of the Member Codes and the Officer Code and is to be read in conjunction with both the aforementioned codes.
- 3. All County Councillors involved in reaching a decision on any planning matter shall act at all times in accordance with the Member Codes, in addition to the terms of this Code. All Officers involved in reaching a decision on any planning

matter shall act at all times in accordance with the Officer Code, in addition to the terms of this Code.

4. If in any decision on a planning matter an inconsistency arises between this Code and the Member Codes or the Officer Code, the issue shall be determined in accordance with this Code, except where to do so would be inconsistent with a statutory provision contained in one of those codes.
5. The purpose of this Code, in conjunction with the Officer and Member Codes, is to ensure that planning decisions are made openly, fairly, impartially, with sound judgement and for justifiable reasons. Any County Councillor who considers they are unable to act in accordance with these aims shall not sit on a Committee. Any officer who considers they are unable to act in accordance with these aims shall not be involved in the determination of any planning matter.
6. A County Councillor should not form a final view on any planning matter until it is debated at a Committee meeting. Any County Councillor who is unable to act in this manner shall not sit on a Committee.

Declarations of Interest

7. Before either speaking or voting, County Councillors of a Committee shall declare any personal interests in any matter under discussion in accordance with the terms of the Member Codes.
8. County Councillors of the Committee shall consider whether any personal interest in the matter under discussion is a prejudicial interest within the meaning of the Member Codes. If they have such an interest they shall, except as mentioned in paragraph 9 below, abstain from further involvement in the planning matter and remove themselves from the room.
9. A County Councillor with a prejudicial interest (whether or not a member of the Committee) may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided the public are also allowed to attend the meeting for the same purpose. Having made representations, that Councillor would remove himself from the meeting for the remainder of that item.
10. County Councillors who are unsure whether an interest should be declared or whether such interest is prejudicial shall seek advice from the Monitoring Officer. The final decision on the status of any interest shall remain with that County Councillor.
11. County Councillors who have been involved within the County Council in promoting any Council development (e.g. relevant Cabinet Members) which is brought before a Committee as a planning matter shall consider whether they are unable in the circumstances to take a fair view of the development in question. If they are unable to reach such a decision, they shall abstain from further involvement in the planning matter and remove themselves from the room.
12. Officers shall declare any personal interest (as defined in the Member Codes) in any planning matter and shall not deal with or give advice to members or other

officers on such matters. Officers shall maintain their professional integrity and avoid becoming associated with any person interested in any planning matter.

Lobbying of Councillors/Members' Procedures

13. County Councillors may, in accordance with the following rules, accept lobbying from persons interested in a planning matter.
14. When being lobbied, a County Councillor shall not express an opinion which might be taken by the public as indicating that they have already made up their mind on an issue before they have heard all the evidence and arguments.
15. County Councillors may listen to any views expressed by any person interested in a planning matter. However, the County Councillor should not comment or express an opinion on those views, or on any other aspect of the planning matter, unless it is to:
 - a. give procedural advice, where he/she feels competent to do so;
 - b. suggest that those doing the lobbying write to the Head of Planning, Environment and Development so that their views could be reflected in any relevant Committee Report.
16. In any circumstance covered by paragraph 14, a County Councillor shall always indicate that, if the application is not to be determined by an officer under their delegated powers, any final decision will rest with the Committee and, if he/she is a member of the committee they will not reach a final decision on the planning matter until it is determined at that Committee.
17. Before either speaking or voting at the Committee, a County Councillor shall declare any significant contact between themselves and any person interested in a decision on any planning matter. Further, they shall declare any information which has been passed to them which is relevant to the deliberations of the Committee.
18. All County Councillors should avoid belonging to any pressure group actively campaigning for or against any decision on a planning matter and organising campaigns for or against any such decision. If a County Councillor has joined such a group or has assisted or been involved in the organisation of any such campaign, the County Councillors shall declare such at the meeting and not vote on the application in question, or similar proposal. In such circumstances, the County Councillor will be entitled to make representations to the Committee in the manner dealt with at paragraph 23. If the member has been involved in their capacity as local member, this should be declared to the Committee.
19. County Councillors should avoid meeting alone with any applicant (or any agent or representative of an applicant) seeking a determination of the Council on any planning matter. In particular, no such meeting should take place at the applicant's premises or the site which is the subject of the application.
20. County Councillors shall not lobby colleagues of any Committee or put pressure on officers to support a particular viewpoint or to make a particular recommendation concerning a planning matter.

21. County Councillors should not give any indication of how they would vote on a planning matter in advance of the Committee meeting. Whilst it is recognised that a member may be predisposed to an initial view, a committee member shall not predetermine their position before the relevant Committee meeting. The member shall determine their position at the meeting, having received the full report from officers, including any updates, had an opportunity to ask questions and taken part in the debate.
22. Political groups shall not be used to agree how County Councillors shall vote or decide on any planning application.

Written Representations on Planning Applications

23. Any written representations in support or against any proposal should be received at least one clear working day in advance of the relevant meeting. The Committee shall not disregard any representations received less than one working day before the date of the meeting if the Committee have had adequate time to consider the contents of such representations. If the Committee have not had adequate time to deal with such comments the Committee may, in its discretion, defer consideration of the planning matter to enable them to consider the representation or may determine the planning matter without regard to such representation.

Representations at a Committee Meeting

24. The Committee shall, subject to rules and procedures as may be agreed by the Development Control Committee, allow a person who is interested in any planning matter to speak at any Development Control Committee meeting at which that planning matter is being considered.

Officers Reports

25. Officer reports shall be accurate and include:
 - a. a fair and reasonable summary of objections and representations received and the views of the consultees;
 - b. a clear exposition of the development plan policies relevant to the planning matter;
 - c. any relevant planning history;
 - d. a technical appraisal of the issues which supports the recommendation;
 - e. a clear recommendation;
 - f. any other relevant information.
26. Late information should be presented by an oral update or supported by written documentation. The content of any oral update or further written documentation submitted shall be carefully minuted.
27. The recommendation should include reasons either for refusal or permission and, in particular, if the officer recommendation is contrary to the development plan, the material considerations justifying an exception shall be clearly stated.

Briefings

28. The Chairman and Vice-chairman of the Committee shall attend a briefing with officers prior to Committee only for the purpose of enabling such members to govern the Committee meeting effectively.

Committee Procedure

29. The Committee shall have the right to defer consideration of any planning matter at its discretion but this should only be exercised in exceptional circumstances.

Minuting of Reasons for Refusal or Granting Permission

30. The Head of Legal and Democratic Services shall ensure that the detailed reasons for refusal or grant of any planning matter shall be recorded in the minutes of the meeting.
31. The minutes relating to a planning matter which is determined in accordance with an officer's recommendation shall refer to the officer's report and any additional supporting information.
32. If the Committee is minded to reach a decision contrary to the recommendation contained in an officer report, or if it appears to a relevant officer that it might do so, the relevant officer shall be given the opportunity to explain the implications of any such decision.

Contact between Officers and Applicants and Other Interested Persons

33. Planning officers may discuss with any applicant who is seeking a decision on any planning matter or with any other person interested in any such planning matter, the content of such application. Such discussions may take place either before or following the submission of an application. Any comments or views expressed by an officer shall be limited to:
 - procedural matters
 - seeking clarification of the applicant's intentions
 - advice on the implications of any relevant policies or other material considerations that may need to be addressed in the application.
 - key issues to be addressed in the application and supporting documentation
34. The officer shall make clear to such persons at the outset of any discussions that the views expressed by the officer cannot bind the County Council in any future decision. Officers taking part in such discussions shall make it clear to the other party where the ultimate decision will be taken.
35. Advice given by an Officer should be consistent with the Development Plan unless other material considerations indicate otherwise.
36. Officers shall ensure that any advice given is neither partial nor seen to be.
37. A written note shall be made of such discussions, whether undertaken by way of a meeting or a telephone conversation, and placed on file and, where the

Officer considers that the meeting may be contentious in the future, a follow-up letter should be sent which confirms the content of the discussion. Any similar letter received from a person present at the discussion shall be responded to. All such documents shall be placed on the public record for that planning matter, unless confidential information is disclosed.

Pre-Application Discussions

38. Members may participate in pre-application meetings with prospective applicants, subject to the following guidelines;
- Meetings should be formally arranged and minuted
 - A County Council officer should be in attendance
 - At the meeting a member may question a prospective applicant to gain further information about a proposal, advise the prospective applicant of concerns of the local community and key issues to be addressed in any future application and refer to any relevant planning policy considerations
 - A member must not indicate whether they would support or object to a specific proposal and should make it clear at the outset that the discussions will not bind the council to any particular decision

Training for County Councillors

39. Unless the Committee agrees otherwise, before a County Councillor votes as a member of any Committee, the County Councillor shall have received and be certified by the Head of Planning, Environment and Development as having received such basic training in planning law, procedure and policy as the County Council shall provide.
40. Any County Councillor of a Committee shall obtain refresher training in planning law, policy and procedure after the County Councillor has sat on a Committee for a full year and before the County Councillor reaches any further decisions on any planning matter.

Applications submitted by County Councillors or Officers, Applications in which they have an interest and the County Council's own development

41. Any County Councillor who acts as an agent for any person pursuing a decision of the Council in any planning matter shall play no part in the decision making process.
42. Any County Councillor or officer who has a personal or professional interest in the outcome of any planning matter which falls to the County Council to determine shall play no part in the determination of such matter.
43. Applications falling within either of the above categories shall be determined by the Committee and not by officers acting under delegated powers.
44. All applications falling within the above categories shall be reported to the County Council's Monitoring Officer. The Monitoring Officer shall record how the application was processed.
45. Any application made by the County Council for the determination of any planning matter shall be treated in the same matter as those submitted by any

other person and, in particular, members responsible for promoting County Council developments should not lobby Development Control Committee members for a particular outcome.

Site Visits

46. In respect of planning applications, formal site visits shall be held where:
- An application raises significant Local Interest, or
 - An application raises issues which are difficult to visualise from plans, photographs, other supporting material and written reports, or
 - The Local Member or the member of an affected ward shows significant cause for a site visit to be made, and
 - The Chairman (or Vice Chairman) of the Development Committee, in consultation with the Head of Planning, Environment and Development (or nominated representative) considers that there would be significant benefit for members in viewing a site for themselves.
47. A record should be kept of why a site visit is called and the names of the members attending.
48. The following site visit practice shall apply:
- Formal site visits may be attended by members of the Development Control Committee (or substitutes) and the local member for the site in question.
 - Members shall be accompanied by a planning officer.
 - Such visits should be for viewing purposes only for members to place the application in its locational context, including for example, the potential impact on any sensitive landscape, or to familiarise themselves with application details.
 - Unless there are overriding reasons, e.g. health and safety considerations, members should not be accompanied by, nor entertain any submissions or representations from, either applicants or their agents or third party representatives unless required to elucidate information.
 - In exceptional circumstances, technical consultees, e.g. highways engineer or archaeologist, may attend site visits.
49. The Committee shall not make any formal decision at the site visit and no Member shall reach a final decision on the planning matter to which the site visit relates on the site visit or before final consideration of the matter by full Committee.

Confidentiality

50. County Councillors and officers shall not disclose confidential information which is prejudicial to the Council's interests, or its role as the local planning authority, and County Councillors and officers shall not use such information for personal advantage.

Gifts and Hospitality

51. Officers and County Councillors shall not accept gifts or rewards or favours and, wherever possible, shall not, apart from basic refreshments, normally accept hospitality from any person interested in a determination on any planning matter.
52. If the acceptance of hospitality is unavoidable, the officer or County Councillor should ensure it is of minimal level and declare its receipt to the Council's Monitoring Officer. It will be for the Officer or the County Councillor to establish that the acceptance of hospitality was unavoidable.
53. The Officer or County Councillor shall record with the Monitoring Officer any offer of gifts or hospitality, whether accepted or not, and by whom such offer was made.

Public Meetings

54. When an Officer or County Councillor attends a public meeting or other event at which an applicant, or other person interested in a planning matter, expresses views in relation to an application, the Officer or Councillor shall make no comment on the merits of the matter or on any aspect of it, other than, if appropriate, to declare their interest as a Committee member and, exceptionally, to mention any aspect of the Council's policies that might be relevant to the application, if to do so might help clarify the issues to be presented to the meeting.

Explanation

Predisposition

This occurs where a member has formed an initial view either in support of or against a proposal. This may be publically stated but only with the caveat that it is not a final position. The member should still be willing to listen to all material considerations at the Committee meeting with an open mind and show that they would be willing to change their mind having considered all the relevant facts and arguments before voting.

Predetermination

This occurs where a member has expressed an intention beforehand to vote in a particular way and it is evident that their mind is closed to other points of view and that they would be unwilling to change it in light of new information or representations. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant facts and arguments. In addition to any prejudicial interest as defined in the Council's Local Code of Conduct for Members, evidence of bias or predetermination will also prevent a member participating in the decision making process. The avoidance of bias and predetermination is a principle of natural justice and is therefore required so as not to jeopardise the legality of the council's decisions.

5.2 OFFICERS' CODE OF CONDUCT

General

- 1 The public is entitled to demand conduct of the highest standard from a local government employee. Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained. Public confidence in an employee's integrity would be shaken if there were the least suspicion, however ill-founded, that he/she could in any way be influenced by improper motives.
- 2 An employee's off-duty hours are his/her personal concern but the employee should not subordinate his/her duty to private interests nor put himself/herself in a position where duty and private interests conflict, or where public confidence in the conduct of the Council's business would be weakened.
- 3 Employees must not communicate the proceedings of any confidential meeting or the contents of any confidential document to the public unless required by law or expressly authorised to do so.
- 4 If an employee is aware that a contract in which he/she has a prejudicial interest, has been, or is proposed to be, entered into by the Authority, he/she must inform their Head of Service, in writing. Where Heads of Service or Strategic Directors, have an interest in a contract, they shall inform the Chief Executive. If the Chief Executive has an interest in a contract, he/she shall inform the Head of Legal and Democratic Services. (Attention is drawn to the provisions of the Local Government Act 1972, Sections 95 and 117).
- 5 The Council has adopted a Code of Conduct on commercial practices in order to ensure that business is conducted in accordance with the very highest standards. Employees should never use their office for personal gain and this Code should be followed in all circumstances. The Council also has a policy document relating to Fraud and Corruption. Both these documents governing behaviour and standards have been made widely available and are on the Intranet.
- 6 Information concerning an employee's private affairs will not be supplied to any person outside the Council unless the consent of the employee is obtained first.
- 7 Any duty of confidentiality that an employee has in respect of their employment with the Council does not affect an individual's right under the Public Interest Disclosure Act 1998 to disclose certain information in a prescribed manner.
- 8 The Council believes that an employee should report any significant concern they may have about any aspect of service provision, or the conduct of employees, or members of the Council, or others acting on behalf of the Council without fear of victimisation. To enable employees to address such concerns the Council has developed a Whistleblowing Code of Practice, which incorporates the provisions of the Public Interest Disclosures Act 1998. A copy of this code of practice may be obtained from the Head of Human Resources.

Politically Restricted Posts

- 9 Under the Local Government and Housing Act 1989, a number of the Council's posts are politically restricted. Individual employees will be notified by their Head of Services if their post is affected but in general the restriction applies (as at July 1997) to all posts of incremental step 44 and above and to employees below step 44 whose total remuneration, which may include regular overtime, a lease car not required for business mileage, etc, exceeds the prescribed salary. The restrictions currently apply to:
- i Candidates for public elected office (other than a parish or community council).
 - ii Holding office in a political party.
 - iii Canvassing at elections.
 - iv Speaking or writing publicly (including producing artistic work) in a way that appears to be intended to affect public support for a political party.
- 10 There is an opportunity to appeal against designation as a Politically Restricted Post holder. Details are available from the Head of Legal and Democratic Services.

Disciplinary Rules and Procedures

- 11 Where misconduct of any nature is suspected or identified, including breaches of statutory requirements and Council policy, disciplinary action will be taken in accordance with the Council's Disciplinary Procedure, a copy of which can be obtained from the Corporate Director Organisational Development and Human Resources.
- 12 There is a separate Disciplinary Procedure for employees whose appointment is made by the Senior Appointments and Bucks Pay Award Committee. This procedure takes account of the Local Authorities (Standing Orders) Regulations 1992 made under the Local Government and Housing Act 1989. A copy of the procedure can be obtained from the Corporate Director Organisational Development and Human Resources.
- 13 The Disciplinary Procedure also sets out an employee's appeal rights in respect of disciplinary action.
- 14 School-based staff should refer to the School's Disciplinary Procedure.

Commercial Practices, Gifts and Hospitality

- 15 The principal aim of the County Council's Code of Conduct on Commercial Practices is to ensure that Council business is conducted in accordance with the very highest standards. Employees should never use their office for personal gain and should seek to uphold and enhance the standing of the Council by:
- a maintaining a high standard of integrity in all business relationships;

- b fostering the highest possible standards of professional competence amongst those for whom they are responsible;
 - c complying both with the letter and the spirit of:
 - i the law;
 - ii the Council's Standing Orders and Financial Regulations and Instructions;
 - iii any additional guidance supplied by Heads of Service;
 - iv the Conditions of Service of Employees of the Council.
 - d rejecting any business practice which might reasonably be deemed improper.
- 16 The following guidelines express the obligations of employees which exist in legislation or are expressed or implied conditions of appointment.
- 17 The Code of Conduct on Commercial Practices covers:
- Gifts
 - Hospitality
 - Private transactions
 - Transactions between employees and the Council involving pecuniary interest
 - Protection of commercially valuable information
 - Action in the event of breaches

Gifts

Gifts by way of Inducement or Reward

- 18 The Prevention of Corruption Acts 1889 - 1916 prohibit individuals from soliciting or receiving any gift or consideration of any kind from contractors or their agents, or from any organisations, firms or individuals with whom they are brought into contact by reason of their official duties, as an inducement or reward for:
- a doing or refraining from doing anything in their official capacity; or
 - b showing favour or disfavour to any person or firm in their official capacity.
- 19 The 1916 Act automatically assumes that gifts or considerations are corrupt and where public sector contracts are concerned it is for the individual to prove otherwise. Because of this, it is good practice for individuals and managers to keep a simple record of any instances which might later be open to misinterpretation, e.g. the return of an unsolicited gift or offers of excessive hospitality etc.
- 20 It should be noted that offers of inducements of gifts include promotions such as:

- a competitions where entries are based on the Council purchasing items or services as a qualification;
 - b other free gifts associated with the placing of orders;
 - c gifts based on attendance at exhibitions or seminars on behalf of the Council.
- 21 For example, free gifts based on the collection of coupons or vouchers from the packaging of items purchased with Council funds would not be acceptable unless the gifts were clearly applicable to the establishment or the Council and not the individual.

Casual Gifts

- 22 Although casual gifts offered by contractors or others, for example at Christmas time, may not be in any way connected with the performance of duties so as to constitute any offence under the Prevention of Corruption Acts, such offers should be politely but firmly declined and the Head of Service informed. The only gifts which may be accepted are calendars, diaries and other simple items of office equipment of modest value, and then only if they bear the company's name or insignia. In any case of doubt, the Head of Service should be informed. In the case of Heads of Service, the Strategic Director should be informed.

Hospitality

- 23 The utmost discretion should be exercised in accepting offers of hospitality from contractors, potential contractors or their representatives, or from other organisations or individuals involved in commerce. Whether hospitality can suitably be accepted depends on the nature and on the circumstances. A precise rule cannot be laid down. Generally speaking all hospitality, including reciprocal hospitality, should be such as would be seen to be reasonable and appropriate in the circumstances. Those in contact with contractors etc should be on their guard against accepting hospitality which might later lay them open to allegations of a lack of independence and impartiality. In all cases of doubt advice should be sought from the Head of Service. Where a Head of Service is personally involved, he or she should inform the Strategic Director.
- 24 Hospitality which is at an appropriate low level as part of a sales demonstration or technical instruction is acceptable, although significant "prizes" or overnight hospitality would not be.
- 25 Purely social or sport-connected functions which have no instructional or professional content are not acceptable. This covers events held outside contractual hours of work e.g. during holidays or at weekends as well as in work-time.
- 26 Heads of Service should maintain a record of all gifts or hospitality offered to or received by them and their staff. Strategic Directors and the Chief Executive should register such instances with the Monitoring Officer.

Private Transactions

- 27 Those having official dealings with contractors and other suppliers of goods or services should avoid transacting any kind of private business with them by any means other than normal commercial channels. No favour or preference as regards price or otherwise which is not generally available should be sought or accepted. For example, Cash and Carry Cards obtained for the Council or establishment must not be used for private purchases.
- 28 The purchase of goods or services for private purposes through County Council funds or using official order forms, Council headed paper or any other formal County Council documentation is not acceptable, even if the individual reimburses the Council.

Transactions Between Employees and the Council

- 29 Because of the allegations that can so easily be made, sales and purchases of goods and services between employees and the Council should, as a matter of principle, be avoided. If there are special reasons for departing from this basic rule in a particular case, then the prior approval of the Head of Service should be obtained and the Council's Standing Orders as to Contracts should be adhered to strictly. In all such cases the Head of Service will particularly wish to ensure that the terms of any arrangement are, and are seen to be, established in open competition and represent the best terms available for the Council.
- 30 If it comes to the knowledge of any employee that a contract in which he/she has any personal or prejudicial interest, whether direct or indirect, has been or is proposed to be entered into by the Council, he or she should, as soon as practicable, give notice in writing to the Head of Service. Where a Head of Service is involved, the Strategic Director should be informed. A record of interests should be made in a register maintained in accordance with the "Guidance notes" issued by the Head of Finance.
- 31 If an employee is uncertain about a particular circumstance he/she should seek further advice from his/her Head of Service.
- 32 A Council employee should declare to their Head of Service a potential conflict of interest if they or their spouse are employed by or have a financial interest (such as directorships or significant share holding) in an organisation having or potentially having a contract with the Council.
- 33 In certain circumstances employees may be asked to sign a declaration not to disclose information obtained as a result of their employment prior to terminating their employment with the Council. This might apply, for example, to an employee previously negotiating a contract with a company which he/she subsequently joins.
- 34 Where a decision is to be made concerning a purchase or sale involving an employee, it must be seen to be the case that no favour or advantage accrues to the employee. The individual concerned must take no part in the discussion or decision on the issue.
- 35 However well intentioned they may be, offers, for example to carry out services such as minor repairs or decorations or to supply goods at "discount" or

"nominal" charge by employees or "friends" of the organisation, should always be subjected to the competitive tests and procedures outlined above.

Protection of Commercially Valuable Information

- 36 The following provisions should be observed:
- a Prices offered to the Council must, in no circumstances, be disclosed to anyone outside the Council;
 - b If it is necessary to discuss a contract or tender with any firm, extreme care should be taken to avoid disclosing any information which would be regarded as confidential and commercially sensitive, e.g. the position of a firm in the order of tendering, a budget for the purchase or information of a technical nature received from another firm;
 - c Those with access to commercially valuable information must be particularly careful not to reveal this information to suppliers' representatives who may try to obtain information about prices paid to their competitors under Council contracts.

Action in the Event of Breaches

- 37 A breach of the provisions of the Prevention of Corruption Acts 1889-1916 renders those involved liable to possible prosecution and dismissal. A breach of this Code by an employee will also result in disciplinary action being taken including the possibility of dismissal. The Head of Finance must be informed of any suspected breach.

PART 6

MEMBERS' SCHEME OF ALLOWANCES

Scheme of Allowances

Introduction

- 1 This Scheme is governed by the Local Authorities (Members' Allowances) England Regulations 2003.
- 2 Elected Members of the Buckinghamshire County Council may claim basic allowances, special responsibility allowances, travelling and subsistence allowances for approved duties specified in this scheme. Appointed (non elected) Members may claim travelling and subsistence allowances for approved duties specified in this scheme.
- 3 The phrase "total estimated allowances" means the total amounts estimated by the Head of Finance to be payable under this scheme for the payment of basic allowances and special responsibility allowances during the relevant financial year.
- 4 "Year" means the 12 months ending with 31 March.
- 5 The Scheme has four Schedules which are available from Democratic Services or on the Internet under a separate link.

Schedule 1 Special Responsibility Allowances

Schedule 2 Payment of Travelling and Subsistence Allowances

Schedule 3 Duties Excluded from the Allowances Scheme

Schedule 4 Rates of Allowances

http://www.buckscc.gov.uk/bcc/get//assets/docs/constitution_allowances_rates.pdf

Creation and Amendment of the Scheme

- 6 This scheme came into effect on 11 June 2001 and was last reviewed by the Independent Panel in November 2009.
- 7 For changes in basic allowances, special responsibility allowances and financial loss allowances, new rates shall be payable from the date the amendment takes effect, in accordance with the Regulations.
- 8 The County Council shall be responsible for amending the scheme, having regard to the recommendations of the Independent Remuneration Panel.

Basic Allowances

- 9 The Authority shall pay equally to each Member of the Authority a basic allowance of an amount specified in Schedule 4.
- 10 Where the term of office of a Member begins or ends in the course of a financial year entitlement will be apportioned in accordance with the Regulations.
- 11 Basic Allowances are subject to tax and national insurance deductions.

Special Responsibility Allowances

- 12 The Authority shall pay each year to the Members of the Authority who are office holders and have special responsibilities by reason of the office(s) they hold, special responsibility allowances in accordance with Schedule 1.
- 13 Where a Member takes up or relinquishes any post that carries a special responsibility allowance in the course of a financial year the entitlement will be apportioned in accordance with the Regulations.
- 14 One or more of the following categories of special responsibilities in relation to the Authority must be met before special responsibility allowances may be paid:-
 - a Acting as leader or deputy leader of a political group within the Authority;
 - b Presiding at meetings of Cabinet, or a Committee, or Sub-Committee of the Authority; or a Joint Committee of the Authority and one or more other Authorities or a Sub-Committee of such Joint Authority;
 - c Representing the Authority at meetings of or arranged by any other body;
 - d Membership of a Committee or a Sub-Committee of the Authority which meets with exceptional frequency or for exceptionally long periods;
 - e Acting as the spokesman of a political group on a Committee or Sub-Committee of the Authority;
 - f Such other activities in relation to the discharge of the Authority's functions as require of the member an amount of time and effort equal to or greater than would be required on any one of the activities in a to c above.
- 15 Special responsibility allowances are subject to tax and national insurance deductions. Only one special responsibility allowance per member is payable.

Approved Duties

- 16 Allowances are only payable to Elected Members of the Authority for the following approved duties:
- a Attendance at a meeting of the Council;
 - b Attendance at a meeting of the Cabinet, any Committee/Sub-Committee, or Local Committee of the Council;
 - c Attendance at a meeting of any section, panel, working party or other meeting authorised by the Authority or a Committee or Sub-Committee of the Authority or a Joint Committee of the Authority and one or more other authorities to which the member has been specifically appointed provided that it is a meeting to which Members of at least two political groups have been invited.
 - d Attendance at a meeting of an association of authorities of which this Authority is a Member and to which the Member has been appointed by the Authority to represent the Council.
 - e Attendance at ad hoc meetings with other authorities, organisations or bodies authorised by a Committee or Sub-Committee of the Authority, or the Head of Legal and Democratic Services on the advice of the relevant Chairman and Vice-Chairman if this is not practicable.
 - f Attendance at briefing meetings to which members of at least two political groups have been invited authorised by a Committee or Sub-Committee of the Authority, or the Head of Legal and Democratic Services on the advice of the relevant Chairman and Vice-Chairman if this is not practicable.
 - g Attendance at seminars and conferences arranged by the Council, a Committee or Sub-Committee of the Authority, or the Head of Legal and Democratic Services on the advice of the relevant Chairman and Vice-Chairman if this is not practicable, with respect to any of its functions.
 - h Attendance at specific visits arranged by the Council, a Committee or Sub-Committee of the Authority, or the Head of Legal and Democratic Services on the advice of the relevant Chairman and Vice-Chairman if this is not practicable, with respect to any of its functions and where not all those Members attending are from one political party.
 - i Attendance at a meeting of the bodies or authorities upon which the Member has been appointed by the Authority or a Committee or Sub-Committee of the Authority to represent the Council. (See Schedule 2)
 - j Attendance while tender documents are opened in pursuance of any Standing Orders requiring a member or members to be present.
 - k Attendance in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.

Dependant Carer's Allowance

- 17 The Carer's Allowance is open to all Members who are the main carers of dependant relatives. The Allowance will be paid where a Member requires care provision for a dependant relative or partner to enable that Member to perform any of the approved duties as set out in the Members' Scheme of Allowances.
- 18 Dependants are defined as:
- Children aged 14 or less
 - Relatives and partners requiring a carer to be in attendance
- 19 A Carer is defined as:
- Anyone over the age of 16 who is not part of the Member's household
- 20 The Allowance is payable for the length of the qualifying duty plus up to one hour each side to cater for travelling time.
- 21 The Allowance is reimbursement of actual costs incurred up to a maximum rate of £6.00 per hour.
- 22 All claims for Dependant Carer's Allowance must be submitted on the approved expenses claim form within two calendar months of the date on which the duty qualifying for payment is carried out. Receipts or contract details should be provided wherever possible.

Travelling and Subsistence Allowances

General Provisions

- 23 The term "Member" for the purpose of travelling and subsistence allowances applies to any person who is a Member of the County Council, or who is a Member of any Committee, Sub-Committee or Panel of the County Council, and so includes appointed Non-Elected Members of those bodies. The payment of these allowances is dependent upon the performance of an "approved duty" which is an attendance as a Member at a meeting of the County Council or of any other event approved by the body for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its Committees or Sub-Committees in connection with an approved duty.
- 24 The rates for travel and subsistence allowances are specified in Schedule 4.

Allowances are Maxima

- 25 The scales for all allowances are maxima and there is no obligation on any Member to claim any or all of the allowances.
- 26 A Member shall give notice in writing to the Head of Legal and Democratic Services that he/she elects to forego any part of his entitlement to an allowance under the scheme.

Social Functions and Occasions

- 27 Elected Members on occasions are invited or feel it necessary to attend functions or occasions which have a social element. No allowances are paid to Members of the Council on these occasions unless the Member is undertaking the performance of a positive duty and one of significant size, e.g. making a speech or distributing prizes when travel and subsistence allowances may be paid. Merely to attend because the Member is interested or represents people in the district is insufficient to justify payment of any allowances.

Conference Expenses

- 28 If attendance at a conference has been approved by the Authority, conference expenses which are obligatory and outside the control of the Member, will be paid in advance on request or will be reimbursed. These expenses will include the conference fee. The actual cost of accommodation, meals and the like, will only be met or reimbursed if it is part of the inclusive charge for the conference or it is a requirement of the conference or its organisers that the Member should stay at a particular hotel.
- 29 Travel and subsistence allowances are payable where appropriate.

Telephones

- 30 Elected Members of the Council may claim the quarterly cost of the rental of a telephone and a contribution of up to £25 per quarter towards the cost of official calls.
- 31 Where a telephone has been installed for both business and private use and the rental is being reimbursed by the County Council, the payment will be liable to both income tax and national insurance contributions.
- 32 The contribution of up to £25 per quarter towards the cost of official calls is treated by the Inland Revenue and the Department of Social Security as a "round sum allowance". This is an allowance paid whether or not expenditure is actually incurred for business purposes and as such the payment will also be liable to income tax and national insurance contributions. If, however, Members identify the cost of business calls actually made then this element will not be subject to such contributions. In this case an itemised statement will be required showing each business call made and the cost, together with the telephone bill, in order to satisfy the requirements for "set off" by the government agencies.
- 33 Mobile phones are provided for senior office holders if required, with the cost of supply, rental and business calls being met by the Authority.

Avoidance of Duplication

- 34 A claim for an allowance under the scheme or an allowance under any provision in sections 173 to 176 of the 1972 Act shall include, or be accompanied by, a statement signed by the claimant that no other claim has been, or will be made in respect of the matter to which the claim relates.

Records of Payments

- 35 Records of payments made to Members are available for inspection free of charge by any local government elector of the County.
- 36 A person entitled to inspect a record may make a copy of any part of it.
- 37 Details of total payments made to each Member for basic allowance, special responsibility allowance and Dependant Carer's Allowance shall be published as soon as practicable after the end of the year to which they relate.

Claim Forms

- 38 All information requested on the claim form must be provided, including details of start and finish times, journeys made and meetings attended. (It is always advisable for members to make contemporaneous notes in their diary to assist in the completion of claims).
- 39 Claims for expenses should only be made when actually incurred, ie rail/bus, taxis, and hotel accommodation. Receipts should be provided.
- 40 Claims for the same expenses (mileage, travel and subsistence etc) must not be made from more than one body (see examples below for detailed guidance where meetings of more than one authority are being attended on the same day).
- 41 Claim forms should be completed and submitted to the Legal and Democratic Services Division, promptly and within seven working days after the end of each calendar month.
- 42 Payments for all allowances will be paid monthly in arrears on the submission of a claim form.