

**For Decision**

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# **Council 17 February 2021 Agenda item 6 Appendix 2 Oxford City Council Constitution Review 2020/21 Draft**

Approved by  
Council:

To take effect from date of approval  
except for:

all changes from two area planning  
committees to one planning  
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## **This Constitution sets out**

- how the Council operates; how decisions are taken; and who has the power to take which decisions
- the procedures, codes and protocols to be followed to ensure decisions are made efficiently, transparently and with accountability to local people

Some of these processes are required by law. Others are a matter for the Council to choose. In the case of any conflict between the Constitution and legislation, the legislation will prevail.

The Constitution is periodically updated to incorporate current legislation and to reflect any changes which the Council has decided to make.

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## 1. Citizens' rights and other basic rules

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### 1.1 Summary of citizens' rights

Citizens have the right to:

- vote at local elections and get in touch with their local councillors
- sit in on Council, Cabinet and committee meetings, except when exempt or confidential items are discussed (Part 15)
- address Council and ask questions (Part 11.11)
- ask questions at the Cabinet (see Part 12.7), and the Scrutiny Committees (Part 13.8) and other committees (Part 14.8)
- contribute to Scrutiny Committee inquiries (Part 13.9)
- look at the Forward Plan which shows what key and other decisions will be taken and when (Part 15.16) – this is available on the Council's website and at the Town Hall.
- look at agendas, reports, minutes and background papers (Part 15) – agendas, reports and minutes are available on the Council's website and at the Town Hall
- look at the register of members' interests (Part 22.4) – this is available on the Council's website and at the Town Hall
- look at a copy of the Constitution (Part 2)
- sign a petition calling for a referendum on an elected mayor
- submit petitions to the Council either electronically or in paper and have officers consider what actions may be taken in response
- have petitions containing at least 1,500 signatures considered by a meeting of Council if the petition organiser makes a request for such a debate in writing to the Head of Law and Governance
- make a complaint to the Council – see the Council and Democracy page on the Council's website and follow the links to Comment, Compliments and Complaints

- complain to the ombudsman if they have already complained to the Council
- complain to the Monitoring Officer that a councillor has broken the Members' Code of Conduct (Part 22)
- inspect the Council's accounts at an advertised time and comment to the external auditor.

### 1.2 Councillors

#### (a) Elections and terms of office

There are 48 councillors, who represent 24 wards. Each ward has two councillors.

Half the councillors are elected every other year, with elections in 2020, 2022 and so on. Following implementation of a boundary review by the Boundary Commission for England there will be an election for all Council seats in 2020. After that the Council will revert to elections for one Councillor per ward every two years.

Exceptionally, after the 2020 elections one councillor in each ward will serve for two years only and the other for four years.

Councillors serve for four years. They become councillors on the fourth day after being elected. Their term of office ends four years later, on the fourth day after the elections.

#### (b) Role of councillors

Councillors:

- set the Council's overall policies
- provide political leadership
- represent people in their wards – this may involve balancing different interests
- deal with casework for people in their wards
- go to Council and committee meetings
- work to improve Council services
- represent the Council on other bodies

#### (c) Rights and duties of councillors

The Council will give councillors the information and resources they need to do their jobs, as far as the law allows.

Councillors must obey the law and follow the Members' Code of Conduct (Part 22). They are guided by the Code on Councillor –Officer Relations (Part 23), the Planning Code of Practice (Part 24) and the ICT Acceptable Use Policy (Part 27).

#### (d) Councillors' allowances

Councillors can claim allowances (Part 26).

### 1.3 Council

#### (a) Role of Council (sometimes referred to as “full Council”)

Council is attended by all councillors. Some things can only be done by Council. These include:

- agreeing the Council’s overall budget and policies (which are known as the budget and policy framework (Part 5.2)
- changing the Constitution
- electing of the Leader in the year in which this is required
- appointing committees of Council
- confirming who will be Chief Executive, Chief Finance Officer and Monitoring Officer

Proposals that go against the budget or policy framework must normally be agreed by Council. But there is a procedure for urgent decisions outside the budget and policy framework (Part 16.4).

#### (b) Council Meetings

There are three types of Council meetings: annual meetings, ordinary meetings and special meetings (Part 11).

### 1.4 Leader and Cabinet

#### (a) Members of the Cabinet

The Cabinet is made up of the Leader, the Deputy Leader and up to eight other councillors. The Leader is appointed by Council. The Leader appoints the Deputy Leader and Cabinet members. The Leader may also wish to appoint a second, non-statutory Deputy Leader from among the eight Councillors. Members of the Cabinet cannot be Lord Mayor or Deputy Lord Mayor or a member of a scrutiny committee.

#### (b) Term of office of Cabinet members

Cabinet members hold office from when they are appointed by the Leader until:

- they are removed by the Leader
- they stop being a councillor or
- they are disqualified from being a councillor

#### (c) Cabinet meetings

Cabinet meetings follow the Cabinet procedures (Part 12).

#### (d) Executive decisions

The Cabinet takes decisions collectively at Cabinet meetings. Some decisions are delegated to officers (Part 4).

Cabinet decisions must be consistent with the overall policies of Council (policy framework). They must also be within the budget set by Council.

(e) Key decisions

Some decisions that the Cabinet takes are key decisions (Part 15.14). When the Cabinet is going to take a key decision, it should be shown in the Forward Plan (Part 15.16).

(f) Role of the Leader

The Leader is responsible for:

- appointing and removing the Deputy Leader
- appointing and removing the non-statutory Deputy Leader
- appointing members to and removing members from the Cabinet
- allocating executive responsibilities
- appointing members to other executive positions such as the Oxfordshire Growth Board and its advisory sub-groups

(g) Term of office of Leader

The Leader holds office from the date of appointment by Council for a term of up to four years or for such lesser period of time as the leader holds office as a councillor. The Leader's term of office will extend to the annual meeting of Council immediately following her or his normal date of retirement or failure to get re-elected and at that meeting another Leader will be appointed by Council and the former Leader's term of office will end.

(h) Deputy Leader

The Deputy Leader is appointed by the Leader. The Deputy Leader holds that office for as long as the Leader wants her or him to hold that position.

If the Leader is unable to act, the Deputy Leader may carry out the Leader's statutory functions (for example of appointing or removing Cabinet members) but does not assume the position of Leader. If the Leader ceases to be the Leader, the Deputy Leader also ceases to be the Deputy Leader and reverts to an ordinary Cabinet member.

(i) Non-statutory Deputy Leader

The non-statutory Deputy Leader is appointed by the Leader. The non-statutory Deputy Leader holds that office for as long as the Leader wants him or her to hold that position.

The non-statutory Deputy Leader does not hold a statutory role but will work on an equal basis with the statutory Deputy Leader as part of the Council's senior political leadership team.

If the Leader ceases to be the Leader, the non-statutory Deputy Leader also ceases to be the non-statutory Deputy Leader and reverts to an ordinary Cabinet member.

### 1.5 Other committees that take decisions

Other committees that take decisions include area planning committees, committees to deal with licensing and regulation, committees to deal with officer appointments and dismissals and a standards committee. Part 7 describes their roles.

### 1.6 Scrutiny

#### (a) Scrutiny committees

The Council has one scrutiny committee.

The Council also appoints one member to Oxfordshire Joint Health Overview and Scrutiny Committee and three members to the Oxfordshire Growth Board Scrutiny Panel.

#### (b) Role of the Scrutiny Committee

The Scrutiny Committee scrutinises the Council's decisions and work (Part 8).

#### (c) Procedure at Scrutiny Committees

The scrutiny committee follows the scrutiny committee procedures (Part 13).

### 1.7 Lord Mayor and Deputy Lord Mayor

#### (a) Election of Lord Mayor and Deputy Lord Mayor.

The Lord Mayor and Deputy Lord Mayor are elected and appointed respectively by Council each year.

#### (b) Ceremonial role

The Lord Mayor represents the Council at civic and ceremonial events.

#### (c) Chairing Council

The Lord Mayor chairs Council. In chairing Council, the Lord Mayor will:

- promote the purpose of the Constitution (Part 2.3)
- interpret the Constitution
- get the business done efficiently but pay attention to the rights of all councillors and the interests of local people
- make Council a place for discussing the concerns of local people and holding the Cabinet to account
- encourage the public to take part in the Council's activities

- be the conscience of Council.

### **1.8 Council employees**

Council employees are called Council officers. Officers give advice, act on the Council's decisions and run the Council's services. Some officers have a special duty to make sure the Council follows the law or uses its resources wisely (Part 9).

When employing and dismissing officers, the Council follows the employment rules (Part 20).

## **2. About the Constitution**

- 2.1 Status of this Constitution
- 2.2 Interpreting the constitution
- 2.3 Purpose of the Constitution
- 2.4 Monitoring and reviewing the Constitution
- 2.5 Changing the Constitution
- 2.6 Changing governance arrangements
- 2.7 Suspending the Constitution
- 2.8 Publishing the Constitution

### **2.1 Status of this Constitution**

The Council will follow this Constitution unless it conflicts with the law.

### **2.2 Interpreting the constitution**

When the Constitution and the law allow the Council to do more than one thing, the Council will do what is closest to the purpose of the Constitution (2.3).

At Council meetings, the Lord Mayor's interpretation of the Constitution will be final. When interpreting the Constitution, the Lord Mayor will consider the purpose of the Constitution (2.3) and the advice of the Monitoring Officer.

If the Constitution has no procedures for a meeting, or if there is a gap in the procedures for a meeting, the Chair will decide what to do. This must be consistent with the purpose of the Constitution (2.3)

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

The Constitution exists so that the Council can take its decisions and do its work effectively. It will help councillors to represent their wards and help the Council to:

- provide clear leadership for the city
- carry out proper consultation and take professional advice
- act openly except when there are strong reasons not to (Part 15)
- hold decision takers to account and make sure no one reviews their own decisions
- respect human rights
- act proportionately (European law defines this as doing no more than is necessary in a democratic society to achieve a legitimate aim).

### **2.4 Monitoring and reviewing the Constitution**

The Monitoring Officer will monitor and review the Constitution and may recommend changes.

### **2.5 Changing the Constitution**

The Monitoring Officer can change the Constitution if it is to put right clerical mistakes or to make it follow the law. The Monitoring Officer can also change Part 4 (who carries out executive responsibilities) and Part 6 (roles of Cabinet members) to reflect the wishes of the Leader.

Any other changes must be agreed by Council after considering a report from the Monitoring Officer.

### **2.6 Changing governance arrangements**

The Council may, by resolution, change the form of its executive arrangements or change to a different permitted model of governance. The Council may choose to hold a referendum in that event.

### **2.7 Suspending the Constitution**

The Constitution can only be suspended where it says so (Part 11.26).

### **2.8 Publishing the Constitution**

The Monitoring Officer will keep an up to date version of the Constitution and publish it on the Council's website and put paper copies in Council offices.



### 3. Council responsibilities and executive responsibilities

- 3.1 Council responsibilities and executive responsibilities
- 3.2 Summary of Council responsibilities and executive responsibilities
- 3.3 Delegation of responsibilities
- 3.4 How delegation works
- 3.5 Interpreting the rules on delegation
- 3.6 Responsibilities are carried out on behalf of the Council
- 3.7 The Council's companies

#### 3.1 Council responsibilities and executive responsibilities

The law divides a Council's work into three categories:

- Council responsibilities – these must be the responsibility of Council.
- Executive responsibilities – these must be the responsibility of the Leader.
- Local choice responsibilities – it is up to individual Councils whether these are the responsibility of Council or the Leader.

Council responsibilities are listed in Part 5. Any responsibilities not listed in Part 5, including all local choice responsibilities, will be the Leader's responsibilities.

#### 3.2 Summary of Council responsibilities and executive responsibilities

Council responsibilities	Executive responsibilities
the budget and policy framework regulatory work, for example planning and licensing elections and electoral registration collective terms and conditions other than pay all of the other matters in 5.8 to 5.15	everything else

#### 3.3 Delegation of responsibilities

Council and the Leader delegate some of their responsibilities to committees, single members and officers. Details of this are in Part 4 and Part 5. Council and the Leader cannot delegate to each other.

### 3.4 How delegation works

#### (a) Delegation by Council and the Leader

Council and the Leader can at any time take back responsibilities they have delegated or decide to delegate them on certain conditions.

Council and the Leader can also decide to delegate further: responsibilities that the leader has not already delegated can be delegated to a committee of the Cabinet or a single member or officer; responsibilities that Council has not already delegated can be delegated to a committee of Council or to officers.

#### (b) Officers' use of powers delegated to them by Council and the Leader

Officers do not have to use their delegated powers: they can ask the body that delegated to them to decide (except the Head of Planning Services will ask the area Oxford City planning committees to decide on planning functions delegated from Council).

Officers who have had something delegated to them (and those officers who manage them) can authorise officers they line manage or other officers with the relevant skills and responsibilities to do it on their behalf (unless it was delegated on condition that they do it themselves) but will remain responsible and accountable for the exercise of the delegated function.

### 3.5 Interpreting the rules on delegation

When a responsibility is delegated in the Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).

### 3.6 Responsibilities are carried out on behalf of the Council

Council responsibilities and executive responsibilities are carried out on behalf of the Council and in the Council's name.

### 3.7 The Council's companies

#### (a) Company objects

Where the Council uses the enabling legislation to create its own companies, either as the sole or as a joint owner, the broad terms of the objects of each Council company will be recorded in its Articles of Association, while its Shareholder Agreement will set out more detailed operational arrangements and the matters which are reserved for determination by the Council as the shareholder. In general, these reserved matters will be key structural and high-level strategic matters rather than the "day-to-day" business and operations of the company, which will be the responsibility of the company directors.

#### (b) Governance framework

Each Council-owned company is an independent legal entity which is entirely separate from the Council. The company will have its own identity and responsibilities, so cannot be treated as an internal department of the Council.

A Council-owned company is required to comply with Company law, its Articles of Association and its Shareholder's Agreement. It is not governed by the Council's Constitution.

### (c) Shareholding

The responsibility to represent the Council as shareholder of each company is an executive function. The Leader of the Council may therefore determine the nature of such representation, currently operated through a Shareholder and Joint Venture Group comprising all members of Cabinet.

The Shareholder and Joint Venture Group will meet the company's directors and representatives on a quarterly basis to monitor the company's progress, decide any matters falling within its reserved matters, protect the Council's interests and investments in the company and determine the future direction of the company. The Council's Chief Finance Officer and Monitoring Officer will act as advisors to the Shareholder and Joint Venture Group. The Chief Executive or an Executive Director nominated by the Chief Executive will advise the Shareholder and Joint Venture Group on matters of policy.

The activities of the Shareholder and Joint Venture Group will be subject to consideration by the Council's Scrutiny Committee. The individual companies will not be directly accountable to the Council's Scrutiny Committee.

### (d) Company Board of Directors

The appointment of directors to the Board of a Company is the responsibility of the shareholder(s). The directors hold a fiduciary duty to their company, but at the same time are also accountable to the shareholder(s), and as such owe duties to both the Council and the company.

### (e) Contracting

The Council and its companies may choose to contract with each other as separate entities - for example, the Council may appoint a company as its supplier of certain services, while a company may appoint the Council to supply its administrative services. Where the company meets the requirements of the "Teckal exemption" such contracts may be awarded without the need to comply with the full requirements of the Public Contract Regulations 2015 but the Council will need to ensure it meets its duties as a best value authority (Part 19.11). Where contracting takes place, the Council will have formal agreements in place with the company setting out the terms of the agreed service levels and a procedure for dispute resolution.

### (f) Conflicts

As the Council and its companies are separate legal entities, care must be taken to ensure that conflicts of interest are avoided. When Council officers are asked to provide advice in a situation where the interests of the Council and the company are not entirely aligned, individual officers should be assigned to advise or represent one side or the other, but should not act for both. Officers in the senior management structure can authorise officers to undertake delegated functions (Part 4.4). Where an authorising officer has a conflict of interest another officer in the senior management structure, in consultation with the Head of Law and Governance and the Head of Financial

Services, can authorise officers to undertake delegated functions as necessary.

### **3.8 Joint arrangements**

Council may establish joint arrangements with one or more local authorities to exercise functions that are not executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities and the delegation of functions to the joint committee.

The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities and the delegation of functions to the joint committee.

### **3.9 Delegation to and from other local authorities**

- (a) Council may delegate non-executive functions to another local authority or, in certain circumstances where these are local choice responsibilities, the executive of another local authority.
- (b) The Leader may delegate executive functions to the executive of another local authority or, in certain circumstances where these are local choice responsibilities, another local authority.
- (c) The decision to accept a delegation of executive responsibilities from another local authority shall be reserved to Cabinet.

### **4. Who carries out executive responsibilities?**

- 4.1 Need to act within the budget and policy framework
- 4.2 Gaps in the policy framework
- 4.3 Need to follow the Constitution
- 4.4 Delegation to officers
- 4.5 Decisions that must be agreed by Cabinet
- 4.6 Delegation to single Cabinet Members
- 4.7 Ward member decisions
- 4.8 Decisions relating to Port Meadow and Wolvercote Common
- 4.9 Public Spaces Protection Orders
- 4.10 Responsibilities not covered by these rules

#### **4.1 Need to act within the budget and policy framework**

Executive responsibilities must be carried out within the budget and policy framework.

#### **4.2 Gaps in the policy framework**

In areas where the law requires there to be a plan or a strategy, no executive responsibilities can be carried out until a suitable plan or strategy is agreed by Council.

In areas where the law does not require there to be a plan or a strategy, the Leader (or Cabinet, or any members or officers the Leader has delegated to) can do anything within the law.

#### **4.3 Need to follow the Constitution**

Executive responsibilities must be carried out in a way that follows the Constitution. Special attention should be paid to the Finance and Contract Rules (Parts 18 and 19).

#### **4.4 Delegation to officers**

All executive functions except the ones in Part 4.5 and 4.6 are delegated to the officers in the senior management structure (Part 9.1 and Part 9: Annex 1).

Officers in the senior management structure can authorise officers they line manage or other officers with the relevant skills and responsibilities to undertake delegated functions but will remain responsible and accountable for the exercise of the delegated functions.

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and

- the Constitution or the law does not require it to be carried out by someone else.

Details of the following decisions taken by officers under delegated powers will be published on the Council website:

- Awarding a contract with a value in excess of £10,000 but less than £1,000,000 when the Council is the buyer
- Acquiring or disposing of freeholds or leaseholds with a consideration or premium in excess of £10,000 but less than £500,000
- Granting to new tenants or disposing of leases with a rental value in excess of £10,000 per annum but less than £125,000. This excludes assignments, holding over and rent reviews
- Granting 'project approval' for projects in excess of £10,000 but less than £500,000
- Making a regulatory order which affects a number of people, for example a Public Space Protection Order or a Parking Place Order
- Discharging an express delegation from Cabinet where there is an element of discretion to be exercised by the officer.

### **4.5 Decisions that must be agreed by Cabinet**

1. recommending to Council the budget and policy framework (Part 5.2)
2. recommending to Council the medium term financial strategy
3. agreeing a draft budget for consultation
4. recommending extra spending outside the budget to Council
5. using a year-end surplus in a trading account
6. considering periodic financial, risk, performance management and customer feedback monitoring reports
7. agreeing the risk management strategy
8. recommending to Council transfers of assets between the general fund and housing revenue account
9. agreeing transfers between cost centres of £250,000 to £500,000 that are consistent with the policy framework.
10. giving project approval for projects of £500,000 or over
11. accepting tenders of £1,000,000 or over
12. considering reports from the National Audit Office and agreeing action plans in response
13. receiving Scrutiny recommendations and re-considering decisions of the Cabinet which have been referred back from Scrutiny following the call-in of a Cabinet decision

14. matters that the statutory officers (Part 9.2) of the Council place on the agenda
15. making compulsory purchase orders
16. agreeing the strategy for setting fees and charges and setting fees and charges for executive functions (to the extent that the budget has not set fees and charges)
17. responding to consultations by outside bodies where the Leader wishes the Cabinet to approve the response
18. appointing and nominating representatives to outside bodies
19. adopting supplementary planning guidance
20. acquiring or disposing of freeholds or leaseholds with a consideration or premium over £500,000 except for disposals pursuant to right to buy legislation
21. acquiring or disposing of leases with a rental value over £125,000 each year except statutory lease renewals under Part II of the Landlord & Tenant Act 1954
22. disposing of property or leases for less than best consideration
23. changing eligibility for services
24. agreeing the community and voluntary organisations grants prospectus
25. giving grants (except small and emergency grants, historic buildings grants and renovation, improvement and adaptation grants for private properties)
26. setting minimum service standards
27. designations of conservation areas
28. the following responsibilities in relation to street naming and numbering
  - (a) naming and numbering of streets if there are unresolved objections following consultation
  - (b) Agreeing policy redrafts and/or any substantial amendments to the Street Naming and Numbering Policy
  - (c) Consider whether a review of a street name should be carried out (on receipt by the Council, of representations from local councillors and evidence that a substantial proportion of those who live in properties in the street or road are calling for a change in the street name)
  - (d) Renaming a street in the event of there being a balance of judgments to be made or there are unresolved objections following consultation about possible names.
29. adoption of Public Spaces Protections Orders that geographically include the whole local authority area
30. confirming, where there have been objections, Article 4 Directions which restrict the scope of permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995(as amended)



31. formally designating a Neighbourhood Plan area
32. designating a Neighbourhood Forum as a “relevant body”
33. agreeing that the legal tests have been met and to proceed with the consultation stage in relation to a draft Neighbourhood Plan
34. submitting any consultation responses and a draft Neighbourhood Plan for independent examination
35. approving the modifications to policies in a Neighbourhood Plan as recommended by an Examiner’s report and approving any factual modifications that have been made for the purpose of correcting errors and approving any factual modifications relating to textual changes in the introductory chapters or in terms of the justification for the policies in a draft Neighbourhood Plan
36. agreeing that a draft Neighbourhood Plan (as modified) is submitted to a referendum
37. agreeing single carry forward sums in excess of £10,000
38. making decisions under the Community Infrastructure Levy Exceptional Circumstances Relief Policy
39. agreeing annual or regular flag flying and bell ringing commitments
40. recommending to Council loans and financial guarantees of over £250,000 to a company which is not wholly owned by the Council or to another external organisation
41. agreeing whether to discharge an executive function by way of joint arrangement
42. agreeing whether to accept a delegation of an executive function from another local authority under joint arrangements

#### **4.6 Delegation to single Cabinet Members**

The Leader may delegate executive responsibilities to a single Cabinet Member with or without consultation with officers or other Cabinet Members.

Cabinet Members do not have to use the delegated powers: they can ask the Leader to decide. The delegation can also be withdrawn by the Leader.

Any decisions delegated to a single Cabinet Member shall only be taken having regard to a written report submitted to them by the relevant officer within the senior management structure including any advice from the Head of Financial Services and the Head of Law and Governance.

If a Cabinet Member with delegated powers has a disclosable pecuniary interest in a matter for decision the Cabinet Member must declare the interest as required by the Members’ Code of Conduct and not exercise the delegated function. The delegated function will instead be exercised by the Leader or another Cabinet Member authorised by the Leader.



Key decision procedures and call in procedures will apply to any key decisions delegated to a single Cabinet Member.

Once a Cabinet Member has taken a delegated decision, the Council will produce a record of the decision.

### 4.7 Ward member decisions

- (a) Each member of Council will (subject to the budget being approved annually by Council) be allocated an amount of money to spend in their ward (Ward Member Budgets). Members representing wards not covered by a parish council may also be allocated a neighbourhood portion of Community Infrastructure Levy (CIL) monies. If the ward member changes during the year without their full allocations being designated (including any allocations carried forwards from a previous year), the replacement ward member will be able to allocate the remaining balance.
- (b) The Ward Member Budget allocation may be spent only if it would benefit the economic, social or environmental well-being in relation to the member's own ward. Members may pool budgets across adjoining wards to benefit a wider area. The allocation can be spent on community projects benefiting groups or communities living or working in the ward such as:
- Improving, refurbishing or cleaning up parts of the local area
  - Purchasing new street furniture or signage (having regard to any future servicing or maintenance requirements)
  - Supporting local groups, events or newsletters

The allocation cannot be spent on:

- Projects that would financially benefit the ward member or members of their family directly
  - Projects that are political in nature
  - Projects that conflict with the statutory functions or values of the Council
  - Projects that conflict with a Council decision or proposed course of action (e.g. to lobby against a planning application)
  - Projects that would only benefit an individual personally without serving a wider community interest.
- (c) CIL monies must be spent on local infrastructure which may include:
- The provision of infrastructure
  - The improvement of infrastructure
  - The replacement of infrastructure
  - The operation and maintenance of infrastructure

- Anything else to mitigate the demands development places on an area, including one-off feasibility studies to further proposals for capital projects
- (d) Any spend must be approved by the Monitoring Officer and the Chief Finance Officer. CIL allocations must also be approved by the Head of Planning Services.
- (e) No spend may be sought in a financial year in which City Council elections are held before those elections are held.
- (f) The decision to incur the spend may be called-in (Part 17)
- (g) Any unspent allocations at the end of a financial year will be carried forwards unless Council agrees otherwise.
- (h) Details of the use of ward member budgets including the level of spend and projects funded will be published on the Council website at the end of the financial year.

#### **4.8 Decisions relating to Port Meadow and Wolvercote Common**

Decisions of the Cabinet, ward members and officers that relate to the ownership and management of Port Meadow and Wolvercote Common, including access, works, agricultural and public activities will be subject to consultation and agreement with the Freeman and Commoners having regard to their respective rights over the Meadow and Common.

#### **4.9 Public Spaces Protection Orders**

Cabinet will adopt Public Spaces Protection Orders that geographically include the whole local authority area. In respect of other PSPOs, following consultation with the Cabinet Member responsible for community safety and the ward members, the Chief Executive, an Assistant Chief Executive or an Executive Director can adopt and publish Public Spaces Protection Orders. All of the statutory requirements for the making of an order must be satisfied. Any proposal for a PSPO covering two or more Council wards must be treated as a Key Decision (Part 15.15).

#### **4.10 Responsibilities not covered by these rules**

If a responsibility is not reserved to the Cabinet and no one has budgetary and management responsibility for it, the Leader will arrange for it be carried out by the Cabinet or an officer.

The Head of Planning Services will be responsible for the executive functions, not reserved to the Cabinet, in the Community Infrastructure Levy Regulations 2010.

### **5. Who carries out Council responsibilities?**

- 5.1 Council responsibilities
- 5.2 Budget and policy framework
- 5.3 Planning
- 5.4 Licensing of alcohol, entertainment and late night refreshment
- 5.5 Licensing of gambling
- 5.6 Taxi and private hire and other vehicle licensing
- 5.7 Other licensing and registration functions
- 5.8 Health and safety at work
- 5.9 Functions relating to the name and status of areas and individuals
- 5.10 Functions relating to community governance
- 5.11 Byelaws
- 5.12 Power to promote or oppose local or personal bills
- 5.13 Pensions
- 5.14 Ban on smoking in public places
- 5.15 Other Council responsibilities

#### **5.1 Council responsibilities**

Council responsibilities are listed in this section, which also shows who carries them out. Anything not listed in this section is an executive responsibility.

Officers who have had something delegated to them (and those officers who manage them) can authorise officers they line manage or other officers with the relevant skills and responsibilities to do it on their behalf (unless it was delegated on condition that they do it themselves) but will remain responsible and accountable for the exercise of the delegated function.

Legislation referred to in this section includes any amendments, re-enactments or subordinate legislation.

Decisions that relate to the ownership and management of Port Meadow and Wolvercote Common, including access, works, agricultural and public activities will be subject to consultation and agreement with the Freeman and Commoners having regard to their respective rights over the Meadow and Common.

#### **5.2 Budget and policy framework**

##### **(a) Description of responsibility**

The budget, including decisions to allocate money to services and projects, set up contingency funds, set the Council Tax base, set the Council Tax, control the Council's borrowing requirement, control capital spending, set a

limit on the amount that can be transferred between cost centres and agree the treasury management strategy.

The policy framework includes any policies required to be agreed by Council under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and those that the Council chooses to adopt as part of the policy framework. The budget and policy framework includes the following:

- Corporate Strategy
- Budget and Medium Term Financial Plan (including the Capital Programme and Housing Revenue Account Business Plan)
- Allocations Scheme
- Asset Management Plan
- Capital Strategy
- Community Engagement Policy Statement
- Development Plan documents
- Housing and Homelessness Strategy
- Housing Asset Management Strategy
- Tenancy Strategy and Tenancy Policy
- Treasury Management Strategy (including the Borrowing Strategy, Investment Strategy and Minimum Revenue Position Statement)
- Sustainability Strategy
- Vibrant Active Oxford Strategy

(b) Who carries out the responsibility?

- Council.

### 5.3 Planning

(a) Description of responsibility

All the responsibilities in Paragraph A and column (1) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), and

1. the power to deal with agreements under s.278 of the Highways Act 1980;
2. the duty to deal with complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003;
3. the power to preserve trees under the Sections 197 to 214D of the Town and Country Planning Act 1990 (as amended), the Town and Country Planning (Tree Preservation) (England) Regulations 2012;
4. the power to authorise the stopping up or diversion of rights of way under Section 257 of the Town and Country Planning Act 1990;
5. the power to protect important hedgerows under the Hedgerows Regulations 1997; and

6. the power to authorise rights of entry under section 324 of the Town and Country Planning Act 1990, sections 88 and 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990 and sections 36 and 36A of the Planning (Hazardous Substances) Act 1990.

(b) Who carries out the responsibility?

**Council** will be responsible for:

- Development plan documents
- Making a neighbourhood plan

~~Area~~ The Oxford City Planning Committees will be responsible for:

- deciding planning applications for more than ~~five~~10 residential units or for residential developments on sites with a site area of over ~~0.25~~ 0.5 hectares
- deciding planning applications for non-residential developments on sites over 1 hectares
- deciding planning applications for non-residential developments with new or increased floor space of more than 1,000m<sup>2</sup>
- deciding planning applications made by or on behalf of councillors or officers
- deciding planning applications that would otherwise be decided by officers that have been called in by councillors during the initial 21-day consultation period or during subsequent periods of consultation resulting from a significant change to material planning considerations (Part 17.3)
- ~~• agreeing significant amendments to approved plans subsequent to the grant of planning permission or listed building consent~~
- deciding listed building consent applications for total or substantial demolition of listed buildings
- deciding planning applications or applications under condition for phone masts where there are objections (except applications that can go ahead, unless the Council refuses them within 56 days)
- ~~• confirming and revoking tree preservation orders when there are objections~~
- dealing with complaints about high hedges when the hedge is on the Council's land or land occupied by a councillor or officer or when the complaint has come from a councillor or officer.
- deciding whether to register one or more candidate heritage assets having regard to the Council's adopted criteria

Whether or not any of the preceding applies, determining applications under development order conditions which provide that the relevant development may proceed in the absence of a determination are not carried out by ~~Area~~

the Oxford City Planning Committees and are to be dealt with by the Head of Planning Services.

Where a planning application straddles area planning committee boundaries the area planning committee with the majority of the application site will determine the application.

The Planning Review Committee decides planning applications that have been called in by any twelve councillors or the Head of Planning and Sustainable Development following consideration by ~~Area~~ the Oxford City Planning Committees (Part 17.3).

The Head of Planning and Sustainable Development has responsibility for all other functions within 5.3(a) including but not limited to:

- (i) deciding applications to renew a planning permission where there has been no change of circumstances;
- (ii) deciding applications for certificates of lawful proposed or existing development including those submitted by councillors or officers as these are legal determinations;
- (iii) authorising the completion of agreements made pursuant to section 106 and 106A of the Town and Country Planning Act 1990 (as amended) and associated legislation as well as Deeds of Variation, Supplementation and Discharge of such agreements;
- (iv) In relation to appeals against non-determination, formulating the Council's response to the application; and
- (v) the allocation of Community Infrastructure Levy (CIL) monies where planning consent requires a CIL contribution of up to £500,000  
At regular intervals the Council will advise any Neighbourhood Forum how much is in the neighbourhood CIL pot for their area and ask how it would wish the Council to allocate this. The Forum should then consult on its proposed CIL allocations which should include consultation with ward councillors.
- (vi) approval of the Council's flag flying consent under the advertisement consent regime (Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- (vii) consulting on amendments to conservation areas; to include consultation with local ward members.

### **5.4 Licensing of alcohol, entertainment and late night refreshment**

#### **(a) Description of responsibility**

All the responsibilities in the Licensing Act 2003

#### **(b) Who carries out the responsibilities?**

Council sets policies on licensing.

The Licensing and Gambling Acts Committee:

- reviews and recommends policies on licensing to Council

- reviews and recommends to Council fees and charges as necessary in line with the relevant legislation
- appoints licensing and gambling acts casework sub-committees to:
  - decide whether to give, change to transfer premises licences or club registration certificates when there are objections
  - decide whether to give a temporary premises licence to a replacement licence holder when there are objections
  - review premises licences and club registration certificates after a closure order
  - decide valid applications for a review of a premises licence or club registration certificate
  - deal, when there are objections, with applications for a statement saying the Council expects to give a licence to premises that are yet to be built or converted
  - decide whether to prevent one-off events when there are objections from the police
  - decide applications to change the premises supervisor or appoint a temporary supervisor when there are objections from the police
  - decide applications for personal licences when there are objections from the police
  - decide whether to withdraw a personal licence on hearing of a conviction
  - respond to consultation on an application by another body that gives licences.

The Head of Regulatory Services and Community Safety has responsibility for everything else within the Licensing Act 2003.

### **5.5 Licensing of gambling**

#### **(a) Description of responsibility**

All the responsibilities in the Gambling Act 2005.

#### **(b) Who carries out the responsibility?**

Council sets policies on licensing.

The Licensing and Gambling Acts Committee:

- reviews and recommends policies on licensing to Council
- reviews and recommends to Council fees and charges as necessary in line with the relevant legislation
- appoints licensing and gambling acts casework sub-committees to:
  - deal, when there are objections, with premises licence applications, changes and transfers



- review premises licences
- deal, when there are objections, with applications for a statement saying the Council expects to give a licence to premises that are yet to be built, converted or occupied
- decide whether to prevent temporary events or uses when there are objections
- deal, when there are objections, with applications for club gaming, or club machine permits and cancellation of such permits
- deal, when there are police objections or officers would want to refuse them, with applications for prize gaming permits
- deal with anything else that needs a hearing or that cannot legally be delegated to officers

The Head of Regulatory Services and Community Safety has responsibility for everything else within the Gambling Act 2005.

### **5.6 Taxi and private hire and other vehicle licensing**

#### **(a) Description of responsibility**

All the taxi and private hire and other vehicle licensing responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

#### **(b) Who carries out the responsibilities?**

Council sets policies on taxi and private hire and other vehicle licensing.

The General Purposes Licensing Committee:

- reviews and recommends policies on taxi and private hire and other vehicle licensing to Council
- reviews and recommends to Council fees and charges as necessary in line with the relevant legislation
- appoints a General Purposes Licensing Casework Sub-committee to:
  - deal with cases concerning applicants for or holders of taxi, private hire or other drivers or vehicle licences brought to the sub-committee by officers
  - decide taxi and private hire and other vehicle, driver and operator licence applications when the applicant has been issued with a “minded to refuse notice” and has requested a hearing withdraw and suspend licences for taxis and private hire and other vehicles and their drivers and operators.

The Head of Regulatory Services and Community Safety has responsibility for everything else including the immediate suspension of taxi and private hire drivers' licences in the interests of public safety and issuing a minded to refuse notice.



### 5.7 Other licensing and registration functions

#### (a) Description of responsibility

All the responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except taxi and private hire and other vehicle licensing.

#### (b) Who carries out the responsibility?

Council sets policies on licensing and registration.

The General Purposes Licensing Committee:

- reviews and recommends policies on licensing and registration to Council
- reviews and recommends to Council fees and charges as necessary in line with the relevant legislation
- agrees a charity collections scheme
- appoints a General Purposes Licensing Casework Sub-committee to:
  - decide sex establishment licence applications when there are objections
  - decide street trading applications that are for longer than three months
  - decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year or where there is competition for a vacant approved site.

The Head of Regulatory Services and Community Safety has responsibility for everything else.

### 5.8 Health and safety at work

#### (a) Description of responsibility

All the responsibilities in Paragraph C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

#### (b) Who carries out the responsibilities?

The Head of Regulatory Services and Community Safety.

### 5.9 Functions relating to the name and status of areas and individuals

#### (a) Description of responsibility

All the responsibilities in Paragraph E of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

#### (b) Who carries out the responsibility?

Council.

#### **5.10 Functions relating to community governance**

(a) Description of responsibility

All the responsibilities in Paragraph EB of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

(b) Who carries out the responsibility?

Council.

#### **5.11 Byelaws**

(a) Description of responsibility

All the responsibilities in Paragraph F of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

(b) Who carries out the responsibility?

Council.

#### **5.12 Power to promote or oppose local or personal bills**

(a) Description of responsibility

All the responsibilities in Paragraph G of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

(b) Who carries out the responsibility?

Council.

#### **5.13 Pensions**

(a) Description of responsibility

All the responsibilities in Paragraph H of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

(b) Who carries out the responsibility?

The Chief Executive.

An officer authorised by the Chief Executive will act as the Council's adjudicator to determine first stage appeals in respect of decisions under the Adjudication of Disagreements Procedure operated by the Pensions Service.

#### **5.14 Ban on smoking in public places**

(a) Description of responsibility

All the responsibilities in the Health Act 2006.

(b) Who carries out the responsibility?

Head of Regulatory Services and Community Safety.

**5.15 Power to enter into an agreement to create a public path on Council owned land**

(a) Description of responsibility

All the responsibilities in section 25 of the Highways Act 1980

(b) Who carries out the responsibility?

Executive Director for Development

## 5.16 Other Council responsibilities

No	Responsibilities	Legislation	Carried out by
1	Power to appoint staff and to set their terms and conditions (including procedures for dismissing them)	Local Government Act 1972, Section 112	<p>Subject to the Employment Rules (Part 20) Appointments Committee appoints Executive Directors and Assistant Chief Executives and recommends to Council appointments of the Chief Executive and designation of Head of Paid Service, Chief Finance Officer and Monitoring Officer.</p> <p>The Chief Executive, Assistant Chief Executive or any Executive Directors can appoint Heads of Service and put in place arrangements for staffing including redesign, restructures and allocation of responsibilities. The Assistant Chief Executive and Executive Directors can only make such arrangements <i>subject to budget approval</i> in relation to their own areas of responsibility.</p> <p>Heads of Service appoint everyone else (except Chief Executive appoints where a contract for personal services is used)</p> <p>Council sets collective terms and conditions, to include the Disciplinary Policy and Procedure, other than pay which is delegated to the Chief Executive to implement in respect of all staff, other than the Chief Executive's own pay and that of any Assistant Chief Executive and Executive Directors, in accordance with national or local pay award/review schemes.</p> <p>Deciding upon the salary of the Chief Executive, Assistant Chief Executives and Executive Directors is the responsibility of the Appointments Committee</p>

No	Responsibilities	Legislation	Carried out by
			The Chief Executive, Assistant Chief Executive, Executive Directors and Heads of Service may manage their staff and take any disciplinary action necessary in accordance with the Disciplinary Policy and Procedure subject to the Employment Rules
2	Power to make standing orders	Local Government Act 1972, Section 106 and paragraph 42 of Schedule 12	Council
3	Power to make contract rules	Local Government Act 1972, Section 135	Council
4	Duty to arrange proper financial administration	Local Government Act 1972, Section 151	Chief Finance Officer
5	Duty to designate Head of Paid Service and provide resources	Local Government and Housing Act 1989, Section 4(1)	Council (but Appointments Committee makes a recommendation)
6	Duty to designate Monitoring Officer and provide resources	Local Government and Housing Act 1989, Section 5(1)	Council (but Appointments Committee makes a recommendation)
7	Powers relating to scrutiny committees (voting rights of co-opted members)	Local Government Act 2000, paragraph 12 and 14 of Schedule 1	Council
8	Power to appoint proper officers	Local Government Act 1972, Section 270(3)	Head of Law and Governance

No	Responsibilities	Legislation	Carried out by
9	Power to issue a closing order to a takeaway food shop	Local Government (Miscellaneous Provisions) Act 1982, Section 4	Head of Regulatory Services and Community Safety
10	Powers to protect important hedgerows	The Hedgerows Regulations 1997	Head of Planning Services
11	Power to apply for an enforcement order against unlawful works on common land	Commons Act 2006, Section 4	Head of Planning Services
12	Power to protect unclaimed register to common land and unclaimed town or village greens against unlawful interference	Commons Act 2006, Section 45(2)(a)	Head of Planning Services
13	Power to institute proceedings for offences in support of unclaimed registered common land and unclaimed town or village greens	Commons Act 2006, Section 45 (2)(b)	Head of Planning Services
14	Duty to provide resources to a person named by the Monitoring Officer	Local Government Act 2000, Sections 82A (4) and (5)	Council
15	Power to provide compensation when there has been maladministration	Local Government Act 2000, Section 92	Chief Executive

No	Responsibilities	Legislation	Carried out by
16	Power to make an order identifying a place as a public place for the purposes of police powers to deal with street drinking	Criminal Justice and Police Act 2001, Section 13(2)	Council
17	Duty to appoint an electoral registration officer	Representation of the People Act 1983, Section 8(2)	Council
18	Power to provide the officers the electoral registration officer needs	Representation of the People Act 1983, Section 52(4)	Electoral Registration Officer
19	Parish and parish council responsibilities	Local Government and Rating Act 1997, Part II	Electoral Registration Officer
20	Power to dissolve small parish councils	Local Government Act 1972, Section 10	Council
21	Power to make orders for grouping parishes, dissolving groups or separating parishes from groups	Local Government Act 1972, Section 11	Council
22	Duty to appoint Returning Officer for local government elections	Representation of the People Act 1983, Section 35	Council
23	Duty to help in European parliamentary elections	European Parliamentary Elections Act 1978, Paragraph 4(3) and 4(4) of Schedule 1	Returning Officer

No	Responsibilities	Legislation	Carried out by
24	Duty to divide constituency into polling districts	Representation of the People Act 1983, Section 18	Council
25	Power to divide electoral divisions into polling districts at local government elections	Representation of the People Act 1983, Section 31	Council
26	Powers to do with holding elections	Representation of the People Act 1983, Section 39(4)	Returning Officer
27	Power to pay electoral registration officer's expenses	Representation of the People Act 1983, Section 54	Council
28	Power to fill empty seats on parish councils when there are not enough nominations	Representation of the People Act 1983, Section 21	Returning Officer
29	Duty to declare vacancy in office	Local Government Act 1972, Sections 86	Returning Officer
30	Duty to give notice of a casual vacancy	Local Government Act 1972, Section 87	Returning Officer
31	Power to make temporary appointments to parish Councils	Local Government Act 1972, Section 91	Returning Officer



No	Responsibilities	Legislation	Carried out by
32	Power to make proposals for pilot schemes for local elections	Representation of the People Act 2000, Section 10	Council
33	Duty to consult on change of scheme for elections	Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Council
34	Duties relating to certain publicity in relation to electoral matters	Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Council
35	Duties relating to notice to Electoral Commission	Local Government and Public Involvement in Health Act 2007, Section 53	Council
36	Functions relating to change of name of an electoral area	Local Government and Public Involvement in Health Act 2007, Section 59	Council
37	Power to alter years of ordinary elections of parish councillors	Local Government and Public Involvement in Health Act 2007, Section 53	Council

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## **6. Role of Cabinet Members**

6.1 Role of all Cabinet members

6.2 Principal areas of political responsibility of individual Cabinet members

6.3 Other areas of responsibility

6.4 Role of individual Cabinet members

### **6.1 Role of all Cabinet members**

Some decisions must be agreed by the Cabinet under this Constitution (Part 4.5). These will be taken collectively by all Cabinet members.

### **6.2 Principal areas of political responsibility of individual Cabinet members**

Individual areas of political responsibility are decided by the Leader and may be changed by the Leader. At the moment they are:

(a) Leader of the Council

Economic Development and Partnerships

(b) Deputy Leader of the Council (statutory)

Finance and Asset Management

(c) Deputy Leader of the Council (non-statutory)

Green Transport and Zero Carbon Oxford

(d) Affordable Housing

(e) City Centre, Covered Market and Culture

(f) Customer Focused Services

(g) Leisure and Parks

(h) Planning and Housing Delivery

(i) Safer, Healthy Oxford

(j) Supporting Local Communities

### **6.3 Other areas of responsibility**

Areas of political responsibility that are not allocated to a Cabinet member in 6.2 may be allocated to a Cabinet member by the Leader.

### **6.4 Role of individual Cabinet members**

For their areas of political responsibility, individual Cabinet members will:

- (a) Provide political leadership and accountability – this will include representing the Council on certain outside organisations and partnership bodies linked to their executive portfolio responsibilities.
- (b) Develop and oversee the Council's work – this will include:
  - advising the Cabinet and officers on priorities
  - advising the Cabinet and officers on service specification
  - advising the directors and heads of service on business and service plans
  - advising on bids for government and other funding
  - advising project and programme boards

## **7. Roles of decision taking committees**

- 7.1 ~~Area~~ Oxford City planning committees
- 7.2 Planning Review Committee
- 7.3 Licensing and Gambling Acts Committee
- 7.4 General Purposes Licensing Committee
- 7.5 Audit and Governance Committee
- 7.6 Investigation and Disciplinary Committee
- 7.7 Independent Persons Panel
- 7.8 Appointments Committee
- 7.9 Standards Committee

### **7.1 Area Oxford City planning committees**

The ~~area~~ Oxford City planning committees carry out the responsibilities delegated to them in Part 5.3

### **7.2 Planning Review Committee**

The Planning Review Committee carries out the responsibilities for called in planning applications delegated to it in Part 5.3.

### **7.3 Licensing and Gambling Acts Committee**

The Licensing and Gambling Acts Committee carries out the responsibilities delegated to it in Part 5.4 and Part 5.5. It delegates some responsibilities to the Licensing and Gambling Acts Casework Sub-Committee.

### **7.4 General Purposes Licensing Committee**

The General Purposes Licensing Committee carries out the responsibilities delegated to it in Part 5.6 and Part 5.7. It delegates some responsibilities to the General Purposes Licensing Casework Sub-Committee.

### **7.5 Audit and Governance Committee**

The Audit and Governance Committee is responsible for setting the Council Tax base and for:

#### **(a) Internal control and risk management**

Reviewing internal control and risk management, particularly:

- the way the Council identifies and deals with key risks
- policies for making sure the Council follows regulatory guidance
- the way the Council's strategies, policies, processes and procedures are working in respect of anti-fraud and corruption and money- laundering

- the Annual Governance Statement
  - the statement on internal control to be included in the internal auditor's annual report and all risk and control related disclosure statements before they go to Council.
- (b) Audit and risk
- reviewing the internal audit programme
  - considering the main findings of internal audit investigations and the management's response
  - ensuring co-ordination between internal and external auditors
  - ensuring the Council allocates enough resources to audit and risk and takes audit and risk sufficiently seriously
- (c) External audit
- considering the choice of auditor and the auditor's fees
  - discussing the terms of reference of audits before they happen
  - making sure that all external audits and inspections are co-ordinated
  - reviewing external audit reports, including value for money reports and annual audit letters, along with the management response.
- (d) Statement of accounts
- Considering and approving the annual statement of accounts, focusing on:
- whether the Council's accounting policies and practices are up-to-date
  - areas where serious criticisms and important adjustments resulted from the audit.

### **7.6 Investigation and Disciplinary Committee**

- (a) Considering disciplinary issues/allegations involving the Head of Paid Service (Chief Executive), Assistant Chief Executives, Executive Directors, section 151 officer (Head of Financial Services) and Monitoring Officer (Head of Law and Governance) and to authorise initial investigation.
- (b) Dealing with disciplinary issues where the Chief Executive reasonably believes that they are conflicted from dealing with the matter.
- (c) Members will be appointed to the Committee under the normal process for making appointments to committees and convened as required. The Committee will be politically balanced and consist of four Members of Council and at least one member of the committee shall be a member of the Cabinet. Members of the Committee must have completed mandatory training.
- (d) Meetings will be convened by the Committee and Member Services Manager in accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives. In consultation with chair of the Committee allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure will be filtered out

Unless they are unavoidably indisposed or conflicted the same members shall comprise the Committee over the course of the full consideration of a matter (or any related matter) for which it was convened, until it is fully disposed of.

- (e) Whenever a Statutory Officer (Head of Paid Service, Monitoring Officer or Chief Finance Officer) is the subject of a disciplinary issue the Committee must consider whether it is necessary for an Independent Persons Panel to be established, to follow the procedure set out in Part 20.8 and Part 20.9 and:
- To appoint an Independent Investigator (“II”) to investigate allegations of misconduct against any Statutory Officer and to commission reports from an II.
  - To determine appropriate action upon receipt of any preliminary investigation.
  - To decide whether to suspend a Statutory Officer and to review decisions taken to suspend a Statutory Officer.
  - To determine what action should be taken against a Statutory Officer following an investigation. This could include action short of dismissal or dismissal.
  - In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Employment Rules.

### 7.7 Independent Persons Panel

To advise the Council on matters relating to the dismissal of a Statutory Officer.

The advice of the Independent Persons Panel (“the Panel”) must be sought in accordance with the Employment Rules where the Investigation and Disciplinary Committee proposes to recommend the dismissal of a Statutory Officer.

The advice of the Independent Persons Panel may (but need not) be sought by the Investigation and Disciplinary Committee at any other point in an investigation of disciplinary process.

For the avoidance of doubt, the Panel may commission and have access to external legal and professional advice.

The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the Statutory Officers in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.

The Panel must be convened having invited at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

It shall be for the Monitoring Officer to invite the Council’s current Independent Persons (being those persons appointed to advise on Member conduct

complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. It shall be for the Investigation and Disciplinary Committee to confirm appointments to the Independent Persons Panel.

The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:

- (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area
- (b) any other Independent Person who has been appointed by the authority
- (c) an Independent Person who has been appointed by another authority or authorities.

### 7.8 Appointments Committee

- (a) To undertake the recruitment and selection process with regard to the designated Head of Paid Service, Monitoring Officer (Head of Law and Governance) and Head of Financial Services (section 151 officer)
- (b) Recommending to Council who to appoint to the position of Chief Executive
- (c) Recommending Council to approve the proposed appointment before an offer of appointment is made to the Head of Paid Service and who to designate as the Chief Finance Officer or Monitoring Officer
- (d) Appointing Assistant Chief Executives and Executive Directors
- (e) Deciding upon the salaries of the Chief Executive, Assistant Chief Executives and Executive Directors
- (f) To receive a report from the Head of Paid Service on senior management arrangements, to include any change, every six months. This report should include the number of officers that have been authorised to carry out work for another local authority, if such authorisations have been made (Part 9.3(g)).
- (g) To consider appeals from post holders in roles deemed to be politically "sensitive" who wish their post to be exempt from the Council's list of Politically Restricted Posts

### 7.9 Standards Committee

- (a) Considering complaints of breaches of the Members' Code of Conduct (Part 22 Annex 1)
- (b) Making recommendations to Council on the adoption or revision of the Members' Code of Conduct
- (c) Making recommendations to Council on complaints handling arrangements in respect of breaches of the Members' Code of Conduct
- (d) Considering requests from councillors for and granting dispensation under section 33 of the Localism Act 2011 from being precluded from participation in a meeting. The Monitoring Officer can grant individual dispensations to



councillors following consultation with an Independent Person wherever consultation is practicable. Where consultation with an Independent Person is impracticable, the Monitoring Officer can grant individual dispensations without consultation.

- (e) To receive reports from and advise the Monitoring Officer on training for members.

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## **8. Role of the Scrutiny Committee**

### **8.1 Areas of work of the Scrutiny Committee**

### **8.2 What powers does the Scrutiny Committee have?**

### **8.3 Roles of the Scrutiny Committee**

## **8.1 Areas of work of the Scrutiny Committee**

Council has appointed one Scrutiny Committee

## **8.2 What powers does the Scrutiny Committee have?**

The Scrutiny Committee can:

- Send reports and recommendations to the Cabinet or Council on anything the Council is responsible for or anything that affects the city or its people
- Consider decisions that have been called in and ask for them to be looked at again (Part 17.1)
- Monitor the Forward Plan and call for reports on items that are coming up
- Require senior officers (Part 9.1), and Cabinet members to attend meetings and answer questions (Part 13)
- Hold public inquiries
- Invite people to meetings and gather evidence from them
- Establish standing and ad hoc panels and review groups to do work and make recommendations. The membership of panels and review groups will be set by the Scrutiny Committee and can be drawn from all non-executive members but the chair must be a Member of the Scrutiny Committee.

## **8.3 Roles of the Scrutiny Committee**

### **(a) Developing and reviewing policy**

The Scrutiny Committee can:

- Help Council and the Cabinet to develop policy by studying issues in detail
- Carry out research and consultation on policy
- Consider and introduce schemes to involve the public in developing policy
- Work with national, regional and local organisations to promote the interest of local people.

### **(b) Holding the executive to account**

The Scrutiny Committee can:

- Review the performance and decisions of the Cabinet, and Council officers (but not decisions on individual planning or licensing applications)

- Review the Council's progress in achieving its policy aims and performance targets
  - Review the performance of individual services
  - Review executive decisions in respect of any companies wholly or partly owned by the Council and hold the shareholder to account for the performance of those companies. Decisions of Council owned companies do not fall within the remit of the Scrutiny Committee.
  - Ask Cabinet members, and senior officers (Part 9.1) questions about their decisions and performance – these may be questions about general performance or about particular decisions and projects.
- (c) Managing the budgets for scrutiny  
The Scrutiny Committee is responsible for any budgets it is given.
- (d) Holding others to account  
The Scrutiny Committee can hold other public service providers to account.

## 9. Roles of Officers

- 9.1 Senior management structure
- 9.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer
- 9.3 Role of Head of Paid Service
- 9.4 Role of Monitoring Officer
- 9.5 Monitoring Officer's right to information
- 9.6 Role of Chief Finance Officer
- 9.7 Duty to give Monitoring and Chief Finance Officers the resources they need
- 9.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues
- 9.9 Restrictions on holding other posts

### 9.1 Senior management structure

The responsibilities of all senior managers are shown in the senior management structure in Annex 1.

### 9.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are the Statutory Officers of the Council. The Chief Executive is the Head of Paid Service; The Head of Law and Governance is the Monitoring Officer; and the Head of Financial Services is the Chief Finance Officer.

### 9.3 Role of Head of Paid Service

- (a) The Head of Paid Service (Chief Executive), may amend the senior management structure of the Council to deliver the Council's objectives in the most effective and efficient manner, subject to the following conditions:
  - (i) That the Chief Executive can make interim appointments, of up to twelve months in total, to the senior management structure in order to facilitate projects or to fill a skills gap;
  - (ii) That the Chief Executive shall consult with all political group leaders prior to the implementation of any changes to the senior management structure;
  - (iii) That the Chief Executive will report to the Appointments Committee every six months in relation to the senior management arrangements including any changes made to those arrangements;
  - (iv) That the Chief Executive will maintain on the Council's website an up to date senior management structure chart showing post titles and the broad functional responsibilities of each post; and

- (v) The references to the senior management structure throughout the Constitution shall be a reference to the structure chart published by the Chief Executive under 9.1 above.
- (b) The Head of Paid Service is authorised to take any urgent action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.
- The Head of Paid Service, in so acting, will be guided by budget and the policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.
- Key decision procedures and call in procedures (Parts 15 & 17) will apply to any key decisions taken under this authorisation.
- (c) The Head of Paid Service may authorise any emergency action required on any matter which shall include incurring expenditure, including those falling within the jurisdiction of a Committee or the Cabinet.
- The Head of Paid Service, in so acting, will be guided by the budget and policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.
- Key decision procedures and call in procedures (Parts 15 & 17) will apply to any key decisions taken under this authorisation.
- (d) The Head of Paid Service may discharge executive functions where there is no lead officer after consultation with the Leader or Deputy Leader of each political group
- (e) The Head of Paid Service must approve any staffing change which could give rise to a severance payment, early retirement, redundancy or a pay re-grading for an officer.
- (f) The Head of Paid Service must approve any contracts other than a contract of employment when an officer is appointed
- (g) Decisions relating to salary packages for new posts added to the senior management structure where the salary package per annum is above £100k are to be made subject to full Council approval. In addition, any severance arrangements agreed in line with the relevant policies that exceed £100k must be subject to full Council approval.
- (h) The Chief Executive can authorise Council officers to carry out work for or on behalf of other local authorities when a delegation from a local authority has been accepted (Part 3.9). Any such authorisation should be recorded when given. The Chief Executive will report to the Appointments Committee if any authorisations are given to officers to carry out such work on behalf of another authority (Part 7.8(g)).

### 9.4 Role of Monitoring Officer

(a) Making sure Council decisions are lawful and fair

If a proposal or decision would result in unlawful action or maladministration, the Monitoring Officer will consult the Head of Paid Service and Chief Finance Officer and report to Council (or the Cabinet for an executive responsibility).

The proposal or decision will not be acted on until the report has been considered.

If another body is also investigating a proposal or decision that could result in unlawful action or maladministration, the Monitoring Officer can delay reporting to Council or the Cabinet until that body has investigated.

(b) Leading on ethical issues

The Monitoring Officer will support the Standards Committee. This will include advising the Standards Committee on the need for training for councillors on ethical issues.

The Monitoring Officer will meet regularly with the Head of Paid Service and the Chief Finance Officer to consider issues of governance and probity and will facilitate periodic meetings between the Chair of the Standards Committee, the Leader and the Head of Paid Service.

(c) Carrying out investigations

The Monitoring Officer may investigate

- issues of governance and maladministration
- complaints of breaches of the code of conduct for members
- questions about the Council's power to act.

(d) Being proper officer for access to information

The Monitoring Officer will be the proper officer for access to information. This will include making sure that the Council publishes Council, Cabinet, committee, and officer decisions as soon as possible, along with the reasons for the decisions and the officer reports.

(e) Giving advice

The Monitoring Officer will advise on the Council's powers to take decisions, maladministration, ethics and governance and the budget and policy framework.

(f) Liaising within and outside the Council

The Monitoring Officer will:

- Be a member of all management boards
- Keep close links with the Lord Mayor, the Leader, the Chair of the Standards Committee, the Head of Paid Service and the Chief Finance Officer
- Appoint a deputy and keep them briefed
- Keep in contact with the clerks of any parish councils in Oxford, the Council's auditors and the ombudsman and may give them relevant information even if it is confidential.

(g) Dispensations under the Localism Act 2011

The Monitoring Officer will consider applications for and grant dispensations to individual members under section 33 of the Localism Act 2011 to allow them to take part in a meeting from which they would otherwise be precluded.

(h) Protection of Freedoms Act 2012

The Monitoring Officer will perform the role of the Senior Responsible Officer for the Council.

(i) General Data Protection Regulation 2015 (EU 2016/679) and Data Protection Act 2018.

The Monitoring Officer will perform the role of Data Protection Officer for the Council.

### 9.5 Monitoring Officer's right to information

(a) Information for investigations

In any investigation the Monitoring Officer will have unqualified access to information from the Council and its officers.

(b) Reports to councillors

The Monitoring Officer has the right to see all reports to councillors.

(c) Barristers' opinions

Monitoring Officer will have an adequate budget for getting barristers' opinions.

### 9.6 Role of Chief Finance Officer

(a) Making sure decisions are lawful and financially sensible

If a proposal or decision would result in unlawful spending or a loss to the Council, or if the Council is about to enter an unlawful item of account, the Chief Finance Officer will consult the Head of Paid Service and the Monitoring Officer and report to the Council's auditors and to Council (or the Cabinet if it is an executive responsibility).

(b) Managing the Council's finances

The Chief Finance Officer will manage the Council's finances.

(c) Contributing to the management of the Council as a whole

The Chief Finance Officer will contribute to the management of the Council as a whole, especially by giving financial advice. The Chief Finance Officer will be a member of all management boards and has the right to see all reports to councillors.

(d) Giving advice

The Chief Finance Officer will advise on maladministration, probity, financial impropriety and the budget and policy framework.



(e) Giving financial information

The Chief Finance Officer will make information about the Council's finances available to the media and the public.

(f) Carry forwards

The Chief Finance Officer can approve single budgetary carry forwards up to £10,000

### **9.7 Duty to give Monitoring and Chief Finance Officers the resources they need**

The Council will give the Monitoring Officer and Chief Finance Officer the accommodation, officers and resources they believe they need to do their jobs. The Monitoring Officer and Chief Finance Officer will report to Council when necessary on the accommodation, officers and resources they need.

### **9.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues**

Directors and heads of service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

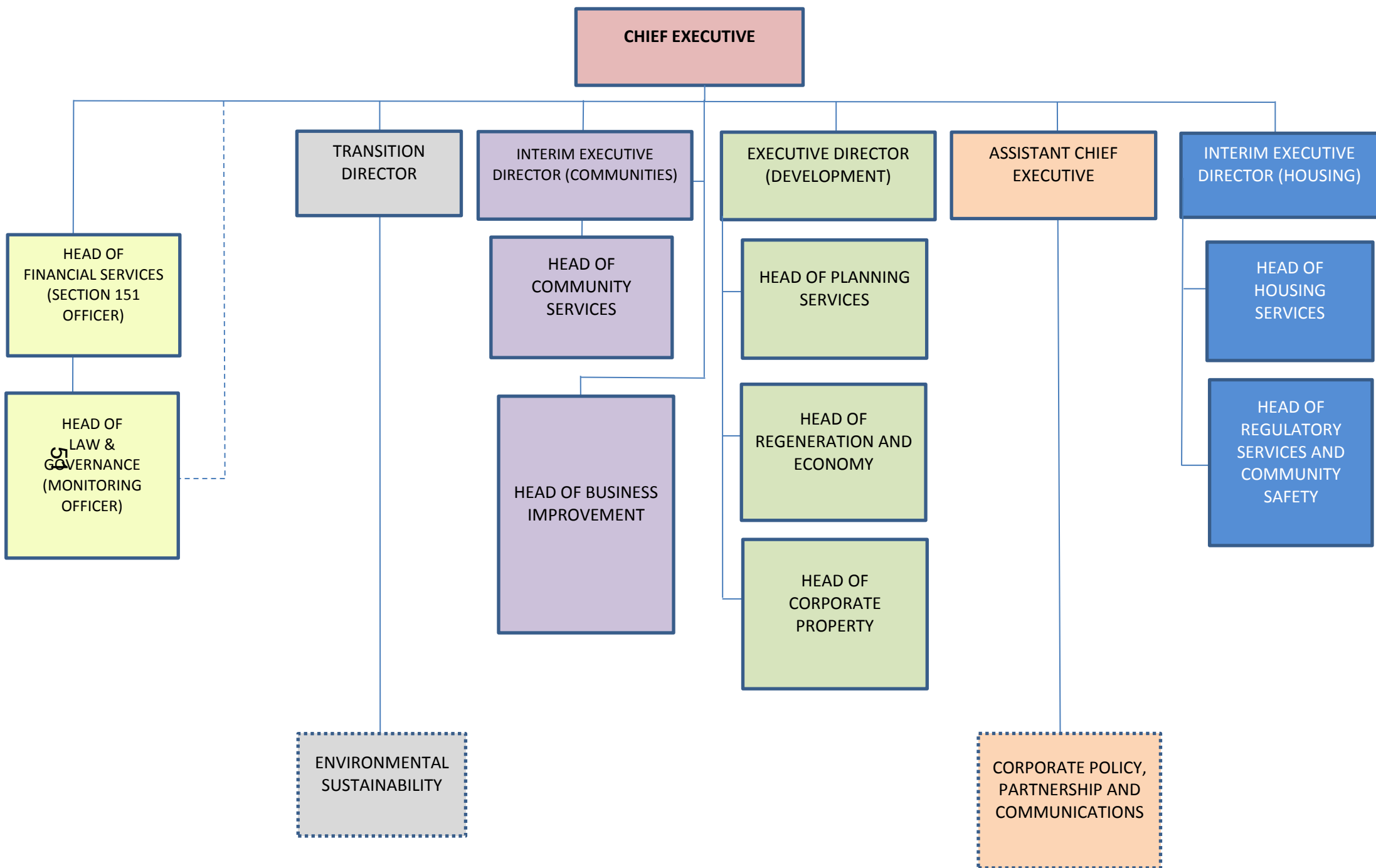
If the finance or contract rules have been broken, or if decisions have been taken by people who are not allowed to take them, the Monitoring Officer and Chief Finance Officer must be told in writing.

### **9.9 Restrictions on holding other posts**

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

The Head of Paid Service and the Chief Finance Officer can be the same person but the Chief Finance Officer must be a qualified accountant.

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Depicts Manager level post

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## 10. Proper Officers

### 10.1 Appointment of proper officer

### 10.2 Responsibilities and proper officers

#### 10.1 Appointment of proper officer

Proper officers are designated by Council for the functions listed below as required by various statutory provisions.

#### 10.2 Responsibilities and proper officers

“Proper Officer” means the officer designated below by the Council for the purpose of this Scheme or in the absence of such designation, the Chief Executive.

Legislation in the following table includes any amendments, re-enactments and subordinate legislation.

**Table of proper officer’s responsibilities**

Legislation		Responsibility	Proper officer
Public Health Act 1936	Section 85(2)	Serving a notice requiring action to deal with verminous people or things	Head of Regulatory Services and Community Safety
Public Health Act 1961	Section 37	Controlling verminous things	Head of Regulatory Services and Community Safety
Local Government Act 1972	Section 83(1) to (4)	Witnessing and receiving declarations of acceptance of office	Chief Executive
	Section 84(1)	Receiving a Councillor’s resignation	Chief Executive
	Section 88(2)	Calling a Council meeting to elect a chair if there is a casual vacancy	Chief Executive
	Section 89(1)	Receipt of notice of a casual vacancy	Chief Executive
	Section 100 except 100D	Access to meetings and documents	Head of Law and Governance

Legislation		Responsibility	Proper officer
	Section 100D	Listing background papers for reports and making copies available	Each Head of Service for their service area reports
	Part VA	Access to information	Head of Law and Governance
	Section 115(2)	Receiving money due from officers	Head of Financial Services
	Section 146(1) (a) and (b)	Making declarations and certificates about transferring securities on alteration of area	Head of Financial Services
	Section 173-178	Keeping records of councillors' allowances	Head of Law and Governance
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act 1841	Head of Law and Governance
	Section 214(3) and Article 9 of the Local Authorities' Cemeteries Order 1974	To grant exclusive right of burial and sign the necessary certificate	Cemeteries Manager
	Section 223	Authorisation (appearance by persons other than solicitors in legal proceedings)	Head of Law and Governance
	Section 225	Deposit of documents	Head of Law and Governance
	Section 228	Inspection of documents	Head of Law and Governance
	Section 228(3)	Making accounts available for Councillors to look at	Head of Financial Services

<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
	Section 229(5)	Certifying photocopies of documents	Head of Law and Governance
	Section 234	Signing notices, orders and other documents which the Council is required or authorised to issue by or under any enactment	All Heads of Service. The Head of Housing will be the Proper Officer, as Council Representative (Oxford Direct Services), for all Council functions carried out by Oxford Direct Services Ltd
	Section 236(9) and (10)	Sending copies of byelaws to parish Councils, parish meetings and the county Council	Head of Law and Governance
	Section 238	Certification of byelaws	Head of Law and Governance
	Section 248	Keeping a list of freemen/freewomen of the city	Head of Law and Governance
	Schedule 12, Para 4(1A)(b)	Authenticating a summons to attend a meeting	Head of Law and Governance
	Schedule 12, Para 4(2)(b)	Signing the summons to full Council	Chief Executive
	Schedule 12 Para 4(3)	Receipt of notification of address to send summonses to full Council meetings	Head of Law and Governance
	Schedule 14 Para 25	Certifying resolutions passed under this Paragraph	Head of Law and Governance

<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
Local Government Act 1974	Section 30(5)	Giving notice that copies of an ombudsman's report are available	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976	Section 41	Certifying copies of resolutions and minutes and copy instruments appointing officers to perform certain functions	Head of Law and Governance
Local Authorities Cemeteries Order 1977	Article 10	Signing exclusive burial rights	Cemeteries Manager
Highways Act 1980		Signing notices, orders and other documents which the Council is required or authorised to issue in relation to all work contracted out to Oxford Direct Services Limited	Head of Housing as Council Representative (Oxford Direct Services)
Representation of the People Act 1983	Section 28	Acting Returning Officer at Parliamentary Elections	Returning Officer appointed by the Council (currently Head of Law and Governance 2/10/17)
	Section 67	Receipt of appointment and publication of names and addresses of election agents	Returning Officer
	Section 81	Receipt of return of election expenses	Returning Officer
	Section 82 and 89	Receiving election expense declarations and returns and holding them for the public to look at	Returning Officer
	Section 131	Providing accommodation for holding election count	Returning Officer
County Courts Act 1984	Section 60(2)	Rights of audience in the County Court before district judge	Head of Law and Governance



<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
Public Health (Control of Disease) Act 1984	Section 11	Being told about cases of notifiable disease or food poisoning	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed within the Public Health England South East region
	Section 18	Getting information about cases of notifiable disease or food poisoning	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed within the Public Health England South East region
	Section 20	Stopping of work to prevent disease spreading	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed within the Public Health England South East region
	Section 21	Excluding children from school if they are likely to carry a notifiable disease	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed within the Public Health England South East region
	Section 22	Asking for the names and addresses of pupils at a school or department of a school	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed

Legislation		Responsibility	Proper officer
			within the Public Health England South East region
	Section 32	Certifying the need to remove someone from an infected house	Head of Regulatory Services and Community Safety
	Section 36	Issuing certificates to get an order to examine people believed to be carrying notifiable diseases	The Consultants in Communicable Disease Control (CCDC) and Consultants in Health Protection (CHP) employed within the Public Health England South East region
Local Government and Housing Act 1989	Section 2(4)	Keeping the list of politically restricted posts	Chief Executive
	Section 15-17	Allocating seats on committees	Head of Law and Governance
	Section 18	Arrangements in respect of the scheme of members' allowances	Head of Law and Governance
Local Government (Committees and Political Groups) Regulations 1990	All sections	Dealing with membership of political groups, political balance on committees and nominations by political groups	Head of Law and Governance
<u>Social Security Administration Act 1992</u>	<u>Section 110A</u>	<u>Issuing Authorisations</u>	<u>Head Of Financial Services</u>
Local Government Act 2000	Chapter 4	Dealing with changing governance arrangements	Head of Law and Governance
	Section 99 and 100	Regarding councillors' allowances and having regard to all relevant regulations, including The Local Authorities	Head of Law and Governance

Legislation		Responsibility	Proper officer
		(Members' Allowances)(England) Regulations 2003	
Local Authorities (Standing Orders) (England) Regulations 2001	Schedule 1 Part II	Giving notice of appointments and dismissals of officers to the Cabinet in accordance with the Regulations	Head of Business Improvement
	Schedule 3	Provisions relating to disciplinary action	Head of Business Improvement
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Regulation 3	Recording of executive decisions made at meetings	Head of Law and Governance
	Regulation 4	Admission of public to meetings of the executive	Head of Law and Governance
	Regulation 5	Procedures prior to private meetings of the executive	Head of Law and Governance
	Regulation 6	Procedures prior to public meetings of the executive	Head of Law and Governance
	Regulation 7	Access to agenda and connected reports for public meetings of the executive	Head of Law and Governance
	Regulations 9-11	Publicity and procedure in connection with key decisions	Head of Law and Governance
	Regulation 12	Recording of executive decisions made at meetings	Head of Law and Governance
	Regulation 13	Recording of executive decisions made by individuals	Head of Law and Governance
	Regulation 14	Inspection of documents following executive decisions	Head of Law and Governance

Legislation		Responsibility	Proper officer
	Regulation 15	Inspection of Background Papers	Each Head of Service for their service area reports
	Regulation 16	Exemptions from rights of access to certain documents	Head of Law and Governance
	Regulation 20	Confidential information, exempt information and advice of a political adviser or assistant	Head of Law and Governance

## **11. Council procedures**

- 11.1 Order of business at annual meeting of Council
- 11.2 Selection and appointment of civic office holders
- 11.3 Order of business at ordinary meetings of Council
- 11.4 Council budget debate procedure
- 11.5 Special meetings of Council
- 11.6 Time and place of Council meeting
- 11.7 Quorum for Council
- 11.8 Changing the order of business
- 11.9 Minutes
- 11.10 Reports to Council
- 11.11 Questions and statements by councillors
- 11.12 Addresses by the public
- 11.13 Questions by the public
- 11.14 Rejecting addresses and questions
- 11.15 Petitions to full Council
- 11.16 Reports and questions about organisations on which the Council is represented
- 11.17 Reports by the Chair of the Scrutiny Committee
- 11.18 Motions on notice
- 11.19 Motions without notice
- 11.20 Rules of debate
- 11.21 Voting
- 11.22 Officers
- 11.23 Excluding the public
- 11.24 Councillors' behaviour
- 11.25 Disruption by the public
- 11.26 Suspending and changing the procedures in this section

Annex to Section 11

### **OXFORD CITY COUNCIL PETITIONS SCHEME**

#### **11.1 Order of business at annual meeting of Council**

The order of business will be:

- (a) Election of the Lord Mayor
- (b) Appointment of the Deputy Lord Mayor
- (c) Appointment of the Sheriff
- (d) Apologies for absence

- (e) Declarations of interest
- (f) Announcements from the Lord Mayor or the Head of Paid Service
- (g) Election of the Leader (in the year in which this is required – Part 1.4(g))
- (h) Report from the Leader on the appointment of the Deputy Leader, Cabinet members and the executive scheme of delegation
- (i) Appointment of committees
- (j) (Appointment of any other committees
- (k) Agreement of how Council responsibilities will be carried out (Part 5)
- (l) Any other business on the agenda

### **11.2 Selection and appointment of civic office holders**

The convention is that the civic office holders i.e. the Lord Mayor, the Deputy Lord Mayor and the Sheriff will be selected for nomination to Council on the basis of cumulative length of service. Members of the Cabinet cannot service as Lord Mayor or Deputy Lord Mayor.

For each of the civic offices the Leader will offer the nomination, for the next municipal year, to the longest serving eligible councillor (based on cumulative service at the start of that municipal year) who has not held that particular office. Should that councillor decline the Leader will proceed to the next longest serving eligible councillor until the nomination is accepted.

Should there be two or more councillors with the same length of service the Leader will make offers in alphabetical order using last names.

The results of this process will be announced by the Leader at the February Council meeting or one as close to this as possible. In City Council election years the outcome will be checked before the Annual Council meeting and should any of the councillors selected no longer be members of Council the Leader will offer the nomination again based on the process already described above.

At the Annual Council meeting the Lord Mayor will be elected and the Deputy Lord Mayor and Sheriff will be appointed. The current Lord Mayor shall preside over the election of his or her successor unless he or she is ineligible to do so, in which case the current Deputy Lord Mayor shall preside. No councillor shall preside over their own election as Lord Mayor, Deputy Lord Mayor or Sheriff.

### **11.3 Order of business at ordinary meetings of Council**

The order of business will be:

#### **Part 1 – Public Business**

- (a) Election of chair (if the Lord Mayor and Deputy Lord Mayor are absent)
- (b) Apologies for absence
- (c) Declarations of interests
- (d) Announcements from the Lord Mayor, Sheriff, Leader, Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (e) Appointments to committees

- (f) Approval of the minutes of the last meeting of Council as a correct record, and those of any earlier meetings that have not already been approved
- (g) Public addresses and questions that relate to a decision at the meeting (Part 11.12 and 11.13)
- (h) Any unfinished business from the last meeting (but motions not dealt with in the time available do not count as unfinished business)
- (i) Recommendations from the Cabinet
- (j) Reports for decision by the meeting
- (k) Minutes from the Cabinet
- (l) Questions by councillors to members of the Cabinet and committee chairs (Part 11.11 (b))
- (m) Any other business for decision or information including any business for which a motion to exclude the press and public is to be put to Council

### Part 2 – Public Involvement and Scrutiny

- (n) Public addresses and questions other than those taken in part 1 of the meeting (Part 11.12 and 11.13)
- (o) Consideration of petitions (Part 11.15);
- (p) Reports and questions about organisations the Council is represented on (Part 11.16)
- (q) Report by the Chair of the Scrutiny Committees (Part 11.17)
- (r) Recommendations and reports from scrutiny committees

### Part 3 – Motions – Representing the City

- (s) Motions on notice (Part 11.18).

## 11.4 Council budget debate procedure

Order of business for the Council meeting(s) where the Council's budget, capital programme and medium term financial strategy for the following year(s) are discussed and the Council Tax is set.

All amendments will be subject to the normal rules of debate except for those at Part 7(h)(iii) which will be taken as read by the meeting.

### Part 1 – Public business

- (a) Election of chair (if the Lord Mayor and Deputy Lord Mayor are absent)
- (b) Apologies for absence
- (c) Declarations of interest

- (d) Announcements from the Lord Mayor, Leader, Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (e) ~~Agreement of the time permitted for each stage in the procedure for the meeting and any amendments to this procedure~~ Consideration of any proposed amendments to the budget debate procedure.
- (f) Public questions and addresses relating to a decision at this meeting (a maximum of 30 minutes in total)
- (g) Report of the Council's Chief Finance Officer on the soundness of the financial proposals before Council
- (h) Council's budget, capital programme and medium term financial strategy as recommended by the Cabinet (to last no more than 1 hour and 25 minutes excluding the debates at 11.4(h)ii. All speakers will have 3 minutes unless otherwise stated. All speakers will be nominated in advance to Committee and Member Services ([democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk)) by 9.00am one working day before the meeting. The Lord Mayor will decide the order speakers are taken subject to advice from Group Leaders. Additional speakers will only be taken by the Lord Mayor should time allow.

Debate on this item shall be:

- (i) Proposal by the relevant Cabinet member (15 minutes)
  - (ii) Amendments submitted by opposition groups (proposal and debate 30 minutes for each group's amendments: proposers may speak for up to 10 minutes). These amendments must be received by Committee and Member Services by 1.00pm one working day before the meeting. These proposals will be voted on as one amendment for each group.
  - (iii) Individual amendments submitted in writing to the Committee Services Officer in advance of the meeting or at least 15mins before the start of this item at the meeting, on the form provided (40 minutes in total). Amendments will be taken in the order submitted to the Committee Services Officer on the form provided and will be taken "as read" by the meeting and voted on. A proposer and seconder is required. Should the proposer and seconder agree, amendments can be taken in groups. Any amendments not taken within the time fall.
  - (iv) Debate on the budget presented by the Cabinet, as amended (30 minutes or the remaining time overall, whichever is the greater).
- (i) Recorded vote on the budget, capital programme and medium term financial strategy recommended by the Cabinet (as amended).
  - (j) Adjournment for 10 minutes if necessary
  - (k) Setting of the Council Tax for the following year.
  - (l) Recorded vote on the proposed Council Tax.
  - (m) Any other items for decision which are related to the business above
  - (n) Items for decision which must be determined before the next ordinary meeting.



There will be no other business at this meeting except with the agreement of the Lord Mayor, Leader and opposition group leaders: there will be no part 2 or part 3 of the ordinary agenda.

The Leader or in their absence the Deputy Leader shall indicate before debate which amendments they will accept without a vote.

The Chief Finance Officer shall report on the soundness of the amendments before these are debated.

Amendments shall be presented in writing with financial information and reasons; taken as read without the requirement for the proposer to speak; and taken in order as presented to the Committee and Member Services Officer before the start of debate on amendments.

### **11.5 Special meetings of Council**

The Chief Executive can be required to call a special meeting by Council, the Lord Mayor, the Monitoring Officer, the Chief Finance Officer or any twelve councillors.

The Chief Executive may also call a special meeting at her or his discretion.

Special meetings will only deal with the business they have been called for but they may receive addresses by the public (Part 11.12(d)).

Special meetings must be convened for awarding Freedom of the City and the enrolment of Honorary Aldermen and Honorary Alderwomen.

### **11.6 Time and place of Council meeting**

Ordinary meetings usually start at 5.00 p.m. The annual meeting will usually start at 4.00 p.m. The times of Special meetings are decided by the Chief Executive. Meetings are usually held in the Council Chamber in the Town Hall.

For ordinary meetings, part 2 of the order of business as set out in 11.3 shall not commence before 7.00 p.m.

### **11.7 Quorum for Council**

The quorum will be a quarter of all councillors.

If a quorum is not present at the time the meeting is due to start, the start time of the meeting will be put back by 15 minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged. If a meeting becomes inquorate part of the way through, business will halt for five minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged.

### **11.8 Changing the order of business**

The Lord Mayor can ask Council to agree to change the order of business (Part 11.1 and 11.3), except for the first two items at annual meetings.

### 11.9 Minutes

(a) Signing the minutes

At the first ordinary meeting when the minutes are available, the Lord Mayor will move that the minutes of previous meetings are correct and sign them. Council will not discuss the minutes except to agree corrections.

(b) No minutes of previous meetings will be considered at annual or special meetings Minutes are not signed at annual meetings or special meetings. They are signed at the next ordinary meeting instead.

### 11.10 Reports to Council

(a) Officers can be asked to introduce reports.

(b) Reports and recommendations from the Cabinet will be moved by the Leader or one of the Cabinet members. Reports and recommendations from committees will be moved by the chair of the committee (or another member of the committee they have nominated). Reports from officers may be moved by any member.

(c) The person moving a report can withdraw all or part of it, correct mistakes or make minor changes.

(d) After any questions, statements and amendments to recommendations to Council have been acted upon, the Cabinet or committee or officer recommendation will be voted upon and adopted subject to any agreed amendments.

### 11.11 Questions and statements by councillors

(a) Questions and statements without notice

- A councillor can ask a question without notice to anyone making an announcement under 11.3(d)
- A councillor can ask a question or make a statement without notice to:
  - the Leader or a Cabinet member about a recommendation, report or action of the Cabinet
  - the Leader or a Cabinet member about a decision of the Cabinet
  - the chair of the Scrutiny Committee about a recommendation, report or action of the committee

Questions on Cabinet minutes (Part 11.3 (k)) are limited to 15 minutes in total.

(b) Questions on notice

- Questions on notice by councillors must be about something the Council is responsible for or something that directly affects people in the city.
- The full wording of questions on notice must be emailed to [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk) or received by the Head of Law and Governance by 1.00 p.m. at least seven clear working days before the Council meeting.

- Questions must be directed to the Lord Mayor, a Cabinet member or a committee chair. A Cabinet member can nominate another Cabinet member to reply.

### (c) Supplementary questions

One supplementary question can be asked without notice. This must be addressed to the councillor who replied to the first question and must arise directly from the first question or the reply. No further supplementary questions are allowed.

## 11.12 Addresses by the public

### (a) Public addresses at Council

- Members of the public may address Council for up to five minutes. This can be about anything the Council is responsible for or something that directly affects people in the city or something for decision at the meeting. A member of the public making an address may be accompanied by up to three other members of the public.
- Subject to 11.12(b) addresses will be taken in the order in which they are received by the Head of Law and Governance but at two points in the order of business, namely:
  - If the address relates to a matter for decision at the meeting, during Part 1 of the order of business (11.3 (g))
  - If the address does not relate to a matter for decision at the meeting, during Part 2 of the order of business (11.3 (n))

### (b) Number of public addresses

There shall be no limit to the total number of addresses to any ordinary Council meeting but the total time permitted for public addresses and public questions is 45 minutes. There will be a limit of one address per individual at a meeting and priority will be given to hearing members of the public who have not spoken at Council within the last 12 months. Supplementary questions from the public will not be allowed.

### (c) Annual meeting

There will not be any public addresses to the annual meeting.

### (d) Special meetings

Addresses will only be taken at a special meeting if they are about a topic the special meeting is discussing and the Lord Mayor has agreed that public addresses will be included on the agenda for that meeting.

### (e) Notice

The full wording of an address must be received by the Head of Law and Governance by 5.00 p.m. at least three clear working days before the Council meeting.

(f) Number of addresses

Council will hear one spoken address on each topic. If there is more than one request to speak on a topic, the five minute limit for the address shall be shared by those wishing to speak.

On issues where there are arguments for and against, Council can hear one speaker for and one against.

(g) Addresses that are about something for decision at the meeting

If an address is about something that is for decision at the meeting it will be considered with that recommendation or report or motion.

(h) Addresses that are not about something that is for decision at the meeting

If an address is not about something that is for decision at the meeting, it will be referred to the Chief Executive without discussion. The Chief Executive will send a written reply within 10 working days after having it investigated by an officer or discussed by the Cabinet or a committee. But the Cabinet member may make a response to an address at the meeting if they choose.

(i) Personal attacks and individual personal circumstances

Addresses must not contain personal attacks nor must they relate to individual personal circumstances. If an address contains a personal attack or if individual personal circumstances are mentioned, the Lord Mayor will ask the speaker to stop. If the personal attack or reference to individual personal circumstances continues, the Lord Mayor will ask the speaker to stop. If the speaker refuses to stop straight away, the Lord Mayor can ask the speaker to leave and adjourn the meeting until they do.

### 11.13 Questions by the public

(a) Asking questions at Council

Members of the public can ask one question at an ordinary meeting. These can be addressed to the Leader or other Cabinet member. Questions must be about something the Council is responsible for, something that directly affects people in the city or something for decision at the meeting. Questions that relate to individual personal circumstances will not be allowed.

Members of the public cannot ask questions at an annual or special meeting unless the Lord Mayor has agreed that public questions will be included on the agenda for a special meeting.

Questions will be taken at two points in the order of business, namely:

- If the question relates to a matter for decision at the meeting, during part 1 of the order of business (11.3(g))
- If the question does not relate to a matter for decision at the meeting, during part 2 of the order of business (11.3(n))

(b) Notice

The full wording of the question and the name or position of the councillor to whom it is to be asked must be given to the Head of Law and Governance by 5.00 p.m. at least three clear working days before the Council meeting.

(c) Number of questions

Members of the public cannot ask more than one question per meeting. Supplementary questions are not allowed. There shall be no limit to the number of questions to any ordinary meeting but the total time permitted for public questions and public addresses is 45 minutes (11.12(b))

(d) Asking the question

The Lord Mayor will ask the questioner to ask their question. The member asked the question will answer it either orally at the meeting or by referring to the availability of a written answer at the meeting. If the questioner or the councillor to whom the question is addressed is not present, the Chief Executive will have a reply sent with 10 working days. This will be copied to the councillor who would have been asked the question.

(e) Length of questions and answers

Questions and answers to questions cannot take longer than three minutes each unless the Lord Mayor agrees.

The total length of a question may be no longer than 200 words.

(f) Referring questions to the Cabinet or to committee

After a question has been answered, there will be no discussion but any councillor can propose that a matter raised by a question is referred to the Cabinet or to a committee. If the proposal is seconded, it will be voted on without discussion.

(g) Total length of addresses and questions

Council will not spend more than 45 minutes taking addresses (11.12) and questions (11.13). If it cannot take all the addresses and questions in 45 minutes, it will take them in the order that notice was given of them until there is no time left.

(h) Written answers

If a question is not taken because there is no time left, the Chief Executive will have a reply sent within 10 working days.

### 11.14 Rejecting addresses and questions

The Head of Law and Governance can reject a public address or question or a question on notice by a councillor, and the Lord Mayor can reject an address or question without notice, if:

- it is not about something the Council is responsible for or about something that directly affects people in the City or about a matter for decision at the meeting

- it is defamatory, frivolous, trivial or offensive
- it requires the Council to make public exempt or confidential information (Part 15.4)
- it relates to individual personal circumstances

If an address or question is rejected by the Head of Law and Governance or the Lord Mayor reasons must be given.

### **11.15 Petitions to full Council**

A petition containing at least 1,500 signatures will be debated at Council if the petition organiser makes a request for a debate in writing directly to the Head of Law and Governance.

Requests must be sent in writing, accompanied by the petition, to Head of Law and Governance at least 3 weeks prior to the Council meeting. Any petition presented as part of an address (11.12) directly to Council and that contains at least 1,500 signatures will not be debated at that meeting but at the next ordinary meeting.

Council will receive a report setting out the petition and the steps Council can take.

The petition organiser may address Council upon the petition for up to five minutes before the debate upon the petition at that next ordinary meeting.

If a Member wishes to put a substantive motion/recommendation on a petition they must let the Head of Law and Governance have that motion/recommendation by 10am on the working day before the Council meeting. These would then be published in the Council briefing note. Any amendments to these would have to be with Committee and Members' Services by 11.00am on the day of the meeting.

### **11.16 Reports and questions about organisations on which the Council is represented**

All councillors will be able to ask for a report to be given at Council by the council representative on a significant change or important event provided they make that request by 1.00 pm at least four working days before the meeting.

Members who are Council representatives on external bodies or chairs of council committees who consider that a significant decision or event has taken place, will give notice to the Head of Law and Governance by 1.00 pm at least one clear working day before the meeting to present a written or oral report on the event or the significant decision and how it may influence future events.

Each ordinary meeting of Council shall receive a written report concerning the work of one of the partnerships upon which the Council is represented.

### 11.17 Reports by the Chair of the Scrutiny Committee

Each ordinary meeting of Council shall receive a written report from the Council's Scrutiny Committee on the work of the Committee. That report shall be included in the agenda of the meeting. The Chair of the Scrutiny Committee may report orally if there are matters arising from the work of the Committee that the Chair considers Council should know about without delay.

### 11.18 Motions on notice

#### (a) Giving notice of motions

Some motions may be moved without notice. These are listed at 11.19. For all other motions, with the exception of urgent cross-party motions, the full wording must be emailed to [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk) or received by the Head of Law and Governance by 1.00 pm at least seven clear working days before the meeting. These motions will be reproduced on the agenda for the meeting.

Urgent cross-party motions supported in writing by all the Leaders of political groups on the Council may be submitted by 1.00 pm three working days before the Council meeting so that they may be circulated with the briefing note.

#### (b) Topic of motions

Motions must be about things the Council is responsible for or something that directly affects people in the city. Where motions require some action on behalf of the Council, such actions must be clearly assigned.

#### (c) Length of motions

Motions must be limited to a maximum of 500 words.

#### (d) Listing motions on the agenda

Motions will appear on the agenda in an order that will rotate between the different political groups at each meeting. Subject to this rotation, motions will appear and be taken in the order they were received by the Head of Law and Governance:

- all cross party motions will be taken first:
- a cross-party motion is one supported in writing by all the leaders of the political groups on the Council
- a motion supported by fewer than all the political group leaders is not cross party and will be listed in the appropriate order for the proposer's group
- a single motion can be proposed and seconded by members of different political groups



- a single motion from an independent/ non-group councillor will be taken at the end of each 'cycle' of political groups' motions, listed in order of receipt

(e) Time limits

There is a time limit of 60 minutes for dealing with all motions but no time limit for dealing with each motion.

(f) Amendments to motions (see also 11.20 (f))

Substantive amendments to motions must be submitted by 10.00 am on the working day before the Council meeting so that they may be circulated with the briefing note.

Amendments to cross-party motions must be supporting in writing by all the leaders of the political groups on the Council.

Minor technical or limited wording amendments may be submitted during the meeting but must be written down and circulated.

(g) Motion to remove the Leader

Any motion to remove the Leader and replace them with another Leader must be signed by no less than twelve councillors and emailed to [democraticservices@oxford.gov.uk](mailto:democraticservices@oxford.gov.uk) or received by the Head of Law and Governance by 1.00 pm at least seven clear working days before the meeting. This motion will be reproduced on the agenda for the meeting.

(h) Monitoring Officers' advice on motions

For motions to be effective they must be lawful and implementable.

The Monitoring Officer has a duty to ensure that the Council acts lawfully and properly and will review motions and motion amendments submitted by councillors prior to their publication to ensure they are consistent with these principles. If the Monitoring Officer has concerns that the publication or agreement of a motion or motion amendment submitted by a councillor would not be in the Council's interests, within these parameters, the Monitoring Officer will offer advice to the councillor who submitted the motion or motion amendment.

If the Monitoring Officer considers a motion or amendment to be unlawful, vexatious, defamatory, frivolous, offensive, beyond the powers and remit of the Council, related to employees or otherwise improper the Monitoring Officer will return it to the councillor who submitted it along with an explanation in writing about why it cannot be published in its current form.

The Monitoring Officer shall, if need be as a last resort, give a ruling as to whether the motion or amendment can be included on the agenda or briefing note circulated for the meeting.

(i) Implementation of any Council motion that has clear financial and/or resourcing implications will be subject to a report to the Cabinet setting out those implications.



### 11.19 Motions without notice

There is no need to give notice of motions to:

- a. appoint a chair of the meeting
- b. agree or correct the minutes
- c. change the order of business
- d. refer something somewhere else
- e. agree or amend recommendations of the Cabinet, Council committees or officers
- f. withdraw a motion
- g. amend a motion during a debate on it (11.20 (g))
- h. got to next business (11.20(k))
- i. move to a vote (11.20(k))
- j. adjourn a debate or meeting (11.20(k))
- k. suspend a Council procedure (11.26 (a))
- l. hold a discussion in private (when allowed under the access to information and key decision procedures – Part 15)
- m. hear a councillor no further (11.24(c))
- n. exclude a councillor from the meeting (11.24(d))
- o. give Council's agreement when it is required by the Constitution.

### 11.20 Rules of debate

- (a) No speeches until motion moved and seconded

No speeches can be made on a motion until it has been moved and seconded.

- (b) Secunder's speech

A councillor who formally seconds a motion or amendment can speak later in the debate.

- (c) Contents and length of speeches

Speeches (except for points of order and personal explanations (11.20(l) and 11.20(m)) must be about the item being discussed. Speeches will last a maximum of three minutes unless otherwise agreed.

- (d) When a councillor can speak again

A councillor who has already spoken in a debate cannot speak again except to:

- exercise their right of reply (11.20(i))
- make a point of order (11.20(l))

make a point of personal explanation (11.20(m))

(e) Amendments to motions - relevance

An amendment must be relevant to the motion and must be a proposal:

to refer a motion somewhere else

to add, replace or leave out words

Amendments to add, replace or leave out words must not negate the motion.

(f) Amendments to motions (see also 11.18(f))

Substantive amendments to motions must be submitted by 10.00 am on the working day before the Council meeting so that they may be circulated with the briefing note.

Amendments to cross-party motions must be supporting in writing by all the leaders of the political groups on the Council.

Minor technical or limited wording amendments may be submitted during the meeting but must be written down and circulated.

(g) Debate on amendments

The Lord Mayor can allow two or more amendments to be discussed together. But they must be voted on separately.

If any amendment is carried, the amended motion replaces the original motion. Any further amendments will be to the amended motion

If any amendment is not carried, any further amendments will be to the original motion.

The same amendment cannot be moved twice.

(h) Councillor changing their own motion

A councillor can change a motion they have moved without notice if both the meeting and the seconder agree. The meeting will accept or reject the change without discussion.

The councillor can only make changes that could have been made as an amendment.

(i) Right of reply

A councillor who moves a motion has a right to reply at the end of the debate, immediately before the vote.

If an amendment is moved, the councillor who moved the original motion has the right to reply at the end of the debate on the amendment but not before.

A councillor who moves an amendment has the right to reply immediately before the councillor who moved the original motion.

(j) Motions that can be moved during debate

When a motion is being debated, no other motions can be moved except for the following procedural motions:

- to withdraw a motion
- to go to next business (11.20(k))
- to move to a vote (11.20(k))
- to adjourn the meeting or debate (11.20 (k))
- to hold a meeting in private (when allowed under the access to information and key decision procedures (Part 15))
- to hear a councillor no further (11.24 (c))
- to exclude a councillor from the meeting (11.24 (d))

### (k) Motions to end or postpone the debate

After a speaker has finished speaking any councillor can move next business or propose to move to a vote or adjourn the debate or meeting. They must do this without comment.

If a motion to go to next business is seconded and the Lord Mayor thinks the meeting has discussed the item enough, the mover of the original motion will have the right of reply. Council will then vote on whether to go to next business. If Council agrees to go to next business, the original motion will not be voted on and will not become a resolution of Council.

If a motion to move to a vote is seconded and the Lord Mayor thinks the meeting has discussed the item enough, Council will vote on whether to take the vote on the original motion. If Council decides to take the vote, the mover of the original motion will have the right to reply. Then Council will vote on the original motion without further debate.

If a motion to adjourn the debate or meeting is seconded and the lord mayor thinks it is not possible to give the item enough discussion at the current meeting, Council will vote on whether to adjourn. The mover of the original motion will not have the right of reply before this vote.

### (l) Points of order

A councillor can make a point of order at any time. The Lord Mayor will hear a point of order immediately. A point of order must be about the law or a Council procedure being broken. The councillor must say which law or procedure is being broken and how. The Lord Mayor will consider the Monitoring Officer's advice when deciding on a point of order and the Lord Mayor's decision will be final.

### (m) Points of personal explanation

A councillor can give a personal explanation at any time. This must be about something they have said in the past that they feel is now being misunderstood or misrepresented. The Lord Mayor will have the final say over what counts as a personal explanation.

## 11.21 Voting

(a) Majority

Unless the Constitution says otherwise, votes will be decided by a simple majority of councillors in their seats and voting.

(b) Lord Mayor's second or casting vote

If there is the same number of votes for and against, the Lord Mayor will have a casting vote.

(c) Method of voting

Votes can be:

- by the general agreement of the meeting, if there is no one against
- by show of hands
- named or recorded (11.21(d) and 11.21(e)).

(d) Named votes

Any ten councillors present at the meeting can ask for the minutes to name who voted for, who voted against and who abstained on a vote.

When Council is voting upon setting the Council's budget or setting the Council Tax a named vote must be taken. <sup>1</sup>

(e) Right to have individual vote recorded

Any councillor can ask for the minutes to record whether they voted for or against or abstained on a vote. The request must be made immediately after the vote.

(f) Voting on appointments

If there are three or more candidates for a position and none has more than half the votes, the candidate with the fewest votes will be eliminated and a new vote taken. This will continue until one candidate has more than half the votes.

### 11.22 Officers

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*1 Regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 provides that after any "budget decision meeting" the names of the persons who cast a vote for the decision or against the decision or who abstained from voting must be recorded. A "budget decision meeting" means a meeting of the relevant body at which it -*

*(i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992; or*

*(ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting.*

Council will consider whether to exclude the public before discussing the conditions, supervision, dismissal or conduct of any officer or former officer.

### **11.23 Excluding the public**

The public can only be excluded if it is under the access to information rules (Part 15) or if they are making a personal attack (11.12 (i)) or disrupting the meeting (11.23).

### **11.24 Councillors' behaviour**

#### **(a) Speaking at Council**

When they speak at Council, councillors must address the Lord Mayor. Only one councillor may speak at any one time.

#### **(b) Lord Mayor standing**

If the Lord Mayor stands during a debate, any councillor who is speaking must stop speaking. The meeting must be silent.

#### **(c) Councillor not to be heard further**

If a councillor keeps on disrupting the meeting, the Lord Mayor can move that the councillor is not heard further. If seconded, the motion will be voted on without being discussed.

#### **(d) Councillor to leave the meeting**

If Council has voted not to hear a councillor further and the councillor continues to disrupt the meeting, the Lord Mayor can move that the councillor leaves the meeting or that the meeting is adjourned. If seconded, the motion will be voted on without being discussed.

#### **(e) General disturbance**

If a group of councillors are making it impossible for Council to do its business, the lord mayor can halt the meeting for as long as necessary.

### **11.25 Disruption by the public**

#### **(a) Disruption by an individual**

If a member of the public is disrupting the meeting, the Lord Mayor will warn them. If they carry on disrupting the meeting, the Lord Mayor can halt the meeting until they leave.

#### **(b) Clearing part of the meeting room**

If there is a general disturbance in a part of a meeting room open to the public, the Lord Mayor can have the area cleared.

### **11.26 Suspending and changing the procedures in this section**

#### **(a) Suspending the procedures in this section**

All the Council procedures in this section can be suspended except 11.8 (changing the order of business), 11.9 (b) (no minutes at annual or special meetings) and 11.20 (e) (right to have individual vote recorded). A procedure can be suspended if at least half of all councillors are present and there is a simple majority in favour. No notice is needed for a motion to suspend a procedure. Procedures can only be suspended until the end of the meeting.

(b) Changing the Council procedures in this section

Any motion to change the procedures in this section must be proposed and seconded. After this, it will not be discussed until the next ordinary meeting of Council.

## Annex 1 to Part 11: Council procedures

### Oxford City Council petitions scheme

We will treat something as a petition if it is identified as being a petition and if it is formally submitted to the relevant Head of Service or the Head of Law and Governance.

A petition containing at least 1,500 signatures will be debated at full Council if the petition organiser makes a request for a debate in writing directly to Head of Law and Governance, accompanied by the text of the petition and the list of signatures, and a link to the petition if relevant. Petitions run through petition sites must be formally submitted by the organiser at the end of the signature gathering period: simply setting the petition up on such a site does not constitute formal submission.

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name and address and signature of any person supporting the petition. Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. If the petition does not identify a petition organiser, we will not be able to respond to the petition.
- Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted and we will not take any action on these.
- In the period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescale which will apply.
- The Council will consider all the specific actions it can potentially take on the issues highlighted in a petition and may take such action as is appropriate.
- If we can do what your petition asks for, we may confirm what action we have taken.
- If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures can be obtained from the Head of Law and Governance or by telephoning 01865 252230.
- If we are not able to take action (for example if what the petition calls for conflicts with council policy; involves other partners or parties; is not within our control; is unaffordable, impractical or not legal; or conflicts with other priorities of the community), then we will tell you this. You can find more information on the services for which the council is responsible on our About Us page on our website.

- If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body or where possible will work with our partners to respond to your petition.
- If your petition is about something that a different Council or body or agency is responsible for we will tell you and ask you to send the petition to them.



## **12. Cabinet procedures**

12.1 Who carries out executive responsibilities within the Council?

12.2 Date and place of meetings

12.3 Quorum

12.4 Vacancies on the Cabinet

12.5 How are decisions taken at Cabinet meeting?

12.6 Who chairs Cabinet meetings?

12.7 Order of business

12.8 Who can put items on the Cabinet agenda?

12.9 Forward Plan

12.10 Councillors speaking at meetings

12.11 Councillors speaking on neighbourhood issues

12.12 Gaps in these procedures

### **12.1 Who carries out executive responsibilities within the Council?**

Executive responsibilities are carried out by the Leader, the Cabinet or delegated to officers.

### **12.2 Date and place of meetings**

The Cabinet meets on dates agreed by the Leader. Meetings are at the Town Hall or another place agreed by the Leader.

### **12.3 Quorum**

The quorum is three. Substitutes are not allowed.

### **12.4 Vacancies on the Cabinet**

A councillor can resign from the Cabinet by writing to the Head of Law and Governance. If a Cabinet member resigns from the Cabinet or stops being a councillor, the Leader may replace that Cabinet member and any replacement will become effective upon notification of the name of the new Cabinet member to the Head of Law and Governance.

### **12.5 How are decisions taken at Cabinet meeting?**

Decisions are taken by a majority of members present and voting. If there is the same number of votes for and against, the chair can use a casting vote. Voting is by show of hands.

Any councillor can ask for the minutes to record whether they voted for, voted against or abstained on a vote. The request must be made immediately after the vote.

### 12.6 Who chairs Cabinet meetings?

The Leader will chair Cabinet meetings or appoint someone else to chair them.

If the Leader or the person they have appointed is absent, the Cabinet can appoint another Cabinet member to act as chair. If the Leader or the person they have appointed arrives part of the way through a meeting, the acting chair will finish the item they are on and hand over the chair.

### 12.7 Order of business

The order of business will be:

- (a) declarations of interest
- (b) addresses and questions by members of the public, 15 minutes in total.

Members of the public can submit questions in writing about any item for decision at the meeting. Questions, stating the relevant agenda item, must be received by the Head of Law and Governance by 9.30am two clear working day before the meeting (e.g. for a Thursday meeting, the deadline would be 9.30 am on the Tuesday). Questions can be submitted either by letter or by email ([cabinet@oxford.gov.uk](mailto:cabinet@oxford.gov.uk)).

Answers to the questions will be provided in writing at the meeting; supplementary questions will not be allowed. If it is not possible to provide an answer at the meeting it will be included in the minutes that are published on the Council's website within 2 working days of the meeting.

The Chair has discretion in exceptional circumstances to agree that a submitted question or related statement (dealing with matters that appear on the agenda) can be asked verbally at the meeting. In these cases, the question and/or address is limited to 3 minutes, and will be answered verbally by the Chair or another Cabinet member or an officer of the Council. The text of any proposed address must be submitted within the same timescale as questions.

For this agenda item the Chair's decision is final.

- (c) councillor addresses on any item for decision on the Cabinet's agenda
- (d) councillor addresses on neighbourhood issues (10 minutes)
- (e) reports from the Scrutiny Committee
- (f) items for decision, including reports from Cabinet members
- (g) items raised by Cabinet members. Such items must be submitted within the same timescales as questions and will be for discussion only and not for a Cabinet decision. Any item which requires a decision of the Cabinet will be the subject of a report to a future meeting of the Cabinet.
- (h) minutes of the last meeting.

This procedure can be suspended if at least half of all the voting members are present and there is a simple majority in favour. It can only be suspended until the end of the meeting.

### **12.8 Who can put items on the Cabinet agenda?**

The Chief Executive, Monitoring Officer or Chief Finance Officer can put an item on the agenda if it will help them carry out their duties in those roles. If the item is urgent, they can require a special meeting to consider it.

No one else can put items on the agenda.

### **12.9 Forward Plan**

All matters on the Cabinet agenda must have appeared on the Forward Plan (Part 15.16)

### **12.10 Councillors speaking at meetings**

Oxford City councillors may, when the chair agrees, address the Cabinet on an item for decision on the agenda (other than on the minutes). The member seeking to make an address must notify the Head of Law and Governance by 9.30am at least one clear working day before the meeting, stating the relevant agenda items. An address may last for no more than three minutes. If an address is made, the Cabinet member who has political responsibility for the item for decision may respond or the Cabinet will have regard to the points raised in reaching its decision.

### **12.11 Councillors speaking on neighbourhood issues**

At each meeting 10 minutes is available for any City Councillor to raise local issues on behalf of communities directly with the Cabinet. The member seeking to make an address must notify the Head of Law and Governance by 9.30am at least one clear working day before the meeting, giving outline details of the issue. Priority will be given to those members who have not already addressed the Cabinet within the year and in the order received. Issues can only be raised once unless otherwise agreed by the Cabinet. The Cabinet's responsibility will be to hear the issue and respond at the meeting, if possible, or arrange a written response within 10 working days.

### **12.12 Gaps in these procedures**

If there is a gap in these procedures, the chair of the Cabinet will decide what to do.

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## **13. Scrutiny Committee procedures**

- 13.1 Number of scrutiny committees
- 13.2 Membership of the Scrutiny Committee
- 13.3 Co-opted members of the Scrutiny Committee
- 13.4 Scrutiny Committee meetings
- 13.5 Quorum
- 13.6 Chair and Vice Chair of Scrutiny Committee
- 13.7 Programme of work
- 13.8 Agenda
- 13.9 Policy review and development
- 13.10 Reports on scrutiny reviews
- 13.11 Arrangements for the Cabinet to comment on reports to Council
- 13.12 Scrutiny Committee members' rights to see documents
- 13.13 Duty of Cabinet members and officers to attend the Scrutiny Committees
- 13.14 Whipping
- 13.15 Order of business at the Scrutiny Committee
- 13.16 Guest speakers at Scrutiny Committee
- 13.17 Gaps in these procedures

### **13.1 Number of scrutiny committees**

Council has appointed one Scrutiny Committee.

### **13.2 Membership of the Scrutiny Committee**

#### **(a) Members of the Scrutiny Committee**

The Scrutiny Committee has twelve members. The number of members from each political group will be in proportion to its size.

Members of the Scrutiny Committee and their substitutes must be councillors but they cannot be members of the Cabinet.

#### **(b) Conflicts of interest**

Members of the Scrutiny Committee should not scrutinise decisions they have made but such occurrences will be rare because no member of the Cabinet can be a member of the Scrutiny Committee.

#### **(c) Substitutes**

Members of the Scrutiny Committee can send other councillors as substitutes. These will have the powers of an ordinary member of the committee.

Substitutions must be for a whole meeting. A councillor cannot take over from their substitute or hand over to them part of the way through. There is one exception to this: a member of the committee may not send a substitute to a meeting at which a scrutiny review is being conducted and which will continue to be conducted at a subsequent meeting.

If a councillor wants to send a substitute, they must tell the Head of Law and Governance the name of their substitute before the meeting.

Substitutes cannot appoint substitutes of their own. Substitutes cannot be members of the Cabinet. Substitutes cannot be appointed to attend meetings of a panel or review group established by the Committee.

(d) **Procedures when a Councillor resigns from the Scrutiny Committee**

A councillor can resign from a committee by writing to the Head of Law and Governance. A replacement member will be appointed at the next Council meeting.

(e) **Procedure when a Scrutiny Committee member stops being a councillor**

If a Scrutiny Committee member stops being a councillor, a replacement member will be appointed at the next Council meeting.

### **13.3 Co-opted members of the Scrutiny Committee**

The Scrutiny Committee can appoint non-voting co-opted members to serve for a specific policy review or until the next annual Council.

### **13.4 Scrutiny Committee meetings**

The Scrutiny Committee meets on dates set by Council. If it needs to have extra meetings, it sets the dates of these meetings itself.

The Head of Law and Governance or the Scrutiny Committee itself can decide to call a special meeting.

The Head of Law and Governance can be instructed to call a special meeting by the chair of the Scrutiny Committee or any four Councillors. The instruction must be in writing and must describe the business to be done.

The Head of Law and Governance will consult the chair about the time and place of a special meeting.

Special meetings will only deal with the business they have been called to deal with.

If a Scrutiny Committee has nothing to do at one of its fixed meetings, the Head of Law and Governance can cancel it after consulting the chair.

### **13.5 Quorum**

The quorum for the Scrutiny Committee is four.

### **13.6 Chair and Vice Chair of Scrutiny Committee**

(a) **Election of Chair and Vice Chair**

The Scrutiny Committee will elect a Chair and Vice Chair from among its voting members at the first meeting after annual Council. The chair of the Scrutiny Committee must be an opposition councillor.

(b) Resignation of Chair or Vice Chair

If a councillor wants to resign as Chair or Vice Chair, they must write to the Head of Law and Governance. A new Chair or Vice Chair will be elected at the Committee's next ordinary meeting.

### 13.7 Programme of work

The Scrutiny Committee sets its own programmes of work but must review anything it is asked to review by Council (13.8(c)).

### 13.8 Agenda

(a) Putting items on the agenda

Any councillor can put an item on the Scrutiny Committee agenda if they write to the Head of Law and Governance 10 working days before the meeting. The item must be relevant to the Scrutiny Committee.

(b) Speaking on agenda items

Any member of the public and any councillor who is not a member of the Scrutiny Committee can speak on an agenda item if the Chair agrees. The Chair will decide how long they can speak for.

(c) Requests for reviews from Council

The Scrutiny Committee must review anything Council asks it to review as soon as it can make space in its programme of work.

(d) Requests for reviews from the Cabinet

The Scrutiny Committee can (but does not have to) review things the Cabinet asks it to review.

### 13.9 Policy review and development

The Scrutiny Committee's role in developing the budget and policy framework is referred to in Part 16.2.

In areas that are not covered by the budget and policy framework, the Scrutiny Committee can suggest policies for the Cabinet to develop.

The Scrutiny Committee can hold inquiries and consider future policy. This may involve appointing advisers, inviting witnesses, making site visits, holding public meetings, commissioning research or doing anything else that is necessary.

### 13.10 Reports on scrutiny reviews

(a) Committee report

At the end of each policy review, the Scrutiny Committee will send a report to the Cabinet (if it is about executive responsibilities) or to Council (if it is about Council responsibilities).

(b) Minority report

For each policy review, there can be a minority report giving any dissenting views. The Cabinet or Council will consider the minority report at the same time as the committee report.

(c) Which report is the committee report and which is the minority one?

Each committee member can sign one report but no more than one. The report with the most signatures will be the committee report.

(d) Timing

Once a report reaches the Head of Law and Governance:

- The Cabinet must consider it at its next ordinary meeting if it is about executive responsibilities
- Council must consider it at its next ordinary meeting if it is about Council responsibilities.
- In each case if the next meeting is within seven clear working days of the report reaching the Head of Law and Governance then the report will go to the next meeting after that.

### **13.11 Arrangements for the Cabinet to comment on reports to Council**

When the Scrutiny Committee sends a report to Council, the Head of Law and Governance will send a copy to each member of the Cabinet. Council must consider Cabinet member comments on anything that affects the budget and policy framework.

### **13.12 Scrutiny Committee members' rights to see documents**

Scrutiny Committee members' rights to see document are set out in Part 15.11.

### **13.13 Duty of Cabinet members and officers to attend the Scrutiny Committees**

(a) Duty to attend

The Scrutiny Committee can require members of the Cabinet and officers in the senior management structure (Part 9.1) to attend meetings and answer questions about:

- their performance
- decisions they were involved in
- the extent to which they have followed the budget and policy framework

The Scrutiny Committee can also require Cabinet Members and their advisors to attend and answer questions about shareholder decisions relating to companies wholly or partly owned by the Council and the performance of those companies.



### (b) Procedure for attending

The Head of Law and Governance will tell the councillor or officer that they are required to attend, what it is about and whether they need to produce a report or provide papers.

The councillor or officer must be given reasonable time to compile information.

### **13.14 Whipping**

Political groups should not pressure their members over how they speak or vote at Scrutiny Committee meetings.

### **13.15 Order of business at the Scrutiny Committee**

The order of business will be:

- Election of Chair (at the first meeting after annual Council or after the post becomes vacant or if the Chair and Vice Chair are absent)
- Election of Vice Chair (at the first meeting after annual Council or after the post becomes vacant)
- Apologies for absence
- Declarations of interest
- Minutes of previous meeting
- Any decisions that have been called in
- Scrutiny work plan
- Cabinet responses to Scrutiny recommendations
- Anything else on the agenda
- Dates of future meetings

The Chair has the discretion to amend the order of the agenda items.

This order can be suspended if at least half of all the voting members are present and there is a simple majority in favour. It can only be suspended until the end of the meeting.

### **13.16 Guest speakers at Scrutiny Committee**

Guest speakers should be treated with politeness and respect.

### **13.17 Gaps in these procedures**

If there is a gap in these procedures, the Chair will decide what to do.

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## **14. Other Committee procedures**

- 14.1 Which committees do these procedures apply to?
- 14.2 Appointment and membership of committees
- 14.3 Quorums and substitutes
- 14.4 Vacancies on committee
- 14.5 Chair and Vice Chair
- 14.6 Meetings of committees
- 14.7 Substitutes
- 14.8 Speaking on agenda items
- 14.9 Disruption by the public
- 14.10 Voting at committee meetings
- 14.11 Planning committee procedures
- 14.12 Licensing committee procedures
- 14.13 Audit and Governance Committee procedures
- 14.14 Standards Committee procedures
- 14.15 Gaps in these procedures

### **14.1 Which committees do these procedures apply to?**

These procedures apply to the:

- Appointments Committee (Part 20 (Employment Rules))
- area Oxford City planning committees
- Audit and Governance Committee
- Disciplinary Committee for Chief Executive, Executive Directors and Statutory Officers (Part 20 (Employment Rules))
- General Purposes Licensing Committee
- General Purposes Licensing Casework Sub-Committee
- Licensing and Gambling Acts Committee
- Licensing and Gambling Acts Casework Sub-Committee
- Planning Review Committee
- Standards Committee

### **14.2 Appointment and membership of committees**

Council is responsible for appointing and dissolving committees and for agreeing their membership and roles. Committees are responsible for appointing any sub-committees. Apart from the Licensing and Gambling Acts Committee and any

sub-committees it appoints the number of members from each political group on committees will be in proportion to the size of the group.

There must always be at least one scrutiny committee and a committee that carries out responsibilities under the Licensing Act 2003 and the Gambling Act 2005.

### 14.3 Quorums and substitutes

Committee	Size	Quorum	Substitutes
Appointments Committee	5 (including at least one member of the Cabinet)	3 (including at least one member of the Cabinet)	Permitted
<del>Area Planning Committees</del> and Planning Review Committee	9	5	Permitted. Councillors should not sit or substitute unless they have undertaken compulsory planning and development control training (held every two years)
<u>Oxford City Planning Committee</u>	<u>11</u>	<u>5</u>	<u>Permitted. Councillors should not sit or substitute unless they have undertaken compulsory planning and development control training (held every two years)</u>
Audit and Governance Committee	7	3	Permitted
Investigation and Disciplinary Committee	4 (including at least one member of the Cabinet)	3 (including at least one member of the Cabinet)	Permitted but unless they are unavoidably indisposed or conflicted Members should comprise the Committee over the course of a matter (or related matter) until it is disposed of

<b>Committee</b>	<b>Size</b>	<b>Quorum</b>	<b>Substitutes</b>
General Purposes Licensing Committee	15	5	Not permitted
General Purposes Licensing Casework Sub-Committees	3	2 (but the meeting can only proceed at quorum if the person appearing before it agrees)	Permitted from members of General Purposes Licensing Committee. Councillors should not sit or substitute unless they have undertaken compulsory licensing training (held annually)
Licensing and Gambling Acts Committee	15	5	Not permitted
Licensing and Gambling Acts Casework Sub-Committees	3	3	Permitted from members of the Licensing and Gambling Acts Committee. Councillors should not sit or substitute unless they have undertaken compulsory licensing training (held annually)
Standards Committee	7 Councillors 1 non-voting co-opted member representing the Oxford Parish Council	3 Councillors	Permitted

If quorum cannot be made 15 minutes after the advertised start of the meeting, the meeting is cancelled.

#### **14.4 Vacancies on committee**

##### **(a) Procedure when a councillor resigns from a committee**

A councillor can resign from a committee by writing to the Head of Law and Governance. A replacement will be appointed at the next Council meeting.

(b) Procedure when someone stops being a councillor

If someone stops being a councillor, any replacement committee member will be appointed at the next Council meeting.

### 14.5 Chair and Vice Chair

(a) Election of Chair and Vice Chair

The Chair and Vice Chair are elected each year at the first meeting of the committee after Annual Council.

The Chair and Vice Chair of all the committees must be councillors.

The Chair of the Audit and Governance Committee must not be a member of the Cabinet.

The voting procedure for the election of Chair (and in so far as the same principles apply, Vice Chair) is as follows:

- (i) Each voting member of the committee will be entitled to one vote.
- (ii) The Committee and Member Services Officer will invite nominations for Chair, which will need a proposer and seconder.
- (iii) Proposers and nominees may be invited to briefly address the committee on why they should be elected.
- (iv) Where there are one or two nominations, the Chair will be elected by a majority of those present and voting.
- (v) Where there are more than two nominations, votes will be taken for each nominee (each member can only vote for one candidate). If one nominee receives a majority of the votes from those members present and voting, then they will be elected as Chair. If not, then the candidate with the lowest number of votes will be eliminated and the committee will vote again (as before each voting members has one vote), until one nominee receives a majority of the votes from those members present and voting.
- (vi) In circumstances where there is a tie in the number of votes for nominees, lots will be drawn (or similar). This would also apply to members tied for elimination in circumstances where there are more than two nominees.
- (vii) Members can be nominated and elected as Chair in their absence in which case the Vice Chair will assume the chair for the meeting.

(b) If the Chair and Vice Chair are absent

If the Chair and Vice Chair are absent, a committee can elect another councillor to chair the meeting. If the Chair or Vice Chair arrives part of the way through the meeting, the acting chair will finish the agenda item they are on and hand over the Chair (unless the Chair or Vice-Chair has appointed a substitute) (14.7)

(c) Resigning as chair or vice chair

If a councillor wants to resign as Chair or Vice Chair, they must write to the Head of Law and Governance. A new chair or vice chair will be elected at the committee's next ordinary meeting.

### **14.6 Meetings of committees.**

#### **(a) Cancelling or rescheduling a meeting**

If a committee has insufficient business for one of its fixed meetings, the Head of Law and Governance can cancel or reschedule it after consulting the chair of the committee.

#### **(b) Special meetings**

The Head of Law and Governance or the Chief Executive can arrange a special meeting after consulting the chair of the committee.

Special meetings will only deal with the business they have been called to deal with.

### **14.7 Substitutes**

Substitutes are not permitted for the Licensing and Gambling Acts Committee or the General Purposes Licensing Committee.

Only members of the parent committee can act as substitutes on a licensing sub-committee.

For other committees, a member of the Committee can send another councillor as their substitutes. The substitute will have the powers of an ordinary member of the committee for that meeting.

Substitutions must be for the whole meeting. A member of a committee cannot take over from their substitute or hand over to them part of the way through the meeting.

Substitutes cannot appoint substitutes of their own.

If a member of a committee wants to send a substitute, they must tell the Head of Law and Governance the name of their substitute before the meeting.

### **14.8 Speaking on agenda items**

Specific rules on public speaking apply to meetings of Council, the Cabinet, the Scrutiny Committee and planning committees and the Licensing and Gambling Acts Casework Sub-Committee.

For all other committees where the press and public are not excluded any member of the public and any city councillor can speak on any agenda item for up to five minutes if the chair agrees. Individuals should register to speak by 4.00 pm on the day of the meeting. Any extra written material should be submitted at least two working days before the meeting.

### **14.9 Disruption by the public**

#### **(a) Disruption by an individual**

If a member of the public is disrupting the meeting, the chair will warn them that unless they desist they will be asked to leave. If they carry on disrupting the meeting, the chair can adjourn the meeting until they leave.

(b) Clearing part of the meeting room

If there is a general disturbance in a part of a meeting room open to the public, the chair can have the area cleared.

### 14.10 Voting at committee meetings

The following voting rules will apply other than for voting to elect a Chair or Vice Chair (14.5(a))

(a) Majority voting

Votes will be decided by a simple majority of councillors in their seats and voting.

(b) Chair's second or casting vote

If there is the same number of votes for or against, the chair will have a casting vote.

(c) Votes can be:

- By the general agreement of the meeting, if there is no one against
- By a show of hands
- Named or recorded

(d) Right to have individual vote recorded

Any councillor can ask for the minutes to record whether they voted for or against or abstained on a vote. The request must be made immediately after the vote.

(e) Recorded votes

Any two councillors present at a meeting can ask for the minutes to name who voted for, who voted against, and who abstained on a vote.

### 14.11 Planning committee procedures

(a) Appointments to planning committees

Council may not appoint a councillor to more than one planning committee. Any councillor that determines an application at ~~an Area~~ the Oxford City Planning Committee cannot re-determine the same application at the Planning Review Committee.

The Oxford City Planning Committee shall be responsible for reaching decisions on the matters in 5.3 within all wards

~~The East Area Planning Committee shall be responsible for reaching decisions on the matters in 5.3 within the following wards:~~



- ~~Barton and Sandhills, Blackbird Leys, Churchill, Cowley, Cowley Marsh, Headington, Headington Hill and Northway, Littlemore, Lye Valley, Marston, Northfield Brook, Quarry, Risinghurst and Rose Hill and Iffley~~

~~The West Area Planning Committee shall be responsible for reaching decisions on the matters in 5.3 within the following wards:~~

- ~~Carfax, Hinksey Park, Holywell, Iffley Fields, Jericho and Osney, North, St. Clement's, St. Margaret's, St. Mary's, Summertown, Wolvercote.~~

(b) Who can put items on planning committee agendas?

The Head of Planning Services, the Head of Law and Governance and the relevant proper officer can put items on planning committee agendas.

(c) Order of business at ~~area~~ Oxford City planning committees meetings

The order of business at ~~area~~ Oxford City planning committees meetings will normally be:

- Election of Chair (at the first meeting after annual Council or after the post becomes vacant or if the Chair and Vice Chair are absent)
- Election of Vice Chair (at the first meeting after annual Council or after the post becomes vacant)
- Apologies for absence
- Declarations of interest
- Applications for decision
- Minutes of the previous meeting
- Forthcoming applications
- Dates of future meetings

The order of business at Planning Review Committee meetings will be:

- Apologies for absence
- Declarations of interest
- Applications for decision that have been called in following consideration by ~~an area~~ Oxford City planning committees
- Minutes of the previous meeting
- Dates of future meetings

(d) Public speaking at planning committees

Members of the public and councillors (Part 24.17) can speak to planning committees in support of an application, against it, or to request changes or conditions.

Those wishing to speak must register with the Committee Services Officer by noon on the working day before the meeting, giving their name, the application/agenda item they wish to speak on, and whether they are objecting to or supporting the application.

Those objecting to an application may speak for up to five minutes in total. Those in support may speak for the same length of time. Where more than one person wishes to speak for or against an application the time will be shared. Unless the persons concerned nominate a spokesperson, priority will be given to the first person to have indicated a wish to speak, or otherwise at the discretion of the Chair.

(e) Written statements at planning committee meetings

Any written statements that members of the public or councillors wish to be considered must be sent to the Planning Officer by noon two working days before the day of the meeting.

Any material received at the meeting will not be accepted or circulated.

### 14.12 Licensing committee procedures

(a) Who can put items on licensing agendas?

The Head of Law and Governance, the relevant head of service and the relevant proper officer can put items on licensing committee and sub-committee agendas.

(b) Order of business at licensing committee meetings

The order of business at licensing committee meetings will normally be:

- Election of Chair (at the first meeting after annual Council or after the post becomes vacant or if the Chair and Vice Chair are absent)
- Election of Vice Chair (at the first meeting after annual Council or after the post becomes vacant)
- Apologies for absence
- Declarations of interest
- Appointments to sub-committees (at the first meeting after annual Council)
- Items for decision or information
- Minutes of the previous meeting
- Dates of future meetings

(c) Public speaking at Licensing and Gambling Acts Casework Sub-Committee meetings

Members of the public and councillors can make a representation to object to or support a premises licence application. Only those people who have made representations in writing within 28 days of an application being made can speak at Licensing & Gambling Acts Casework Sub-Committee meetings.

(d) Written statements at licensing committee and sub-committee meetings

Any written statements that members of the public or councillors wish to be considered by a licensing committee or sub-committee must be submitted to the Licensing Authority at least two working days before the meeting.

### **14.13 Audit and Governance Committee procedures**

(a) Who can put items on Audit and Governance Committee agendas?

The Head of Financial Services, the Head of Law and Governance, the relevant proper officer and the Council's internal and external auditors can put items on Audit and Governance Committee agendas.

(b) Order of business at Audit and Governance Committee meetings

The order of business at Audit and Governance Committee meetings will normally be:

- Election of Chair (at the first meeting after annual Council or after the post becomes vacant or if the Chair and Vice Chair are absent)
- Election of Vice Chair (at the first meeting after annual Council or after the post becomes vacant)
- Apologies for absence
- Declarations of interest
- External audit reports
- Internal audit reports
- Reports from officers
- Minutes of the previous meeting
- Future meeting dates

### **14.14 Standards Committee procedures**

(a) Who can put items on Standards Committee agendas?

The Head of Law and Governance, the Head of Business Improvement and the relevant proper officer can put items on Standards Committee agendas.

(b) Order of business at Standards Committee meetings

The order of business at Standards Committee meetings will normally be:

- Election of Chair (at the first meeting after annual Council or after the post becomes vacant or if the Chair is absent)
- Apologies for absence
- Declarations of interest
- Items for decision or information
- Minutes of the previous meeting

### **14.15 Gaps in these procedures**

If there is a gap in these procedures, the Chair will decide what to do with reference to the Council procedures (Part 11) in respect of rules of debate, officers, excluding the public, councillors' behaviour and suspending and changing procedures.

## **15. Access to information and key decision procedures**

- 15.1 Meetings affected by these procedures
- 15.2 Other rights to information
- 15.3 Public's rights to attend meetings
- 15.4 Exceptions to public's right to attend meetings
- 15.5 Reports that are expected to be considered in private
- 15.6 Notice of meetings
- 15.7 Background papers
- 15.8 Access to meeting papers before a meeting
- 15.9 Access to meeting papers after a meeting
- 15.10 Summary of the public's rights
- 15.11 Access to documents by members of the Scrutiny Committees
- 15.12 Extra rights of access to information for councillors
- 15.13 Councillors' duty not to pass on confidential or exempt information
- 15.14 Key decisions
- 15.15 Procedures before taking key decisions
- 15.16 The Forward Plan
- 15.17 Urgent key decisions
- 15.18 Reports to Council on decisions that were not in the Forward Plan
- 15.19 Key decisions taken by officers
- 15.20 Executive decisions taken by officers

### **15.1 Meetings affected by these procedures**

The key decision procedures (15.14 to 15.19) apply to executive decisions.

The rest of the procedures in this section apply to Council, Cabinet and committee meetings.

### **15.2 Other rights to information**

These procedures do not affect any other rights to information under the law and this Constitution.

### **15.3 Public's rights to attend meetings**

The public can attend meetings, except when confidential or exempt information is being discussed (15.4). The public also have the right to record meetings that are held in public.

### **15.4 Exceptions to public's right to attend meetings**

- (a) Confidential information – must meet in private

The meeting must be conducted in private when confidential information is likely to be discussed.

Confidential information is information that is prevented from being made public by court order or a government department that has provided the information.

(b) Exempt information – can meet in private

The meeting can be held in private when exempt information is likely to be discussed.

The Cabinet meeting can be held in private provided that 28 days' notice has been given of that meeting in the Forward Plan on the Council's website.

The notice must include a statement of the reasons for the meeting to be held in private.

Any representations made and the Council's response must be included in the agenda for the meeting.

If notice of a private meeting has not been given in the manner specified it can still take place providing:

- the Chair of the Scrutiny Committee (or the Lord Mayor or the Deputy Lord Mayor in their absence) agrees: and
- it is included in the Forward Plan at the earliest opportunity and reasons are given as to why the decision to be made in private cannot wait.

Where an officer makes an executive decision and the publication of that decision includes exempt information then it must be advertised in the same way.

(c) Information is exempt if it would not be in the public interest to publish it and it falls into one or more of the categories set out below identified in Schedule 12A to the Local Government Act 1972:

a. Information about individuals

- Information relating to any individual (paragraph 2, Schedule 12A, Local Government Act 1972)
- Information which is likely to reveal the identity of an individual (paragraph 2).

b. Information about someone's finances or business

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3).

c. Labour relations information

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 (paragraph 4)

- d. Information that could be considered legally privileged

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (paragraph 5)

- e. Information about legal action

Information which reveals that the authority proposes:

- (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (ii) to make an order or direction under any enactment (paragraph 6)

- f. Information about action to deal with a crime

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime (paragraph 7)

- (d) Disorderly conduct – exclusion of members of the public

A member or members of the public can be excluded from the meeting in order to maintain orderly conduct or prevent misbehaviour.

### **15.5 Reports that are expected to be considered in private**

If the Monitoring Officer expects that a report will be considered in private (15.4), it will not be made available to the public. It will be marked “not for publication” and will say what category of information is involved.

### **15.6 Notice of meetings**

At least five clear working days before each meeting, the Council will post details of the meeting at the Town Hall and on the Council’s website subject to copies being made available to members of the decision-making body first.

### **15.7 Background papers**

Each report will include a list of background papers if there are any. Background papers are papers that have been relied on when writing the report. They do not include published works or documents that contain exempt or confidential information (15.4). All background papers will be published on the Council’s website.

### **15.8 Access to meeting papers before a meeting**

The agenda and reports will be available at the Town Hall at least five clear working days before a meeting subject to copies being made available to members of the decision making body first. If an item or report is added later, it will be made available as soon as it is added.

Copies of the agenda, reports and background papers will be available for public inspection. The agenda, reports and background papers will also be available on the Council's website at least five clear working days before a meeting. Members of the public may register for email alerts of the publication of an agenda and accompanying reports. They may also subscribe annually for paper copies subject to payment of a charge.

### **15.9 Access to meeting papers after a meeting**

For six years after a meeting, the Council will make available:

- The agenda and reports
- The minutes (except for items that were considered in private because they were exempt or confidential). These will be made available within 10 working days of the meeting and, for executive decisions, they will record the reasons for the decision, any alternatives considered and any interests declared
- A summary of any business that was not open to the public if the minutes available to the public do not give a reasonable record.

For four years after the meeting the Council will make available the background papers to a report.

### **15.10 Summary of the public's rights**

A summary of the public's rights to attend meetings and to inspect and copy documents will be available at the Town Hall.

### **15.11 Access to documents by members of the Scrutiny Committees**

Members of the Scrutiny Committees have a right to copies of any documents seen or controlled by the Cabinet that are relevant to decisions taken by the Cabinet or key decisions taken by officers except for:

- Advice given by a political assistant
- Exempt or confidential information (unless it is relevant to something being scrutinised)
- Any draft of reports to be considered by the Cabinet.

### **15.12 Extra rights of access to information for councillors**

Any councillor can look at any documents seen or controlled by the Cabinet that are relevant to:

- Decisions to be taken by the Cabinet in public
- Decisions taken by the Cabinet in private
- Key decisions taken by officers.



But this does not apply to:

- Information about individuals
- Information about the possible terms of a contract the Council is negotiating
- Labour relations information
- Information that could be considered legally privileged
- Information about action to deal with a crime
- Advice given by a political assistant
- Any document in draft form (except for draft documents approved by the Cabinet for consultation).

This right is additional to any other rights the councillor has.

### **15.13 Councillors' duty not to pass on confidential or exempt information**

Councillors must not pass on exempt information that has not been made public or confidential information (15.4). If they do this, they may be breaking the Members' Code of Conduct (Part 22).

### **15.14 Key decisions**

A key decision is an executive decision likely to:

- Have a significant effect on people living or working in a least two wards or
- Involve spending or saving a significant amount – whether an amount is significant depends on the Council's total budget for the service involved. For this Council 'significant' in budgetary terms is £500,000 or greater.

### **15.15 Procedures before taking key decisions**

When a key decision is taken, it must have been published in the Forward Plan (see 15.16) for a period of 28 days before the decision is taken unless it is urgent (15.17).

If a key decision is taken by the Cabinet or a single Cabinet Member, the report must say that it is a key decision.

### **15.16 The Forward Plan**

#### **(a) Period of Forward Plan**

The Head of Law and Governance will prepare a Forward Plan at least every month. Each plan will start with the first day of the next month and cover at least four months.

#### **(b) What is in the Forward Plan?**

The Forward Plan will list:

- Any key decisions that are going to be taken.

- Any decisions that are going to be taken by the Cabinet
- Any decisions that are going to be taken by the Cabinet where the report, in whole or in part, will be taken in private

For each decision, it will say:

- What the decision is about
- Who will take the decision
- When the decision will be taken
- How to comment and when by

### **15.17 Urgent key decisions**

If a key decision has not been included in the Forward Plan for 28 days, it can still be taken if it is not practicable to put it in the plan and wait 28 days before the decision is taken.

Before taking a key decision that has not been included in the Forward Plan, the Head of Law and Governance must write to the Chair of the Scrutiny Committee (or each member of the committee if there is no chair) and make copies of the letter available to the public at the Council's offices and publish it on the Council's website.

The decision cannot normally be taken until five clear days after the chair is told. But the decision can be taken before that if the chair (or the Lord Mayor if there is no chair) agrees that it is not reasonable to defer it.

As soon as possible after the authority to take the urgent key decision has been obtained the Head of Law and Governance shall make available to the public at the Council's offices and publish on the Council's website a notice saying why 28 days' notice has not been given.

At least once a year the Leader must report to the Council on the number and nature of key decision taken under 15.17 (Urgent key decisions).

### **15.18 Reports to Council on decisions that were not in the Forward Plan**

The Scrutiny Committee can require the Cabinet to report to Council if a decision has been taken that the committee considered should have been treated as a key decision, explaining the reasons for it and why the Cabinet considered the decision not to be key.

Normally the Cabinet will report to the next ordinary Council meeting. But if the next meeting is within seven days of the request for a report, the Cabinet will report to the next meeting after that.

At least once a year the Leader must report to the Council on the number and nature of key decisions taken under 15.17.

### **15.19 Key decisions taken by officers**

When an officer takes a key decision, notice of it must be given in the Forward Plan as required in 15.15. The officer must produce a record of it as soon as possible. The record will then be published by Democratic Services and the deadline for call in will be within two working days of the decision being published. The record of the decision will include the reasons for the decision, any alternatives considered and any interest declared by any Cabinet member they have consulted. Information does not have to be made public under this rule if it is exempt or confidential (15.4).

### **15.20 Executive decisions taken by officers**

When an officer takes an executive decision that is not a key decision they must as soon as possible afterwards produce a record of it. This will include the reasons for the decision, any alternative considered and any interest declared by any Cabinet member they have consulted. Information does not have to be made public under this rule if it is exempt or confidential (15.4). The record of the decision taken and any associated report must be available to the public and published on the Council's website.

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## **16. Budget and Policy Framework procedures**

[16.1 Responsibilities for the budget and policy framework](#)

[16.2 Developing the budget and policy framework](#)

[16.3 Decisions outside the budget or policy framework](#)

[16.4 Urgent decisions outside the budget or policy framework](#)

### **16.1 Responsibilities for the budget and policy framework**

Council sets the budget and policy framework the Cabinet and officers must act within it.

### **16.2 Developing the budget and policy framework**

- (a) The amount of consultation on the budget and policy framework must reflect the importance of the proposal. Consultation must last at least four weeks and will include consultation with a scrutiny committee.
- (b) Any reports to the Cabinet must say what consultation there has been and what the results were. The Cabinet will consider the response to the consultation and draw up firm proposals. The report to Council will reflect any comments made during the consultation and the Cabinet's response.
- (c) The Cabinet's proposals will go to Council as soon as possible.
- (d) Council can:
  - Accept the Cabinet's proposals
  - Refer the proposals back to the Cabinet, or
  - Change the proposals, for example by adopting proposals of its own.
- (e) If Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If Council changes the Cabinet's proposals, it will be an in principle decision only.
- (g) The Leader will be given a copy of an in principle decision. The in principle decision will come into force unless the leader objects in writing to the Head of Law and Governance within five clear working days, giving reasons.
- (h) If the Leader object to an in principle decision, Council will meet again within 10 further working days. At the meeting, Council can accept the Cabinet's proposals or change them.
- (i) Council's decision will come into force immediately.
- (j) When Council sets the budget, it will also say how much the Cabinet and heads of service can move between cost centres (Part 18.10(b)). Any other changes must be made by Council.

### **16.3 Decisions outside the budget or policy framework**

(a) The Cabinet, and any officers carrying out executive responsibilities, can only take decisions if they are:

- in line with the budget and policy framework
- allowed under 16.4 (urgent decisions)
- allowed under Part 18.10(b) (moving money between cost centres)
- necessary to obey the law or ministerial directions or government guidance.

Any other decisions must be recommended to Council.

(b) The Cabinet or officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the budget and policy framework.

### **16.4 Urgent decisions outside the budget or policy framework**

(a) The Cabinet or officers carrying out executive responsibilities can take a decision that is outside the budget or policy framework if:

- it is urgent
- it is not practicable to arrange a Council meeting
- the Chair of the Scrutiny Committee agrees that the decision is urgent. (If the Chair of the Scrutiny Committee is absent, the Lord Mayor can agree that the decision is urgent. If the Lord Mayor is absent, the Deputy Lord Mayor can agree).

(b) The record of the decision must say why it was not practicable to arrange a meeting of Council. It must also say that the Chair of the Scrutiny Committee (or Lord Mayor or Deputy Lord Mayor) agreed that the decision was urgent.

(c) The decision taker must take a full report to the next ordinary Council meeting explaining the decision. This must say why the decision was taken, why it was urgent and why it was not practicable to arrange a meeting of Council. If the next meeting is within seven days of the decision being taken the decision taker will report to the next meeting after that.

## 17. Call-in procedures

- 17.1 What decisions can be called in?
- 17.2 Notices of decisions
- 17.3 Who can call in decisions and when do they have to be called in by?
- 17.4 How are decisions called in?
- 17.5 Where are decisions called in to?
- 17.6 What happens when a planning decision is called in?
- 17.7 What happens when a decision is called in to the Scrutiny Committee?
- 17.8 Decision believed to be outside the budget or policy framework
- 17.9 Urgent decisions

### 17.1 What decisions can be called in?

*The following decisions can be called in:*

- *resolutions by the Cabinet*
- *key decisions taken by officers*
- *ward member spend (Part 4.6)*
- *planning decision taken by ~~area~~ Oxford City planning committees*
- *decisions on planning applications that were going to be taken by the Head of Planning Services*

### 17.2 Notices of decisions

- (a) After a decision is taken that could be called in (or when Committee and Member Services are notified of the decision if that is later), Committee and Member Services will send electronically a notice of decision to all councillors (and any co-opted members of the body that took the decision) within two working days of the decision.
- (b) A notice of decision relating to ward member spend will, after the approval provided for in Part 4.6(c), be sent by Community Services to all councillors within five working days of the approval.
- (c) The notice of decision will say what the decision was and where it can be called in to.
- (d) The notice of decision will be marked with the date it was published and will say that the decision will come into force if it is not called in within two working days of that date.

### 17.3 Who can call in decisions and when do they have to be called in by?

Decision	Can be called in by	Deadline
Decisions on planning applications (those seeking determinations within 5.3(a)) to be taken by the Head of Planning Services	Any six councillors	5pm on the last day of the period of 21-days starting with the day on which notice of the application is sent to councillors (via the weekly planning list)
Planning decisions (those within 5.3(a)) taken by <del>area</del> <u>Oxford City</u> planning committees	Any twelve councillors or the Head of Planning Services	5pm on the last day of the period of two working days starting the day after that on which the draft minute of the decision is published
Non-planning decision taken by the Cabinet	Any four councillors or the Chair of the Scrutiny Committee	Within two working days of the draft minute of the decision being published
Key decision taken by an officer	Any four councillors or the Chair of the Scrutiny Committee	Within two working days of the notice of decision being published
Ward member spend	Any four councillors or the Chair of the Scrutiny Committee	Within two working days of the notice of decision being published

Co-opted committee members cannot call in decisions.

### 17.4 How are decisions called in?

Decisions are called in by sending notice of call-in to the Head of Law and Governance or emailing it to the internal call-in mailbox.

~~Reasons for all call-ins must be given. A planning call-in to the Planning Review Committee must be supported by relevant planning considerations. A planning call-in to an area planning committee must be supported by reasons but these do not have to be confined to relevant planning considerations. All planning call ins must be supported by relevant material planning considerations.~~ If an executive decision is being called in because it is believed to be outside the budget and policy framework, the notice of call-in must say so.



When a decision is called in, the Head of Law and Governance will tell the officer or ward member or the chair of the body that took the decision, or in the case of call-in of a planning decision to be taken by the Head of Planning Services, the Head of Planning Services.

### 17.5 Where are decisions called in to?

(a) The table shows where decisions are called in to

Decision	Called in to
Decisions on planning applications to be taken by the Head of Planning Services	<del>area</del> <u>Oxford City</u> planning committees
Planning decisions taken by <del>area</del> <u>Oxford City</u> planning committees	Planning Review Committee
Non-planning decision or ward member spend	Scrutiny Committee

(b) A special meeting can be called to consider a decision that has been called in if the Head of Law and Governance believes it is not in the Council's interest to wait until the next ordinary meeting.

### 17.6 What happens when a planning decision is called in?

The ~~area~~ Oxford City planning committees or Planning Review Committee will decide the planning application.

### 17.7 What happens when a decision is called in to the Scrutiny Committee?

The Scrutiny Committee can decide to:

- support the decision, which can then be acted on immediately, or
- send the decision back with its comments to the Cabinet or ward member or officer, who will then take a final decision, or
- send comments to Council on any decision that recommends changing the budget or policy framework.

### 17.8 Decision believed to be outside the budget or policy framework

(a) The Monitoring Officer or Chief Finance Officer will say whether the decision is outside the budget or policy framework.

(b) If the decision is not outside the budget or policy framework, the Scrutiny Committee can decide to:

- support the decision, which can then be acted on immediately, or
- send the decision back with its comments to the Cabinet or ward member or officer, who will then take a final decision.

(c) If the decision is outside the budget or policy framework, it will go as a recommendation to Council, along with any comments from the Scrutiny Committee. Council can then:

- make the Cabinet reconsider the decision, or
- change the budget or policy framework so that the decision is within it – the decision can then be acted on immediately.

### **17.9 Urgent decisions**

A decision to be taken cannot be called in if the Chair of the Scrutiny Committee, upon being consulted, agrees that:

- the decision to be taken is both urgent and reasonable and
- the delay caused by the call-in process would not be in the interests of the Council or the public.

If the Chair of the Scrutiny Committee is not available, the Lord Mayor must agree that the decision to be taken is urgent and reasonable. If the Lord Mayor is not available, the Deputy Lord Mayor, Chief Executive or Monitoring Officer must agree.

Decisions to which this rule applies must be identified on the notice of decision.

Decisions to which this rule applies must be reported to the next ordinary Council meeting with the reasons why they were urgent. If the next meeting is within seven days of the decision being taken the decision taker will report to the next meeting after that.

## **18. Finance rules**

- 18.1 Responsibilities under the finance rules
- 18.2 Audit
- 18.3 Non-compliance with these Rules
- 18.4 Information and records
- 18.5 VAT and Tax
- 18.6 Insurance
- 18.7 Budget Setting
- 18.8 Responsibility for Budget Decisions
- 18.9 Estimates and Reserves – Robustness and Adequacy
- 18.10 Budgetary Control
- 18.11 Capital Strategy
- 18.12 Project Approval
- 18.13 Monitoring of the Capital Programme
- 18.14 Treasury Management
- 18.15 Asset Management
- 18.16 Ordering and Paying for Goods and Services
- 18.17 Risk Management
- 18.18 Wages, Salaries and Pensions
- 18.19 Petty Cash
- 18.20 Income Collection
- 18.21 External Funding
- 18.22 Money Laundering
- 18.23 Loans or Guarantees to external organisations
- 18.24 Modern Slavery due diligence

### **18.1 Responsibilities under the finance rules**

#### **(a) Responsibilities of the Head of Financial Services**

The Head of Financial Services is responsible for regulating and controlling the finances of the Council and hence he/she shall for the purposes of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988 be responsible for the proper administration of the Council's financial affairs.

#### **(b) Responsibilities of Executive Directors**

Executive Directors are responsible for the financial management of their directorate.

### (c) Responsibilities of Heads of Service

Within their service area, Heads of Service must:

- ensure the highest standards of financial probity
- ensure compliance with the Finance Rules and any procedures or guidance issued by the Head of Financial Services
- monitor monthly the overall financial position of their service area in accordance with the cost centre managers manual issued by the Head of Financial Services
- advise the Head of Financial Services and Director on issues/proposals that have a financial impact in their area
- ensure compliance with the Contract Rules within their service area
- provide information to the Council's auditors on a timely basis as required.
- ensure that any audit recommendations are implemented within agreed timescales.

### (d) Responsibilities of Line Managers

Line managers must make sure their staff understand and follow these Rules and any procedures and associated guidance by the Head of Financial Services.

### (e) Responsibilities of all Officers

Officers must be familiar with these Finance Rules and the Contract Rules and must understand how they affect their work. If any officer is unclear about these Rules, they must get advice before acting. They would normally get advice from their line manager but they can also talk to finance staff. Officers must ensure they are using the latest version of these Rules. This will always be the version in the Constitution available on the intranet. Officers must show the highest standards of financial probity. As well as following these Rules, they must use their common sense and judgement. The Council may take disciplinary action and/or legal action against anyone who breaks these rules.

## 18.2 Audit

### (a) Internal Audit

In accordance with the Accounts and Audit Regulations for the time being in force the City Council is responsible for ensuring an 'adequate and effective system of internal audit'. The Head of Financial Services has responsibility for monitoring adherence to the Audit Plan. Audits will be carried out in accordance with guidelines issued by the Chartered Institute for Public Finance and Accountancy. At the commencement of the financial year the Audit and Governance Committee will approve an audit plan for that year. At each of its meetings the Audit and Governance Committee will receive an update report on the progress made in delivering the plan including progress on implementation of internal and external audit recommendations.

### (b) External Audit

Auditors review the Council's financial and management systems and report annually to the Audit and Governance Committee on the adequacy of the Council's internal controls. Auditors have the right to inspect all records held by the Council.

The Council's auditors undertake an annual audit of the Council's Statement of Accounts. They also audit specified grant claims and report annually on the Council's governance framework and delivery of best value. Auditors have the right to inspect records and to ask for information and explanations. The Head of Financial Services has overall responsibility for liaising with the external auditors.

### **18.3 Non-compliance with these Rules**

If officers suspect that these Rules have not been complied with, or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved). The Council's Whistle Blowing Policy (18.25) has guidance on what to do if a line manager is involved. If these Finance Rules or the Avoiding Bribery Fraud and Corruption Policy have been breached, the Head of Financial Services must be advised in writing by the line manager as soon as possible.

### **18.4 Information and records**

The Head of Financial Services is responsible for the Council's accounting system, the form of accounts and its supporting financial records. The Head of Financial Services will ensure that accounting records are sufficient to comply with the Accounts and Audit Regulations for the time being in force.

### **18.5 VAT and Tax**

The Head of Financial Services is responsible for keeping tax records, advising on tax, making tax payments, receiving tax credits and submitting tax returns. The Head of Financial Services will advise officers on the appropriate records to be maintained.

### **18.6 Insurance**

The Head of Financial Services will be responsible for establishing adequate insurance cover for the Authority including the amount of excess and the extent to which self-insurance is undertaken.

Heads of Service must:

- assist in the annual review of insurance and advise the Head of Financial Services of changes in insurable risks
- process insurance claims in accordance with procedures laid down by the Head of Financial Services

## 18.7 Budget Setting

On an annual basis the Head of Financial Services shall submit to Council a programme of capital expenditure and estimates of revenue income and expenditure for Council services for at least the proceeding four years. Council will set a Council Tax for General Fund services and a weekly Council house rent for the ensuing year. The Audit and Governance Committee will set the Council Tax Base.

## 18.8 Responsibility for Budget Decisions

Responsibilities for budget decision are shown in the table below:

Cabinet Decisions	Council Decisions
<ul style="list-style-type: none"> <li>• agreeing a draft revenue budget for consultation</li> <li>• recommending the revenue budget to Council</li> <li>• recommending the Treasury Management Strategy to Council</li> <li>• recommending the Housing Business Plan to Council</li> <li>• agreeing the Risk Management Strategy</li> <li>• recommending the Capital Programme to Council</li> <li>• recommending the Corporate Asset Management Plan to Council</li> <li>• recommending extra spending to Council</li> <li>• monitoring delivery of financial performance</li> <li>• recommending to Council transfer(s) of assets between the General Fund and the Housing Revenue Account</li> <li>• agreeing transfers between cost centres of &gt; £250,000 = &lt;£500,000 that are in line with the Council's policy framework</li> <li>• <u>Agreeing the strategy for setting fees and charges and setting fees and charges for executive functions (to the extent that the budget has not set fees and charges)</u></li> </ul>	<ul style="list-style-type: none"> <li>• agreeing or changing the revenue budget</li> <li>• agreeing or changing the Treasury Management Strategy</li> <li>• agreeing or changing the Capital Programme</li> <li>• agreeing the Corporate Asset Management Plan</li> <li>• agreeing the Housing Business Plan</li> <li>• agreeing supplementary estimates to either the revenue or capital budgets</li> <li>• agreeing transfers between cost centres that are over £500,000 or breach the policy framework</li> <li>• agreeing transfers between the General Fund and Housing Revenue Account</li> <li>• setting the Council Tax</li> <li>• setting housing rents</li> <li>• <u>setting fees and charges as part of the budget setting process</u></li> </ul>

## **18.9 Estimates and Reserves – Robustness and Adequacy**

It is the duty of the Head of Financial Services to report on the robustness of the estimates and the adequacy of reserves when the Council is considering its budget requirement and Council is required to have regard to this advice.

## **18.10 Budgetary Control**

On-going budget management and control is necessary to ensure that approved budgets are used only for their intended purpose and accounted for and reported correctly and that Council services are delivered within budget.

### **(a) General Principles of the Budgetary Control Framework**

The following are the general principles:

- All budgets are assigned a Head of Service or Executive Director who are accountable for the control and management of that budget in accordance with these Rules and any financial procedures or guidance issued by the Head of Financial Services
- Heads of Service will report on their budget on a regular basis to the Head of Financial Services in a format and timeframe prescribed by the Head of Financial Services.
- The Head of Financial Services will validate the information provided by the Heads of Service and report periodically to relevant Officers and to the Cabinet on a quarterly basis. The report will include the projected outturn position, any associated risks and mitigating actions to be taken as well as the impact on future year budgets.
- The relevant Head of Service or Executive Director are the officers accountable for authorising the commitment of resources against the budget.

### **(b) Virement Rules – Revenue and Capital**

A virement is an approved reallocation of resources between cost centres. The scheme of virement enables budget holders to manage their budgets with a degree of flexibility and therefore to provide an opportunity to optimise their use of resources according to changing needs.

All virements must be notified in writing to the Head of Financial Services in a form prescribed by the Head of Financial Services. Permanent virements are permitted following consultation and agreement with the Head of Financial Services.

Virements are permitted in accordance within the following parameters:

<b>Virement</b>	<b>Limit</b>	<b>Agreement Required</b>
Within Cost Centres	Unlimited	Head of Service subject to consultation with Head of Financial Services (Section 151 Officer)
Between Cost Centres	=< £250,000 that are in line with the Council's policy framework	Head of Financial Services (Section 151 Officer) in consultation with relevant Head of Service or Executive Director in the absence of a relevant Head of Service to ensure separation of duties
	>£250,000 =<£500,000 that are in line with the Council's policy framework	Cabinet
	> £500,000 or breach the Council's policy framework	Council

Council must agree any transfers between the General Fund and Housing Revenue Account.

Where an item of overspend of revenue spend cannot be covered from virement then following consultation with the Head of Financial Services (Section 151 Officer) a supplementary estimate may be sought from Council.

In the case of emergency the Chief Executive or her/his nominated representative in consultation with the Head of Financial Services or her/his nominated representative may approve additional expenditure, or virement over £250,000 providing approval is sought from the Cabinet or Council (depending on the amount involved) at the first opportunity following the additional expenditure or virement.

(c) Use of Reserves and Provisions

The Head of Financial Services shall establish reserves and provisions to meet known or estimated future liabilities.

The Head of Financial Services may move any sums in or out of reserves and provisions in order to meet the liabilities of the Council, subject to movements being clearly identified in the annual Statement of Accounts.

(d) The Head of Financial Services can approve single carry forward sums up to £10,000. Any single carry forward of over £10,000 must be approved by Cabinet.



### 18.11 Capital Strategy

The Head of Financial Services will prepare a Capital Strategy which:

- Will be reviewed annually by Cabinet
- Sets out the principles the Council will follow in its capital planning and management
- Outlines the methodology for inclusion of schemes within the Capital Programme
- Sets out the arrangement for management of capital schemes
- Indicates the capital schemes to be undertaken over the following four financial years and how those schemes will be funded.

### 18.12 Project Approval

Project approval must be obtained for projects in accordance with the following requirements after presentation to the Council's Development Board (officer group):

- Less than £150,000 – Head of Service or Executive Director
- £150,000 up to £500,000 – Executive Director or Head of Financial Services in consultation with the Head of Paid Service and Monitoring Officer (and the Head of Financial Services where the decision to approve is being made by an Executive Director)
- £500,000 and over – Cabinet

The decision-making process for capital projects is set out in the Capital Strategy, and will be updated annually by the Head of Financial Services and reported to the Cabinet

Project ideas may be added to the project pipeline at any time following the completion of a Project Proposal submitted to the Development Board.

Funding may be requested for project ideas and proposals, of a capital nature, in order to carry out feasibility and or design stages to ensure the schemes are both feasible and to ascertain true costs for delivery. Allocation of any funding and approval of each of these stages within the agreed budget envelope is agreed by the relevant Executive Director.

For projects that proceed through feasibility, design and technical specification, a business case will need to be prepared prior to approval that includes:

- The aim of the project and options for delivery
- Resource implications (internal and external)
- Legal, contractual and prudential borrowing code implications
- If the council is acting through an agent or partnership legal advice on whether it has the power to act in this way
- Any comments made during consultation and the Council's response

- The estimated amount and timing of any capital and revenue spending, any on-going effect on revenue, and whether this spending is included in the budget.

### 18.13 Monitoring of the Capital Programme

The Capital Programme is approved as part of the Council's annual budget setting process. Overall monitoring of the Capital Programme will be undertaken by the Development Board, which comprises Executive Directors and the Head of Financial Services (Section 151 Officer), Heads of Service (including the Monitoring Officer) and the Project Management Office. The monitoring will be carried out in conjunction with Project Sponsors and Project Managers. The Head of Financial Services will monitor on the financial spend against the approved Capital Programme and regularly report on this to the Development Board.

A Capital Programme monitoring report will be submitted by the Head of Financial Services to the Development Board as required, and to the Cabinet on a quarterly basis, setting out the projected outturn and progress of schemes including slippage, under and overspends together with any associated mitigating action.

Capital expenditure may only be incurred if:

- Budgetary provision has been made within the approved Capital Programme
- Project approval has been given in accordance with 18.12
- Corporate procurement processes have been complied with

Where it is anticipated that the budget for a capital project will be overspent against its approved budget the relevant Head of Service will be responsible for notifying the Head of Financial Services. Overspend up to £250,000 maybe accommodated by virement from other schemes or under-spending within the approved Capital Programme. The size of the project will be considered as part of this process. Where monies cannot be vired from other schemes or the overspend is in excess of £250,000 the projected overspend must be reported to the Cabinet and subsequently Council requesting a supplementary estimate if required.

Where a scheme is within the capital programme and it is not possible for it to progress in a particular year or where it is progressing faster than anticipated, the Head of Financial Services in conjunction with the Development Board can move the approved capital budget for a scheme between adjacent financial years providing that the overall budget for the scheme is not exceeded and capital financing resources are available to finance the scheme. Any schemes which remain uncommitted at the end of the financial year in which they were due to start will be reviewed as part of the annual budget process.

Where the Council has obtained external funding for a capital project or that project can be funded by virement, the Head of Financial Services may, subject to it being included in the next available monitoring report, raise an additional budget head to facilitate timely project commencement.

### 18.14 Treasury Management

#### (a) Treasury Management Strategy

The Head of Financial Services will produce and submit the Treasury Management Strategy to the Cabinet for recommendation to Council.

The Strategy will set out the Council's treasury plans for the next year (including any prudential borrowing limits which are in line with the capital programme and proposed financing). The Strategy will include a list of the types of organisations the Council may borrow from and lend to and the maximum individual amounts it may borrow or lend. The Strategy must be agreed by Council.

#### (b) Day-to-day Treasury Management Operations

The Head of Financial Services is responsible for day-to-day treasury management operations. These will follow the Treasury Management Strategy, and ensure that:

- All borrowing and investment complies with the Council's Treasury Management Strategy and the Chartered Institute of Public Finance and Accountancy's code of practice on treasury management
- All borrowing and lending is done in the name of the Council
- As a minimum a half yearly and annual update of treasury management activity will be reported to the Cabinet and made available as appropriate to the relevant scrutiny committee.

#### (c) Bank Account

Only the Chief Executive or the Head of Financial Services may open a bank or building society account on behalf of the Council. The Head of Financial Services is responsible for managing all accounts.

### 18.15 Asset Management

#### (a) Responsibilities of Regeneration and Major Projects Service Manager

The Regeneration and Major Projects Service Manager will:

- Produce guidelines for acquiring, managing and disposing of assets
- Make sure the Council's records include any money from sales
- Make sure the Council's records do not include the value of any assets that have been disposed of.

#### (b) Register of Fixed Assets

The Head of Financial Services will keep a register of all fixed assets worth more than £10,000. Heads of Service must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Head of Financial Services (Section 151 Officer) in conjunction with the Regeneration and Major Projects Service Manager will check that the assets are still shown at the right value, that they have a suitable asset life and that they have been properly depreciated.

(c) Disposing of assets (except land)

Heads of Service can dispose of assets worth up to £10,000 if the Head of Financial Services agrees. All disposals including land must be notified to the Head of Financial Services.

(d) Arranging leases

In respect of non-property items the Head of Financial Services may approve:

- Lease arrangements
- Hire of assets
- Rental agreements
- Contracts where the supplier uses assets to provide services to the Council; these may be explicit in the contract or implied due to the service being provided

Additional procurement requirements apply to these arrangements (Part 19.22).

### **18.16 Ordering and Paying for Goods and Services**

The Head of Financial Services shall ensure that there are proper procedures and controls for ordering and paying for goods and services. Any new systems for orders or payments must be agreed by the Head of Financial Services. Heads of Service must ensure that:

(a) Official orders (using the agreed corporate order form) are issued for all goods and services prior to receipt. Exceptions to this rule are:

- Utility bills
- Subscriptions
- Grants
- Refunds
- Compensation payments
- Payments of rent for privately leased properties
- P2P Supplier Approved Exemption list as agreed by the Head of Financial Services
- Hire of polling stations

(b) Orders for goods and services must only be issued where the expenditure is provided for within the approved budget or is covered by a virement or a supplementary estimate which has been agreed by Council

(c) Official orders must indicate clearly the nature and quantity of the work or services required and also the financial commitment.

(d) Heads of Service must also ensure:

- That staff involved in payment processing are adequately trained.

- That there is adequate separation of duties between staff ordering, receiving and approving invoices for payment.
- That suppliers are advised that the Council's preferred means of payment is by bankers automated credit (BACS) and that remittance advices should be sent via email.
- That only goods and services that have been received, examined and approved as to their quality and quantity or the work or service has been satisfactorily performed are paid for and that the prices, arithmetic and budget allocation are correct.
- That payments are timely and made within the Council's agreed terms of business, unless the invoice is in dispute.

### (e) Responsibilities of Heads of Services

Heads of Service are responsible for their service areas' orders and for ensuring that invoices are appropriately approved. They must make sure that officers who order and authorise invoices for payment have been properly trained and that there are adequate separation of duties between order and approval for goods.

Officers must also have regard to the guidance in the cost centre managers' manual and the guidelines on the intranet in relation to the ordering and paying for goods and services.

## 18.17 Risk Management

The Head of Financial Services (Section 151 Officer) is responsible for co-ordinating risk management within the authority.

### (a) Responsibilities of Executive Directors

- To review and update the Corporate Risk Register on a regular basis
- To ensure compliance with the Risk Management Strategy

### (b) Responsibilities of the Head of Financial Services (Section 151 Officer)

- Periodically to review and present for adoption by the Cabinet the Risk Management Strategy.
- To present monitoring reports in accordance with the terms of the adopted Risk Management Strategy.
- To provide advice to officers and councillors on risk management
- To provide and facilitate training to officers and members on risk management.

### (c) Responsibilities of Heads of Service

- Identify and manage risk in their service areas in compliance with the Risk Management Strategy
- Update the Corporate Risk Register
- Have contingency plans for major risks
- Advise the Head of Financial Services of any risk that could result in losses or claims against the Council

### 18.18 Wages, Salaries and Pensions

The Head of Business Improvement is responsible for paying all wages, salaries and expenses, including councillors' allowances.

Heads of Service must advise the Head of Business Improvement on a timely basis of any changes to staff pay and any deductions that need to be made, in particular:

- Appointment, resignations, dismissals, suspensions, secondments and transfers
- Long term absences from duty for sickness or other reasons apart from approved leave
- Changes in remuneration, other than normal increments and pay awards
- Information necessary to maintain records for service for superannuation, income tax, national insurance and sickness or maternity benefit
- All salaries and wages and allowances will be paid into an employee's or member's bank account.

### 18.19 Petty Cash

The Head of Financial Services (Section 151 Officer) will oversee the system of petty cash floats and may provide petty cash advances for such officers of the Council as may need them. Floats will only be topped up when a proper claim is made with receipts for all items. The Head of Financial Services will give detailed guidance on petty cash.

### 18.20 Income Collection

#### (a) Responsibilities of Executive Directors

To ensure that appropriate arrangements are in place to safeguard the Council's resources

#### (b) Responsibilities of Head of Financial Services (Section 151 Officer)

The Head of Financial Services (Section 151 Officer) is responsible for ensuring that systems are in place to ensure that all income is identified, collected, receipted and promptly banked. This includes the issuing of instructions in relation to income and its recovery.

#### (c) Responsibilities of Heads of Service

Heads of Service must have robust processes in place for dealing with income collection in their service area where required. There must be extra controls in service areas that collect cash or cheques. Heads of Service must ensure that:

- They raise invoices as soon as reasonably practical for all goods and services provided on credit

- They follow the systems and procedures laid out by the Head of Financial Services (Section 151 Officer) as contained in the cost centre managers manual and within the Guidance on Debt Collection on the intranet
- Officers are suitably trained
- Official receipts are always given
- Proper records are kept
- Money is banked on the day it is received or as soon as possible thereafter
- VAT is properly accounted for

Heads of Service must have effective systems for monitoring income due to their service area. The Head of Financial Services (Section 151 Officer) must be advised if income targets are unlikely to be achieved and must be advised of any cases of financial impropriety.

### (d) Writing off debt

Write offs relating to debts may be authorised as follows:

- Debts up to £100k by the Head of Financial Services
- Debts in excess of £100,000 by the Cabinet

### (e) Cancelling debt

Debts can only be cancelled if they have been raised by mistake. All cancellations over £5,000 must be agreed by the Head of Financial Services (Section 151 Officer).

## 18.21 External Funding

The Head of Financial Services must be advised on a timely basis of any application for external funding by the relevant lead officer prior to it being submitted.

The lead officer must provide such information as requested by the Head of Financial Services, including copies of proposed agreements and conditions of grant and any financial implications (including match funding requirements or on-going revenue costs).

All external funding applications for funding in excess of £100,000 must be authorised by the Head of Financial Services prior to their submission by the Authority.

The Head of Financial Services must be notified of the outcome of external funding applications at the earliest opportunity and successful external funding applications will be reported to Cabinet as part of the normal monitoring reports or by a report seeking project approval.

The Head of Financial Services is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

The Executive Director and Head of Service responsible for the lead officer must ensure that all grant conditions are met and must ensure that there is a report



made to the Head of Financial Services if there is any risk of grant conditions not being met.

### **18.22 Money Laundering**

The Council has procedures for checking the recording the intentions of the people and organisations it does business with and for reporting suspected money laundering.

The Head of Financial Services (Section 151 Officer) is the appointed Money Laundering Officer and as well as ensuring that there are procedures in place to combat money laundering he/she is required to maintain and review the Council's Anti Money Laundering Procedures.

Officers must not:

- Conceal, disguise, convert, transfer or remove anything gained through crime.
- Tip off a criminal or suspect
- Assist money laundering

Officers must complete and retain evidence of any due diligence checks carried out on new suppliers prior to any payments being made to the supplier. This must include a credit check where possible and the evidence retained for audit purposes. Should the credit check score fall below the current threshold set by the Head of Financial Services additional advice should be sought from the Head of Financial Services.

### **18.23 Loans or Guarantees to external organisations**

The Head of Financial Services may authorise a loan or financial guarantee to a Council wholly owned company.

Any loan to a Council wholly owned company must be within the overall approved budget.

There is no limit on the amount of any financial guarantee to a Council wholly owned company that the Head of Financial Services may approve.

The Head of Financial Services may authorise loans or financial guarantees of up to an outstanding balance of £250,000 in aggregate to a company which is not wholly owned by the Council or any other external organisation.

Loans and financial guarantees of over £250,000 to a company which is not wholly owned by the Council or other external organisation must have approval by the Cabinet and Council.

### **18.24 Modern Slavery due diligence**

Officers must carry out due diligence checks to ensure that they are satisfied that suppliers comply with the Modern Slavery Act 2016.



## **19. Contract rules**

- 19.1 When do these rules apply?
- 19.2 Other relevant guidance, rules and law
- 19.3 Responsibility to follow these rules and relevant law
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- 19.28 Acquiring the use of assets through contracts
- 19.29 Acquiring and disposing of land and buildings
- 19.30 Interpreting the contract rules

### **19.1 When do these rules apply?**

These rules apply when the Council expects to give or receive money or payments in kind. They apply to both capital and revenue and cover contracts for goods, works or services.

Different rules apply to the acquisitions and disposal of land or buildings (19.26).

The Cabinet can waive any of these rules after considering a report from the relevant Head of Service giving reasons for the waiver and taking into consideration advice from the Head of Financial Services and the Head of Law and Governance. (But it must always comply with national and EU law).

These rules do not apply to the following arrangements:

- grant giving – the rules for this are in the Council’s grants prospectus and grant agreement.
- where the Head of Financial Services agrees that there is no viable alternative supplier such as in relation to utility related works
- to services provided in house by the Council’s own employees. However, the Council must satisfy itself that the services provided represent best overall value and the council operates within the law.
- when the Council wishes to let a contract to a Council-owned company which holds “Teckal” status (19.12 (c)).

### 19.2 Other relevant guidance, rules and law

Attention should also be paid to:

- The Finance rules (Part 18)
- The Budget and Policy Framework procedures (Part 16)
- Who Carries out Executive Responsibilities? (Part 4) and Who Carries out Council Responsibilities? (Part 5)
- National and EU procurement law and guidance detailed in the Council’s Procurement Toolkit.
- Heads of Service must consider the corporate governance arrangements and legal issues when entering contracts and must ensure the risks are fully assessed.

### 19.3 Responsibility to follow these rules and relevant law

These rules apply to officers and anyone else managing or supervising contracts on behalf of the Council. Heads of Service must make sure their staff and any agents acting on behalf of the Council follow them.

The Council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

### 19.4 Interests of councillors and officers in contracts

#### (a) Avoiding conflicts of interest

Councillors, officers and anyone acting for the Council must avoid conflicts of interest.

### (b) Councillors' interests

Councillors must follow the Members' Code of Conduct (Part 22). In addition it is a criminal offence for a councillor not to declare a financial interest in a contract.

### (c) Officers' interests

Officers must declare interests in existing and proposed contracts or suppliers. It is a criminal offence for an officer not to declare a financial interest in a contract. This does not apply to an officer's own contract of employment or their tenancy of a Council house.

The Head of Law and Governance will record officers' financial interests in a book that councillors can look at during office hours.

### (d) Officer reports and advice

If an officer writes a report for a meeting on something they have an interest in, they must give a brief description of the interest in a separate paragraph at the beginning of the report.

If an officer advises Council or the Cabinet or a committee on something they have declared an interest in, they must make reference to their interest at the meeting.

## 19.5 Before a contract is agreed

Contracts can only be agreed if they comply with these contract rules and:

- They will help a service area to achieve its service plan
- The Council has the legal power to enter into the contract and relevant internal approval.
- There is a budget to fund the whole life of the contract.
- Relevant project approval has been granted (Part 18.12)
- The total contract value has been calculated (Part 19.6)
- It provides value for money over the life of the contract
- There is no existing contract in place which covers, for the whole organisation (a corporate contract), the procurement of a particular service or supplies
- Where the Head of Financial Services has approved an exemption from a corporate contract. An exemption will only be given when it is inappropriate to use a corporate contract: for example where that supplier is unable to provide the service.

## 19.6 Total contract value

The total contract value is the total amount (minus VAT) that is expected to be paid to the supplier as a result of the contract award during the whole of the contract. It includes:

- the value of anything the Council is getting free of charge as part of the contract or which is charged on to a third party.

- any amount that could be paid by extending the contract (if there is a contractual right to extend it).
- If the length of a contract is unspecified, its total value will be calculated on the basis of the contract having a duration of 48 months.

A single contract must not be artificially split into smaller contracts to get around these contract rules or the law.

### **19.7 Sub-contracting**

Where in a particular contract the supplier intends to appoint one or more sub-contractors to discharge some or all of its contractual obligations, the main supplier must be placed under an obligation to so inform the Council. The Council's Head of Financial Services shall consider whether in each case a collateral warranty from the sub-contractor in favour of the Council is required.

### **19.8 Format of Contracts**

All contracts (whether bespoke or in an official purchase order format) must be in writing and must identify the terms and conditions that apply. Where a contract has a total value of less than £100k and no non-standard warranties are required, the contract may be in the form of an official purchase order.

Contracts with a total contract value over £150,000 must be sealed (Part 21.3). Contracts under £150,000 must be signed by two officers with operational responsibility— one of whom must be the relevant Director or Head of Service (or an officer authorised by them).

All contracts over £100,000 must be in a form approved by the Head of Law and Governance and where appropriate include the Council's standard contract terms. Any variation to the contract terms must be approved by the Procurement Team (in consultation, where appropriate, with the Head of Law and Governance).

Contracts over the EU threshold must comply with relevant EU procurement law and guidance.

### **19.9 Clauses that must be included in all contracts**

Contracts must:

- say what is to be supplied or done, the timescale for performance and standards of performance required;
- state the payment arrangements and any arrangements for deductions and discounts. The payment arrangements must not allow for payment in advance of the provision of goods or services unless the Head of Financial Services agrees;
- state the period/duration of the contract;
- require suppliers to meet any standards set by the Head of Service and any appropriate British Standard or EU equivalents. EU standards must be included if the total contract value is over the EU threshold;
- require suppliers to follow all appropriate codes of practice;

- require the supplier to hold appropriate insurance cover – the level of indemnity will be set by the Head of Service after assessing the risk and consulting with the Council's insurance officer if necessary. However this cover must include a minimum of £5 million public liability insurance, unless a lower level of cover has been agreed by the Head of Financial Services;
- seek a commitment from suppliers to pay their employees at least the Oxford Living Wage: this includes (where appropriate) any employees engaged by a sub-contractor in fulfilling the contract;
- include any other conditions and terms that have been agreed; and
- all procurement contracts, which are below EU contract thresholds, must include a 5% social value weighting.

### **19.10 Contracts valued over £100,000**

Contracts over £100,000 must additionally include all the following clauses unless the Head of Law and Governance thinks they are inappropriate:

- (a) a clause allowing the Council to cancel the contract and recover any resulting losses from the supplier if it discovers that:
  - the supplier or its employees have given, offered or promised anything to influence how the Council awarded or managed the contract;
  - the supplier or its employees have committed an offence under the Bribery Act 2010, and
  - the supplier or its employees have given anything that Section 117(2) of the Local Government Act 1972 forbids officers from accepting.
- (b) a clause requiring the supplier to:
  - provide £5,000,000 employer liability insurance indemnity or any other level of cover recommended by the Head of Financial Services
  - provide £1,000,000 professional insurance or any other level of cover recommended by the Head of Financial Services
  - produce proof of insurance (for example copies of the insurance certificates) if the head of service thinks it necessary
  - provide a bond (or other suitable form of guarantee) for 10 per cent of the contract value if the Head of Financial Services thinks it necessary
- (c) a clause saying who will manage the contract on behalf of the Council and the approval process for any necessary changes to its terms;
- (d) a clause requiring the supplier to protect the health and safety of anyone affected by its work;
- (e) a clause requiring the supplier to comply with data protection laws and help the Council to comply with the Freedom of Information Act or Environmental Information Regulations;
- (f) a clause requiring the supplier to get the Council's permission before subcontracting or transferring any of the contract;

- (g) a clause giving the Council the right to end the contract if the supplier does not meet the Council's standards and timescales and to bill the supplier for:
  - the administrative costs of finding and appointing a new supplier, and
  - any amount by which the new contract exceeds the old one.
- (h) if the Head of Service considers it necessary, a clause saying what damages must be paid if the supplier breaks the contract and explaining how the amount of damages was reached – the Head of Service will consult the Head of Law and Governance on the amount of the damages and what should trigger them;
- (i) a clause giving the Council the ability to exclude the supplier from applying for new contracts where there has been significant or persistent deficiencies in the performance of a significant requirement under a prior public contract;
- (j) where relevant and operationally possible, a clause requiring the supplier to fit side guards and appropriate side mirrors to vehicles over 3.5 tonnes to protect cyclists and pedestrians when driving to and from any site specified by the Council; and
- (k) a clause indicating that the Council is required to publish all new contracts on its website, and will do so in accordance with its obligations, subject to any operative exemptions, within the applicable local government transparency regulations.

### **19.11 Commissioning Oxford Direct Services Limited for one off capital schemes**

Oxford Direct Services Limited (ODSL) is a wholly owned council company and meets the requirements of Regulation 12(1) of the Public Contract Regulations 2015 (PCR 2015) commonly known as the "Teckal" exemption as follows:

- the Council is exercising a control over the company similar to that which it exercises over its own departments i.e. the Council demonstrably exercises a decisive influence over both strategic objectives and significant decisions of the company;
- more than 80% of the activities of the company are carried out in the performance of tasks entrusted to it by the Council;
- there is no direct private capital participation in ODSL – the company is wholly owned by the Council.

As such contracts may be awarded to ODSL without the need to comply with the full requirements of the PCR 2015.

Officers should follow the appropriate process below according to the value of the proposed contract when commissioning ODSL to undertake one off capital schemes and where required ensure that their actions and decisions are recorded by an officer executive decision:

(a) Contracts below (<) £10,000

All work let to ODSL must have a detailed specification and be recorded in writing to ensure that proper records are kept.

(b) Contracts above (>) £10,000 up to or equal to £75,000

There should be a detailed specification and demonstration of a strong business need for the service or works provided by ODSL. The commissioning officer

should be aware of the market price and conditions for such services and works. This can be shown by market quotes for the work (which may not be practical to obtain) or benchmarking information verified on a regular basis and retained for audit purposes. In letting each separate contract the officer is responsible for documenting this, retaining those records for audit purposes and ensuring compliance with the Duty of Best Value and the avoidance of illegal state aid. Large contracts to be awarded should not be artificially disaggregated to avoid compliance with these requirements.

- (c) Contracts above (>) £75,000 up to or equal to £150,000:

For contracts in this range the same criteria as in 19.11(b) above should apply in addition the commissioning officer may obtain and use the services of a Quantity Surveyor (QS) (using a framework).

- (d) Contracts above (>) £150,000 – up to or equal to £1,000,000:

A detailed specification is required.

The contract must be justifiable for state aid purposes as meeting the Market Economy Operator Principle (“MEOP”). The Economic transactions carried out by a public body do not confer an advantage on the other party, and therefore do not constitute illegal aid, if they are carried out in line with normal market conditions.

This can be shown by:

- (i) benchmarking the contractual terms and price being proposed against similar contractual offers made by third party contractors; and/or
- (ii) using the services of independent advisers commissioned by the Council such as an external QS to assess the commercial price or price range for the contract before the contract is let.

- (e) Value of contract above (>) £1,000,000

A detailed specification is required.

The use of benchmarking of other market intelligence held by the client service is appropriate where it exists.

The use of external QS services is mandated.

A formal tender evaluation process should be followed with a Cabinet report written to support the decision to award the contract.

### 19.12 Thresholds for quotes and tenders

The Council is seeking to ensure that all purchases with a value of over £10,000 are undertaken through a single electronic tendering system (“the Corporate System”). The Head of Financial Services will provide details of the Corporate System and any changes to it. Exemption from using the Corporate System can only be obtained with the written consent of the Head of Financial Services or an officer nominated by them.

Where quotes are obtained outside of the Corporate System these must be retained by the relevant Head of Service. Unsuccessful quotes may be disposed of after 12 months from the award of the contract; successful quotes and contract documentation must be retained for a period of 7 years from the end of the contract.



For all contracts over £100,000 a financial appraisal will be undertaken by the Head of Financial Services. The relevant Service Head must not commission any work from the supplier until the contract has been approved by the Head of Financial Services, and a named contract manager has been appointed.

Heads of Service must consider advertising in all cases and must advertise contract opportunities as indicated in the table below. If they do not intend to advertise as required they must seek an exemption before entering into a contract. Where contract opportunities are advertised, and the value exceeds £25,000, in addition to the Corporate System the opportunity must also be advertised on the Government's procurement portal, Contracts Finder.

Officers seeking quotations from potential suppliers for a contract shall (subject to the following provisions) comply with requirements set out in the table below.

Quotation and tender documentation must clearly specify the basis on which the most economically advantageous offer will be determined using a combination of cost and quality. Deviation from the Council's standard price: quality model requires the prior approval of the Head of Financial Services or an officer nominated by them.

For all quotes and tenders over £100,000 a Procurement Commencement Document (available from the Council's intranet) which evaluates options for the solution to be procured and route to market must be produced and approved by the Procurement team and the relevant Head of Service.

Total value of contract	Quotes or tendering	Advertisement required?	Process led by
>£1,000 < £10,000	<del>Obtain at least</del> <u>Minimum</u> one quote in writing, (local* if possible) <u>alternatively an approved Framework may be used</u> <del>attempt to seek at least one from a local supplier</del>	No	Officer authorised by the relevant Head of Service
>=£10,000 <=£100,000	Obtain <del>up to at least</del> <u>three written quotes (minimum two)</u> , attempt to seek at least one from a local* supplier <u>alternatively an approved Framework may be used</u>	Advertising should be considered and any contract over £25,000 <u>must be placed</u> on contracts finder in any event	Officer authorised by the relevant Head of Service
>£100,000 <=£150,000	Obtain <del>up to at least</del> <u>four written quotes (minimum three)</u> , <u>Attempt to seek at least one of which must be from a local* supplier. Alternatively an approved Framework may be used</u> <del>An open tender process may be</del>	Yes, advertised on the corporate system and on contracts finder.	Authorised Procurement Practitioner or Procurement Team



Total value of contract	Quotes or tendering	Advertisement required?	Process led by
	<del>used instead where it is deemed appropriate</del>		
>£100,000 < £185,000	Obtain up to six quotes (minimum four). Attempt to seek at least one from a local* supplier. Alternatively an approved Framework may be used.	Yes, advertised on the corporate system and on contracts finder	Authorised Procurement Practitioner or Procurement Team
>£150,185,000	Invite tenders (procurement law and guidance must be followed for contracts over the FTS thresholds) – process conducted by Procurement Team  <del>Invite tenders (EU procurement law and guidance must be followed for contracts over EU thresholds) – process conducted by Procurement Team</del>	<del>Yes</del> The corporate system	Procurement Team

\*suppliers that have an OX postcode

If fewer than the requisite number of quotations is obtained it will be possible to proceed to award a contract if it can be demonstrated that competition has been sought. Award of a contract in such circumstances is delegated to:

- the relevant Head of Service up to a contract value of £100,000;
- the relevant Head of Service and the Head of Financial Services for contracts with a value above £100,000.

This does not remove the obligation to secure best value for money.

### 19.13 When is there no need to seek quotes or tenders?

An Approved Supplier List may only be created with the approval of the Head of Financial Services and in the following circumstances:

- where the services are not suitable or already available through an existing framework contract;

- the suppliers have been subject to a pre-qualification assessment by the Procurement Team; and
- there is no single contract with a value of more than £100,000.

An exemption to not seeking quotes or tenders may be given in the following circumstances:

(a) Emergencies

If there is an emergency or a disaster, the Chief Executive can approve contractual arrangements outside these rules after consulting the Head of Financial Services and/or Monitoring Officer. The Leader must be told as soon as possible.

(b) Where there is no overall economic benefit to the Council

An exemption may be granted where there is no overall economic benefit, for example where there is only one supplier or no competitive market exists

(c) Officers do not have to seek or obtain quotes for contracts with a value up to £150,000 where written exemption to waive the requirement to seek or obtain quotes has been given:

- by the Head of Financial Services and the relevant Head of Service for contracts up to £100,000;
- and by the Head of Financial Services, Monitoring Officer and the relevant Head of Service for contracts between £100,000 and £150,000.

(d) Where the Council wishes to let a contract to a company which it owns and which holds “Teckal” status (under s12(1) Public Contract Regulations 2015) there is no legal requirement for the Council to seek alternative quotes or tenders in accordance with these Contract Rules. This provision does not remove the need for the Council to ensure that by letting a contract to its “Teckal” company it is meeting its obligations as a best value authority under the Local Government Act 1999 and is compliant with EU State Aid legislation and any subsequent legislation. Each contract opportunity should be considered individually to ensure that the Council is achieving value for money for the public purse having taken into consideration the relevant market conditions and information.

### 19.14 Exclusion Lists

The Public Contracts Regulations 2015 (regulation 57) provides the Council with the ability to exclude a supplier from bidding for future contract opportunities where one or more of the exclusion provisions apply.

Any exclusion list must be approved by the Head of Financial Services.

### 19.15 Tendering of contracts over £150,000

If the total contract value is over £150,000 tenders must be sought ([subject to 19.11](#)). Tenders can also be sought for lower contract values. Tenders will be sought in accordance with the requirements of and the best practice as specified by the Public Contract Regulations 2015. If the contract value is over £150,000 the procurement team will advise of the various options available and which would be the best course of action and would assist with the tender process. Paragraphs 19.15, 19.16 and

19.17 set out the principal tendering methods but alternative methods including e-tendering may be used provided that they are compliant with the UK Public Contracts Regulations and the Head of Financial Services has given their express agreement. Paragraphs 19.20, 19.21, 19.22 and 19.23 apply to all tenders.

### 19.16 Open Tendering

(a) The Council will:

Issue a call for competition via advertisement on the Council's Corporate System and the Government's procurement portal (Contracts Finder).

If the total contract value is above the relevant EU threshold the notice will also be placed, in the Official Journal of the European Union – the notice will need to comply with EU Procurement Directives.

(b) The notice will:

- say what the contract is for
- describe how to express interest in tendering
- give the deadline and arrangement for receipt of tenders
- The notice must be published at least 14 days before the deadline for tenders. If the total contract value is above the EU threshold, the UK Public Contract Regulations must be followed. These require the notice to be published in the Official Journal of the European Union at least 30 days before the deadline for tenders based on the tenders being submitted electronically.

### 19.17 Restricted tendering

(a) A restricted tender process can only be used for contracts valued above the EU thresholds.

Expressions of interest will be sought via advertisement on the Council's Corporate System, the Government's procurement portal (Contracts Finder) and the Official Journal of the European Union.

A short list of bidders will be invited to tender based on their financial and technical capability to deliver the contract or through the provision of a self-declaration certificate together with any additional information required to demonstrate their capability to fulfil a contract.

The shortlist will be selected by the appointed tender evaluation team and will be approved by the relevant Service Head and Head of Financial Services. It should include at least five individuals or organisations who expressed an interest in tendering. If fewer than five individuals or organisations are considered suitable by the Service Head then all of those suitable should be considered.

(b) The advertisement notice will:

- say what the contract is for
- describe how to express interest in tendering
- give the deadline for tender

- The UK Public Contract Regulations require the notice to be published in the Official Journal of the European Union for at least 30 days based on the tender being submitted electronically. The full tender documentation must be published at the time of placing the advert.

### 19.18 Negotiated tendering

There are specific cases and circumstances laid down in the UK Public Contract Regulations 2015 where it is permissible to award a contract by a negotiated procedure such as the negotiated procedure without prior publication, or competitive procedure with negotiation. The use of these procedures is subject to the approval of the Head of Financial Services and the Monitoring Officer.

### 19.19 Other EU Procurement Procedures

The following procedures can be used for individual contracts if the Head of Financial Services and the relevant Head of Service agrees:

#### (a) Competitive dialogue

These procedures can be used for complex contracts. It allows the Council, through dialogue with providers, to develop the optimum contract valuation.

#### (b) Framework agreements

These are arrangements between the Council or another body such as a purchasing consortium and suppliers that sets the terms and conditions for any call-off contracts that might be awarded from the framework. Framework agreements are for a set period and should not normally be for a period of more than four years although call-off contracts can be let for a longer period.

#### (c) Electronic Auction

eAuctions are electronic auctions where suppliers bid against each other to offer the lowest price. They are open to any supplier that meets certain conditions and include all tenders that meet the specification.

#### (d) Public auction

This can be used for buying or selling land and property.

#### (e) Purchasing consortiums

Purchasing consortiums must be able to show that they comply with the UK Public Contract Regulations.

#### (f) Innovation Partnership

This can only be used if there is a requirement to procure goods, services or works which are currently unavailable to the market and is to only be used to appoint a specialist organisation to innovate to deliver a new requirement.

### 19.20 Submitting a tender

- (a) Every tender must include a declaration that the tenderer has not:
- told anyone except the Council the amount of the tender

- changed the amount of the tender as part of an agreement with anyone
  - lobbied councillors or officers about the tender.
- (b) Tenders over £10,000 must be submitted via the Corporate System or the electronic system that was used to invite tenders.

### **19.21 Council's Handling of Tenders Received through the Corporate System**

- (a) Each tender received via the Corporate System is automatically date and time stamped. The tender cannot be accessed until after the tender deadline.
- (b) If a tender includes a condition that was not in the tender documents and accepting the condition would give the tenderer an unfair advantage over other tenderers, the tenderer must remove the condition or withdraw the tender.

### **19.22 Accepting quotes and tenders**

- (a) Total contract value less than £150,000

The Head of Service may accept the most economically advantageous quote or tender if the Council is the buyer, or the highest if the Council is the seller, as long as:

- there is budget provision included in the Council's capital or revenue budget
- project approval has been obtained
- any key decisions have been included in the Forward Plan
- any organisation the Council is acting as agent for agrees.

- (b) Total contract value is over £150,000 but less than £500,000

The Head of Financial Services or an Executive Director may accept the most economically advantageous tender if the Council is the buyer, or the highest if the Council is the seller, as long as:

- there is budget provision in the Council's capital or revenue budget
- project approval has been obtained
- any key decisions have been included in the Forward Plan
- any organisation the Council is acting as agent for agrees
- the Head of Financial Services and the Monitoring Officer have been consulted.

- (c) Total contract value £500,000 or over where the Council is the seller. Tenders of £500,000 or over must be the subject of a written report to the Cabinet.

- (d) Total contract value is over £500,000 but less than £1,000,000 where the Council is the buyer

The Head of Financial Services or an Executive Director may accept the most economically advantageous tender, as long as:

- there is budget provision in the Council's capital or revenue budget
- project approval has been obtained
- any key decisions have been included in the forward plan
- any organisation the Council is acting as agent for agrees

- the Head of Financial Services, the Monitoring Officer, the Chief Executive and the relevant Cabinet Member have been consulted
- (e) Total contract value £1,000,000 or over where the Council is the buyer

Tenders of £1,000,000 or over must be the subject of a written report to the Cabinet unless the Cabinet has already delegated authority in relation to the tender.

The relevant Head of Service will be responsible for ensuring the publication of Executive Decisions taken by them or in their name.

### 19.23 Letters of intent

A letter of intent is provided by an employer to a contractor; here the employer indicates an intention to enter into a formal contract for the works described and asks the contractor to start some work before formal contracts are agreed.

In most circumstances, parties should not contract on the basis of a letter of intent and should avoid starting work on site under one. Letters of Intent which are used or drafted inappropriately have the potential to create future contractual difficulties and possibly even establish a contract when none was intended; both of which can have significant financial consequences.

There may however be limited circumstances in which letters of intent can be a useful tool if drafted appropriately. This could be if items which have long lead in times where orders may reasonably need to be made before a formal contract can be finalised or completed.

Letters of intent should, as a minimum, include the following:

- A clear statement that the letter of intent is an interim agreement and that it will be superseded by the formal contract, with the type of contract stated
- Set out when and what works are to commence, along with details of any conditions that may need to be satisfied before works start, for example, clearance of planning conditions or the requirement for some form of performance bond
- A clear financial limit on the value of works/amount the employer is prepared to pay under the terms of the letter of intent
- Set out any and all restrictions on site access, working hours or methods
- State what the contractor will be paid if the letter of intent is terminated or if a formal contract is not completed.

In all cases letters of intent must:

- Not be used as a means to circumvent proper contractual or procurement arrangements
- Be authorised by the relevant Executive Director in consultation with the Head of Law & Governance and the Head of Financial Services

### 19.24 Copies of contracts and register of contracts

- (a) Keeping copies of old contracts

If the total contract value is over £5,000 and is in written form (bespoke, not an official purchase order), the Head of Financial Services will keep the contract in a secure place:

- for a least seven years from its end date if it was signed;
- for a least 13 years from its end date if it was sealed,
- however the Head of Service who invited the contract will be responsible for managing it.

(b) Keeping a register of contracts

The Head of Financial Services will keep a central register of contracts over £5,000.

All Service Heads are required to provide the original of all signed written (bespoke) contracts over £5,000 to the Head of Financial Services.

(c) What will the register record?

For each contract, the register will record details as required under the Transparency Code for Local Government and will be published on the Council's website.

(d) Register of certified contracts

The Monitoring Officer will keep a register of all certificates issued under the Local Government (Contracts) Act 1997.

### 19.25 Contract Management

All contracts shall have an appointed officer responsible for managing the contract.

- Contract Managers will be responsible for:
- ensuring that service expectations are met or exceeded;
- managing the performance of the supplier;
- ensuring that the procurement team have a copy of the contract (if the value is over £100,000); and
- maintaining a risk register, where required.

Contract Managers shall promptly seek advice from the Procurement team on significant or persistent performance issues.

### 19.26 Legal claims relating to contracts

Claims by suppliers will be considered promptly by the Head of Service. Heads of Service must consult the Head of Law and Governance before agreeing to anything that could make the Council liable for more than £5,000 or unable to collect damages of more than £5,000.

### 19.27 Varying contracts

Contracts can only be varied when the contract allows and by a written instruction from the Head of Service or an officer they have appointed to manage the contract. Where such a variation would have a material impact on the nature of the contract or



would materially alter its risk profile, advice must be sought and received from both Law and Governance and the Procurement team before such variation is put into effect.

Where the contract provides for an extension, the Head of Service may exercise the option to extend the contract up to the specified maximum period if satisfied that the extension of the contract represents best value.

Variations must not break any of the contract rules, the UK Public Contract Regulations 2015, or any terms of the contract.

Variations to contract must be submitted in writing with acceptance confirmed by all parties to the contract, and appended to the signed original copy of the contract.

A contract or framework may change without re-advertisement in the Official Journal of the European Union where:

- minor changes that do not affect its nature and not exceed the relevant EU threshold and not exceed 10% for goods/services or 15% for works of the initial contract value;
- additional goods, services or works that have become necessary where a change of supplier would not be practicable (for economic, technical or interoperability reasons) or involve substantial inconvenience/duplication of costs up to 50% of the initial contract value; and
- the change was unforeseeable and does not affect the nature of the contract or exceed 50% of the initial contract value.
- In the case of the second and third bullet points, the Council must publish a notice of modification of a contract during its term in the Official Journal of the European Union.

### **19.28 Acquiring the use of assets through contracts**

(a) This rule applies to

- Lease arrangements
- Hire of assets
- Rental agreements
- Contracts where the supplier uses assets to provide services to the Council; these may be explicit in the contract or implied due to the service being provided

(b) Assets acquired or the use of assets acquired through contracts must be approved by the Head of Financial Services. (Part 18.15(d))

(c) As a minimum the following information relating to the assets under or in the contract must be obtained during the procurement process to inform the decision by the Head of Financial Services:

- Contract start date
- Contract end date
- Option to purchase details



- Rental amount
- Initial one off payments
- Payment dates and frequency
- Details of payment penalties
- Total capital element
- Total interest element
- Interest rate charged
- Useful economic life of asset
- Break clause details
- Profile of lease payments (fixed and variable)
- Details of how future potential rentals will increase and on what basis
- Whether rentals are fixed or index linked
- Details of non-lease components included in the rental
- Details of any service elements
- Residual value
- Information on return condition of asset
- Any notice period

### **19.29 Acquiring and disposing of land and buildings**

- (a) This rule applies to acquisitions and disposal of:
- freeholds or leaseholds with a consideration or premium over £500,000 (except for disposals pursuant to right to buy legislation)
  - leases with a rental value over £125,000 per annum (except statutory lease renewals under Part II of the Landlord & Tenant Act 1954)
  - freeholds and leases for less than best consideration except when the acquisition or disposal is made:
    - under a legal duty
    - under a confirmed compulsory purchase order
    - under a scheme that has already been agreed by
    - the Cabinet for acquiring or disposing of more than one piece of land or more than one building.
- (b) Before any formal commitment is made to dispose of land the local ward member must be consulted.
- (c) Tenders for acquisition or disposal of property are not required to be submitted through the Corporate System but must be held securely until after the tender deadline and opened after the deadline by two Officers nominated by Executive Director for Development or the Regeneration and Major Projects Service Manager or an externally appointed agent.

- (d) After a provisional agreement has been reached on an acquisition or disposal with the interested external party, a report covering the terms of the disposal or acquisition and how the land or buildings will be used. should be submitted to either the Cabinet or for an Officer Executive Decision as appropriate. In respect of disposals any report must cover the following as appropriate:
- the Council's present or most recent use of the land or buildings;
  - other uses the Council could make of the land or buildings
  - other uses a buyer could make of the land or buildings;
  - the estimated value of the land or buildings;
  - how the land or buildings will be disposed of; and
  - why any disposal is for less than best consideration and whether consent is needed from the Secretary of State.
- (e) Where the acquisition or disposal of a freehold or leasehold has a consideration or premium up to £500,000 or a lease has a rental value up to £125,000 per annum authorisation must be given by the relevant Head of Service and the Head of Law and Governance.
- (f) The documentation in relation to the acquisition or disposal of land and buildings will be executed by (or on behalf of) the Head of Law and Governance.

### **19.30 Interpreting the contract rules**

Questions about the contract rules and any related guidance will be dealt with by the Head of Financial Services or the Head of Law and Governance.

## **20. Employment rules**

- 20.1 Appointments Committee
- 20.2 The Investigation and Disciplinary Committee
- 20.3 Independent Persons Panel
- 20.4 Appointing the Head of Paid Service (Chief Executive)
- 20.5 Designating the role of Chief Finance Officer and Monitoring Officer
- 20.6 Appointing other Chief Officers and Deputy Chief Officers
- 20.7 Dismissing the Chief Executive and Statutory Officers
- 20.8 Procedure for proposed disciplinary action against a Statutory Officer involving dismissal
- 20.9 Procedure for Investigation and Disciplinary Committee
- 20.10 Dismissing other chief officers and deputy chief officers
- 20.11 Appointing political assistants
- 20.12 Councillors not to be involved in appointing or dismissing other officers
- 20.13 Recruitment and selection procedure
- 20.14 Relationships with councillors and officers
- 20.15 Lobbying
- 20.16 Employee Code of Conduct

### **20.1 Appointments Committee**

The powers and duties of the Appointments Committee are set out in Part 7.8.

### **20.2 The Investigation and Disciplinary Committee**

The powers and duties of the Investigation and Disciplinary Committee are set out in Part 7.6.

### **20.3 Independent Persons Panel**

The powers and duties of the Independent Persons Panel are set out in Part 7.7

### **20.4 Appointing the Head of Paid Service (Chief Executive)**

The appointment of the Head of Paid Service (Chief Executive) is subject to some specific requirements as set out below.

Where the Council proposes to appoint the Head of Paid Service, the Appointments Committee will oversee the arrangements for filling the vacancy. The Committee shall include at least one member of the Cabinet in its membership. The Head of Paid Service is appointed by Council on the recommendation of the Appointments Committee.

Where it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:

- (a) draw up a statement specifying the duties of the officer concerned and 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 (a) above to be sent to any person on request.

Following the interview of candidates, the Appointments Committee will come to a view as to the most suitable person to recommend for the position.

Before an offer of appointment is made by the Appointments Committee for the role of Head of Paid Service (Chief Executive), the Appointments Committee must notify the Head of Business Improvement who it wishes to appoint and anything else that the Appointments Committee considers is relevant to the appointment.

The Head of Business Improvement must notify every member of the Cabinet of:

- (i) The name of the person to whom the Appointments Committee wishes to make the offer;
- (ii) Any other particulars relevant to the appointment which the Appointments Committee has notified; and
- (iii) The period within which any objections to the making of the offer are to be made by the Leader on behalf of the Cabinet to the Head of Business Improvement

An offer of appointment must wait until:

- (i) The Leader has within the period specified in the notice under subparagraph (iii) above, notified the Head of Business Improvement that neither the Leader nor any other member of the Cabinet has any objection to the making of the offer;
- (ii) The Head of Business Improvement has notified the Appointments committee that no objection has been received by them within that period from the Leader; or
- (iii) The Appointments Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded. Where necessary, the advice of the Head of Law and Governance shall be sought.

Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Appointments Committee will recommend that person for appointment to the next meeting of the Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.

Where following the interviews the Appointments Committee is of the view that there is no suitable candidate, it will re-advertise the post.

Where the Council does not approve the recommendation of the Appointments Committee, it shall indicate how it wishes to proceed.

## **20.5 Designating the role of Chief Finance Officer and Monitoring Officer**

The roles of Chief Finance Officer (Head of Financial Services) and Monitoring Officer (Head of Law and Governance) will be designated by Council.

## **20.6 Appointing other Chief Officers and Deputy Chief Officers**

Before an offer of appointment is made by the appointor to:

- a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989, which for the Council means the Head of Financial Services;
- a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989, which for the Council includes Assistant Chief Executives, Executive Directors, Project Directors, Monitoring Officer<sup>1</sup> and other posts that report directly to the Chief Executive; or
- a deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and some of its service managers;

the appointor must notify the Head of Business Improvement who it wants to appoint and anything else that the appointor considers is relevant to the appointment.

The Head of Business Improvement must notify every member of the Cabinet 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 Head of Business Improvement; and
- (iii) The period within which any objections to the making of the offer are to be made by the Leader on behalf of the Cabinet to the Head of Business Improvement

An offer of appointment must wait until:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Business Improvement that neither the Leader nor any other member of the Cabinet has any objection to the making of the offer;
- (ii) The Head of Business Improvement has notified the appointor that no objection has been received by them within that period from the Leader; or
- (iii) The appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded. Where necessary, the advice of the Head of Law and Governance shall be sought.

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<sup>1</sup> The Monitoring Officer by virtue of Section 5 of the Local Government and Housing Act 1989.

## **20.7 Dismissing the Chief Executive and Statutory Officers**

The Investigation and Disciplinary Committee will be responsible for proposals to dismiss the Chief Executive, Monitoring Officer and Chief Finance Officer.

Any disciplinary action short of dismissal, including a decision to suspend, against the Chief Executive, Monitoring Officer or Chief Finance Officer (“the Statutory Officers”) will be the responsibility of the Investigation and Disciplinary Committee.

Any dismissal of one of the Statutory Officers must be approved by Council, following a decision of the Investigation and Disciplinary Committee and consideration by the Independent Persons Panel.

Notice of dismissal of one of the Statutory Officers must not be given until the Investigation and Disciplinary Committee has notified the Head of Business Improvement that it wishes to dismiss the officer and any other particulars which the Investigation and Disciplinary Committee considers are relevant to the dismissal.

The Head of Business Improvement must notify every member of the Cabinet of:

- (i) The fact that the Investigation and Disciplinary Committee wishes to dismiss the officer;
- (ii) Any other particulars relevant to the dismissal which the Investigation and Disciplinary Committee has notified to the Head of Business Improvement; and
- (iii) The period within which any objections to the making of the dismissal are to be made by the Leader on behalf of the Cabinet to the Head of Business Improvement

And either:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Business Improvement that neither the Leader nor any other member of the Cabinet has any objection to the making of the dismissal;
- (ii) The Head of Business Improvement has notified the Investigation and Disciplinary Committee that no objection has been received by them within that period from the Leader; or
- (iii) The Investigation and Disciplinary Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Investigation and Disciplinary Committee will follow the procedure set out in paragraph 20.8 below to recommend the dismissal to a meeting of the Council.

## **20.8 Procedure for proposed disciplinary action against a Statutory Officer involving dismissal**

This procedure applies if the Investigation and Disciplinary Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Head of Financial Services or Monitoring Officer.

- (a) Where this procedure applies, the Investigation and Disciplinary Committee will provide the Independent Persons Panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Investigation and Disciplinary Committee considers appropriate or that the Panel may reasonably require. The Investigation and Disciplinary Committee may invite the Independent Persons Panel to attend any disciplinary or capability hearing.
- (b) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the Council.
- (c) The Council may pay remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate having due regard to the level of fees payable to that Independent Person in their role as Independent Person under the Localism Act 2011 .
- (d) Council will not meet to consider whether or not to approve the proposal of the Investigation and Disciplinary Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.
- (e) Before Council takes a vote at a meeting on whether or not to approve such a dismissal, it must take into account, in particular:
  - (i) any advice, views or recommendations of the Independent Persons Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the Statutory Officer.
- (f) If the Council approves the recommendation of the Investigation and Disciplinary Committee, then notice of dismissal can be issued. Where the Council does not approve the recommendation, it shall indicate how it wishes to proceed.

The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended will be followed.

## **20.9 Procedure for Investigation and Disciplinary Committee**

### **(a) Fact Finding and Investigation**

It will be in the interests of all parties that the proceedings be conducted expeditiously and fairly.

In considering any complaint/allegations made the Committee may:

- make such enquiries of the Statutory Officer or any other person as it considers appropriate



- request additional information, explanations or documents from any person
- invite or receive representations from any person.

The Committee having carried out such steps as it considers appropriate and having heard representations from the Statutory Officer or his/ her adviser/representative will decide whether the issues:

- require no further formal action, or
- should be referred to an Independent Investigator (“an II”)

In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:

- if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the officer’s personnel file
- there is evidence in support of the allegation/issue sufficient to require further investigation.

In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This will be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.

Before deciding to appoint an II or suspend a Statutory Officer the Committee will invite representations from the Statutory Officer unless it is impracticable to do so.

The Statutory Officer will have the right to be accompanied at the Committee meeting.

### (b) Receiving the Independent Investigator’s Report/ Hearing

The Committee should receive any report produced by an II in relation to a Statutory Officer within one month of the receipt of the report by the Council. The Statutory Officer will have the right to attend and be accompanied at the committee meeting which considers the II’s report.

The Committee will consider the II’s report and invite representations from the Statutory Officer and/or his/her adviser/representative. The Committee may impose disciplinary sanctions as set out in the Council’s disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee will have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.

### (c) Decision

If the Committee decides that the Statutory Officer should be dismissed the Council will consider the Committee’s recommendation of dismissal.

Prior to consideration by Council the Independent Persons Panel will consider the matter and the Head of Business Improvement will give all members of



the Cabinet the opportunity to raise any objections prior to the decision as set out above.

If a Statutory Officer has been suspended for a period of two months (or in the case of a decision to suspend taken under any appropriate urgency provisions) then the Committee will review that suspension. The Committee will continue to review any continuing suspension every 2 months. In carrying out any such review the Committee will consider any representations made by the IL and the Statutory Officer and/or his or her adviser/representative.

For the avoidance of doubt, if a Statutory Officer chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the Statutory Officer in question will be responsible for the cost of that advice or representation.

### **20.10 Dismissing other chief officers and deputy chief officers**

The Investigation and Disciplinary Committee will be responsible for proposals to dismiss the Assistant Chief Executives and Executive Directors.

Notice of dismissal may not be given by the dismisser to:

- a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
- a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989 which for the Council includes Assistant Chief Executives, Executive Directors, Project Directors and other posts that report directly to the Chief Executive; or
- a deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and some of its service managers;

until the dismisser has notified the Head of Business Improvement who it wants to dismiss and anything else that the dismisser considers is relevant to the dismissal.

The Head of Business Improvement must notify every member of the Cabinet of:

- (i) The name of the person whom the dismisser wishes to dismiss;
- (ii) Any other particulars relevant to the dismissal which the dismisser has notified to the Head of Business Improvement; and
- (iii) The period within which any objections to the making of the dismissal are to be made by the Leader on behalf of the Cabinet to the Head of Business Improvement

And either:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Business Improvement that neither the Leader nor any other member of the Cabinet has any objection to the making of the dismissal;

- (ii) The Head of Business Improvement has notified the dismissor that no objection has been received by them within that period from the Leader; or
- (iii) The dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### **20.11 Appointing political assistants**

Appointments of political assistants will follow the wishes of the respective political group.

### **20.12 Councillors not to be involved in appointing or dismissing other officers**

Councillors will not be involved in appointing or dismissing anyone except as set out above. The members of the Cabinet will be consulted in relation to the appointment or dismissal of chief officers and deputy chief officers as set out above. Other officers are appointed and dismissed by their Head of Service. The delegated powers in relation to the appointment and dismissal of staff are set out in Part 5.15.

All officers except political assistants must be appointed on merit.

Councillors may be invited to observe disciplinary appeal hearings against dismissal.

### **20.13 Recruitment and selection procedure**

All appointments must follow the Council's recruitment and selection procedure.

### **20.14 Relationships with councillors and officers**

Candidates must disclose on their application form whether they are related to any councillor or officer or any councillor or officer's partner as their partner, parent, child, stepchild, adopted child, grandparent, grandchild, brother, sister, uncle, aunt, niece or nephew.

If a candidate declares a relationship with a councillor or officer or their partner, their appointment must be approved by the appropriate head of service. (If they have declared a relationship with the head of service or their partner, it must be approved by the appropriate director).

### **20.15 Lobbying**

Councillors and officers must not lobby for or against candidates. The Council will disqualify candidates who lobby councillors or officers or get other people to lobby them. Candidates will be warned about this in the recruitment literature.

### **20.16 Employee Code of Conduct**

All officers must adhere to the Employee Code of Conduct.

## 21. Legal rules

### 21.1 Legal officers

### 21.2 Signing of documents

### 21.3 Common Seal of the Council

#### 21.1 Legal officers

The Head of Law and Governance can take any legal action necessary to carry out the Council's decisions or protect its interests. This will include:-

- to prosecute, defend, make application, serve any notice or appear on behalf of the Council in any court, tribunal or hearing on any criminal, civil or other matter (including appeals);
- to institute legal proceedings under any local byelaws or orders within the Council's area; and
- to lodge objections to any proposal affecting the Council's interests.

#### 21.2 Signing of documents

When the Council takes legal action, documents will be signed in the name of the Head of Law and Governance, unless:

The law allows someone else to sign them and

The Head of Law and Governance has given that person permission to sign them.

#### 21.3 Common Seal of the Council

The common seal of the Council will be kept by the Head of Law and Governance. It will be attested by the Head of Law and Governance or a senior officer nominated by her or him.

The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

The Council chooses not to make Tree Preservation Orders under seal. They are signed and then issued.

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## **22. Members' Code of Conduct**

### [22.1 The Members' Code of Conduct](#)

### [22.2 Does the code apply when Councillors represent the Council on another body?](#)

### [22.3 Social Media](#)

### [22.4 Intimidation](#)

### [22.5 Declaring Interests](#)

### [22.6 Members' code of conduct and public perception](#)

### [22.7 Sensitive information](#)

## **22.1 The Members' Code of Conduct**

The Council adopted a code of conduct for members at the full Council meeting on 23rd May 2012. The code as adopted is annexed to this section of the Constitution (Annex 1). Any complaints made in relation to this code will be considered by the Monitoring Officer in accordance with the Council's Code of Conduct Complaint Handling Arrangements.

## **22.2 Does the code apply when Councillors represent the Council on another body?**

When Councillors are representing the Council on another body, they must follow the code unless it conflicts with a legal duty of the other body.

## **22.3 Social Media**

The Council has agreed a Social Media Protocol to provide guidance to Councillors on the use of social media. The protocol is annexed to this section of the Constitution (Annex 2).

## **22.4 Intimidation**

Councillors must not intimidate or try to intimidate anyone who is likely to:

- complain about the code being broken or
- act as a witness in relation to an investigation of a breach of the Code.
- be involved in dealing with a complaint.

## **22.5 Declaring Interests**

### **(a) What interests must Councillors declare?**

Councillors must declare the interests the members' code of conduct requires them to declare. The code requires councillors to declare disclosable pecuniary interests.

(b) What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to a councillors employment; sponsorship (ie. payment for expenses incurred by the councillor in carrying out their duties as a councillor or towards their election expenses); contracts; land in the Council's area; licences for land in the Council's area; and corporate tenancies; and securities. These declarations must be recorded in each Councillor's Register of Interests which is publicly available on the Council's website. Disclosable pecuniary interests that must be declared are not only those of the councillor her or himself but also those of the councillor's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

(c) When must a member register a disclosable pecuniary interest?

- Within 28 days of taking office as a councillor
- For interests not shown on the register, within 28 days of declaring that interest at a meeting

(d) Declaring an interest

Where any matter disclosed in a councillors' Register of Interest is being considered at a meeting, the councillor must declare that he or she has an interest. The councillor should also disclose the nature as well as the existence of the interest.

If the councillor has a disclosable pecuniary interest, after having declared it at the meeting he or she must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

(e) Dispensation

The Council may grant general dispensations applicable to all Councillors. The standards committee may grant dispensation to speak or vote on a matter at a meeting where a Councillor has a disclosable pecuniary interest. The Monitoring Officer has delegated authority to grant individual dispensations (Part 9.4(g)). But unless dispensation has been granted the provisions of (d) above apply.

Under section 33 of the Localism Act 2011 the following dispensations were granted for four years on 1 October 2018:

- Determining an allowance (including special responsibility allowances), travelling expense, payment or indemnity given to Members
- Housing: where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the particular tenancy or lease of the Member (their spouse or partner);
- Housing Benefit: where the Councillor (or spouse or partner) receives housing benefit;
- Any Ceremonial Honours given to Members;
- Setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation); and

- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation)

### **22.6 Members' code of conduct and public perception**

Even if a councillor does not have a disclosable pecuniary interest in a matter, the members' code of conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that a member "must not place yourself in situations where your honest and integrity may be questioned". What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

### **22.7 Sensitive information**

Information about a Councillor's interests is sensitive if making it public would be likely to create a serious risk of violence or intimidation to the Councillor or someone they live with. Councillors do not have to include information in the register of interests if the Monitoring Officer agrees that it is sensitive. If a Councillor finds out that the information has stopped being sensitive, they must tell the Monitoring Officer within 28 days and ask for it to be included in the register.

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## Annex 1 to Part 22: Members' Code of Conduct

"This code of conduct is adopted pursuant to the council's duty to promote and maintain high standards of conduct by members and co-opted members<sup>1</sup> of the council.

This code applies to you as a member or co-opted member of this council when you act in that role and it is your responsibility to comply with the provisions of this code."

### Selflessness

You must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself.

### Objectivity

In carrying out public business you must make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

### Accountability

You are accountable for your decisions and actions to the public and must submit yourself to whatever scrutiny is appropriate to your office.

### Openness

You must be as open as possible about your actions and those of your council, and must be prepared to give reasons for those actions.

### Honesty and Integrity

You must not place yourself in situations where your honest and integrity may be questioned, must not behave improperly and must on all occasions avoid the appearance of such behaviour.

### Leadership

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.

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<sup>1</sup> A 'co-opted member' for the purpose of this code is, as defined by the Localism Act section 27 (4) "a person who is not a member of the council but who

Is a member of any committee or sub-committee of the council, or  
Is a member of, and represents the council, on any joint committee or joint sub-committee of the council;  
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee"

### General Obligations

You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member of co-opted member of the council and act within the law;

You must not bully <sup>2</sup> any person

You must not do anything that compromises or is likely to compromise the impartiality of those who work for, or on behalf of the council.

You must not disclose information given to you in confidence by anyone, or information acquired by you of which you are aware, or ought reasonably to be aware, is of a confidential nature except where:

- You have the consent of a person authorised to give it;
- You are required by law to do so;

The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person, or

The disclosure is:

- reasonable and in the public interest;
- made in good faith and in compliance with the reasonable requirements of the council

You must not improperly use knowledge gained solely as a results of your role as a member for your own personal advantage.

When making decisions on behalf of or as part of the council you must have regard to any professional advice provided to you by the council's officers.

When using or authorising the use by others of the resources of the council:

- You must act in accordance with the council's reasonable requirements;
- You must make sure that you do not use resources improperly for political purposes and do not use them at all for party political purposes.

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*2 Bullying is defined as offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. It can have a damaging effect on a victim's confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying.*

### Registering and Declaring Interests

You must, within 28 days of taking office as a member or co-opted member, notify the council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

You must disclose the interest at any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'<sup>3</sup>.

Following any disclosure of an interest not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You must withdraw from the room or chamber when the meeting discusses and votes on the matter.

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*3 A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of a council having an interest, and the nature of the interest being such that the member or co-opted member, and the council's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.*

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## Annex 2 to Part 22: Social Media Protocol for Councillors

### 22b.1 Introduction

This protocol is intended to provide general guidance and to promote greater clarity on the use of social media<sup>1</sup> by Oxford City councillors in both their elected and personal roles.

The use of social media poses some risks to the Council's reputation. These risks need to be managed. This protocol aims to ensure that:

- Councillors, and through them the Council, are not exposed to legal risks as a result of social media use
- the reputation of the Councillors, and through them the Council, is not damaged as a result of social media use.

Social media evolves rapidly, with new sites and features launching regularly. As such, this protocol does not go into detail about how to operate different social media applications, nor does it seek to encourage the use of social media.

### 22b.2 Different roles and blurred identities

Using social media often blurs the line between personal and official communications.

Anyone reading social media posts will not necessarily recognise when a councillor is speaking as a private individual or as an elected councillor regardless of whether or not the post comes from a “councillor” profile.

*“since the judgement of whether you are perceived to be acting as a councillor will be taken by someone else, it’s safest to assume that any online activity can be linked to your official role.”<sup>2</sup>*

Similarly anyone reading social media posts will also not necessarily recognise whether the post is from an individual councillor or as a spokesperson on behalf of the Council. It is recommended that councillors add a statement along the following lines to their social media profile:

*“The views I express here are mine and do not necessarily reflect the views of the council.”*

### 22b.3 Social media protocol and the Code of Conduct

When using social media in an official capacity, councillors should be aware that they will be bound by the Code of Conduct. In particular, this includes (but is not limited to) the following principles:

- Treating others with respect

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<sup>1</sup> Social media means websites and applications that enable users to create and share their own content directly or to participate in social networking

<sup>2</sup> Local Government Group - Connected Councillors: A guide to using social media to support local leadership. P24

- Complying with equality laws
- Not bullying or intimidating
- Not bringing the council into disrepute
- Not disclosing confidential information

Councillors serving on regulatory committees such as planning or licensing should also be mindful of the rules relating to bias and pre-determination and should be careful not to post anything on a social media site that might suggest that they did not have an open mind about any matter they may be involved in determining. Any views aired on social media could be used as evidence of making a decision in advance of hearing all relevant information. The Council's decision could then be open to challenge and could be invalidated.

### 22b.4 Responsibilities

The consequences of misusing social media can include negative publicity, regulatory attention and confidentiality and copyright concerns.

Councillors are personally responsible for the content they post on any form of social media and will need to be aware of the laws that apply to published (posted) material. This includes (but is not limited to):

- **Data protection:** do not post personal data of other people, including photographs, without their express permission to do so;
- **Defamation:** is a spoken or written expression which is deemed to harm the reputation of an individual and proved to be false;
- **Copyright:** do not post information without permission;
- **Harassment:** it is an offence to pursue a campaign repeatedly against a person that is likely to cause alarm, harassment or distress;
- **Incitement:** it is an offence to incite any criminal act;
- **Discrimination and 'protected characteristics':** it is an offence to discriminate against anyone based on protected characteristics (as defined in the Equality Act 2010);
- **Malicious and obscene communications:** it is an offence to post malicious or obscene communications.
- **Reporting restrictions and contempt of court:** there might be a legal reporting restriction on a court case. There are also rules about what any member of the public can publish which might be in contempt of court. Once somebody has been arrested or civil proceedings have started, they are protected by law from the publication of information which might mean that their trial cannot take place fairly.

Councillors should contact the Council's communications team before responding to any contact from journalists about social media posts made in an official capacity.

Councillors should not use social media on council computer equipment or digital devices to make political statements or to canvass votes; particular care should be taken during the pre-election period.

Councillors should be familiar with the following documents:

- Oxford City Council data protection policy and the statement on the Council website.
- ICT Acceptable Use Policy (see Constitution chapter 27)
- Code on Councillor – Officer relations (see Constitution chapter 23)
- Safeguarding Children, Young People and Adults with Care and Support Needs Policy & Procedures

### 22b.5 Using social media at Council meetings

Councillors should use social media sparingly, discreetly and with common sense at meetings, considering the impression this presents to others. Councillors should be mindful that regulatory committees such as planning or licensing require the councillor to alert officers to any lobbying material they have received. This would be difficult if it arrives via social media and is read by the councillor during the course of a meeting.

It is important for councillors to show that sufficient attention is being given to the discussion at the meeting. If councillors are perceived to have made a decision without having properly listened to the debate it could lead to the relevant decision coming under challenge. It could also result in code of conduct complaints of a failure to treat others with respect or of bringing the Council into disrepute.

### 22b.6 Best practice

#### **Set the tone**

Set the tone for online conversations by being polite, accurate and transparent. Encourage constructive criticism and deliberation.

#### **Be responsive**

Remember it's a conversation. People expect to interact and to receive responses to their questions.

#### **Allow disagreement**

Treat differences of opinion with respect, engage in the discussion and be wary about deleting opposing views. Be mindful of "trolling" <sup>3</sup> and avoid being drawn in to unnecessary or unproductive arguments.

#### **Deal with inappropriate comments**

Take prompt action to remove any inappropriate or offensive comments and explain the reason that this was done.

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*3 Trolling as it relates to the internet, is the deliberate act of making random unsolicited and/or controversial comments on various internet forums with the intent of provoking readers into displaying emotional responses whether amusement or a specific gain*

### **Safeguarding**

Councillors have a responsibility to report any concerns about other site users.

### **Admit mistakes**

Acknowledge and correct any mistakes. Do not just delete them. Do not alter previous posts without indicating that there has been a change.

### **Pause before publishing**

A hastily posted blog post or tweet will probably have already been read or duplicated in places on the web before it can be deleted or amended.

### **Think about following / friending**

Some constituents may be uncomfortable if a councillor begins following them or sends them a friend request. Consider waiting to be followed or friended first. Online relationships with council employees need to be treated with caution. Whilst some online relationships may be valid both parties need to be sure not to compromise the impartial and professional relationship that is important between councillors and colleagues.

## **22b.7 Protection and security**

Sharing background information, such as information about family or personal interests, may be useful in helping establish a relationship with social media audiences but revealing certain details might increase the risk of identity theft.

Make use of stringent privacy settings to prevent your personal social media posts being accessed by the press or public. Read the terms of service of any social media site accessed to understand their confidentiality/privacy settings.

## **22b.8 Further information**

- contact the Communications team for advice of a non-political nature on best practice for social media
- contact the Monitoring Officer for advice on the Code of Conduct
- contact the Committee & Member Services team for information about courses, conferences and member training relating to social media

## **22b.9 Useful websites include:**

### **LGIU**

- How social media can help your work as a councillor
- Social media dos and don'ts
- Ten basic principles of social media

### **Welsh Local Government Association**

- Councillors Guide to handling on line abuse



## **23. Code on councillor-officer relations**

- 23.1 Status of this code
- 23.2 Roles of councillors and officers
- 23.3 Expectations
- 23.4 Limitations on behaviour
- 23.5 Complaints about councillors or officers
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- 23.11 Support services to councillors and political groups
- 23.12 Correspondence
- 23.13 Media releases and publicity
- 23.14 The Council as an employer
- 23.15 Gifts and Hospitality
- 23.16 Responsibility for this code

### **23.1 Status of this code**

This code seeks to offer guidance on some of the issues, which most commonly arise in relation to the relationships between councillors and officers.

This code is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it will cover expectations of behaviour as between councillors and officers.

This code gives guidance only but it may be taken into account if there is a complaint about a councillor or an officer. Councillors are obliged to observe the Members' Code of Conduct (Part 22). Any complaints received in relation to alleged breaches of the Members' Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with a code of conduct. Any complaints received about an officer's behaviour or conduct will be considered by the relevant managers.

### **23.2 Roles of councillors and officers**

Officers and councillors both serve the public but they have different roles.

Officers are employees of the Council and are politically neutral. Their role is to advise councillors and implement the policies of the Council to the best of their abilities. Councillors are elected office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives.

Employees are answerable to the Chief Executive, not to individual councillors (whatever office they hold), but there should be good communication between senior officers and councillors with special responsibility for their area of work.

### 23.3 Expectations

What councillors can expect from officers:

- A commitment to the authority as a whole, not to any political group
- A working partnership
- An understanding of and support for respective roles, workloads and pressures
- Timely responses to enquiries and complaints in accordance with agreed standards ([23.67](#))
- Professional advice, not influenced by political views or preference
- Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- Awareness and sensitivity to the political environment
- Respect and courtesy
- Training and development in order to carry out their roles effectively
- Not to have personal issues raised with them by officers outside the agreed procedures
- Officers should not try to persuade individual councillors to make a decision in their personal favour or raise things to do with their employment with individual councillors. Nor should they approach individual councillors with allegations about other officers. They should use the Council's grievance, whistle blowing and disciplinary procedures instead
- Compliance with the relevant code of conduct for officers

What officers can expect from councillors:

- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Political direction and leadership;
- Respect and courtesy;
- Councillors should generally restrict their discussion on strategic or significant issues to more senior officers (that is directors, heads of service or team leaders);
- Councillors should normally make appointments before visiting officers and should try to avoid frequent unscheduled interruptions;

- Councillors should not pressure officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of officers in determining what are reasonable requests? Councillors with special responsibilities should be particularly aware of this;
- Councillors should not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- Councillors should not make detrimental remarks about individual officers during public meetings;
- Councillors should at all times comply with the Members' Code of Conduct.

### **23.4 Limitations on behaviour**

The distinct roles of councillors and officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

Close personal relationships between individual councillors and officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular councillor or officer may secure advantageous treatment. Personal relationships should be avoided. Where they do exist they should be notified to the Chief Executive.

The need to maintain the separate roles means that there are limits to the matters on which councillors may seek the advice of officers, both in relation to personal matters and party political issues;

Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that councillor or group above others.

### **23.5 Complaints about councillors or officers**

If an officer feels a councillor is not treating them with politeness and respect, they should consider talking to the councillor directly. If they do not feel they can talk to the councillor or talking to the councillor does not help, they should talk to their line manager, Head of Service or Director immediately. The manager approached will talk to the councillor or the Leader of their political group and may also tell other senior officers. The officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct.

If a councillor feels an officer is not treating them with politeness and respect, they should consider talking to the officer directly. If they do not feel they can talk to the officer or talking to the officer does not help, they should talk to the officer's line manager, Head of Service or Director immediately. If the problem continues the manager approached will consider whether to use the Council's disciplinary procedures.

### 23.6 Politeness and respect

Councillors and officers should show each other politeness and respect. Councillors have the right to challenge officers' reports or actions, but they should:

- avoid personal and/or public attacks; and
- ensure their criticism is fair and constructive.

Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

### 23.7 Councillors' enquiries

Officers should answer councillors' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply.

Councillors should contact a more senior officer in the event that a response is not received within this time. The Chief Executive may be asked to resolve any issues arising from unreasonable delays in responding to councillors' enquiries.

### 23.8 Information and advice

#### (a) Requests for written information

Councillors should be provided with adequate information about services or functions which they may be called upon to make decisions on or scrutinise the decisions of others about, or which affect their constituents. In the normal course of events, this information will be made routinely available by officers in the form of reports, departmental plans etc. Members are encouraged to make use of existing sources of information wherever possible.

Written information supplied to a councillor regarding the implications of current Council policies or containing statistical information about Council services shall be copied to the relevant Cabinet member.

The Leader of the Council or leader of any political group may request the Chief Executive or the relevant director, or other designated officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information in relation for instance to casework or personal details of applicants for services. Wherever possible, but subject to any overriding data protection or other legal requirements, such requests will be met. However if the officer considers that the cost of providing the information, or the nature of the request is unreasonable, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups.

Officer reports to political groups should be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter or any option and officers should not make any recommendation to a political group.

(b) “Briefings”

In order for them to discharge their responsibilities Cabinet members will be briefed by senior officers (directors, heads of service or team leaders) on service issues, proposals and policy development either on an ad hoc or a regular basis, in accordance with the requirements of the councillor involved.

Other political groups may also have nominated portfolio leads and, if those leads so request, the relevant senior officers will make themselves available to meet with them to brief them on service issues.

The content of these informal briefing sessions shall remain confidential as between officers and the political group concerned.

(c) “News” items

When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.

(d) Ward councillors

Senior officers should ensure that ward councillors are given information relevant to their ward on a regular basis. As well as letting ward councillors know when there has been a significant incident in their ward, ward councillors should be routinely notified about the following types of issue:

- Public consultation events affecting their wards
- Proposed changes to services sited within their wards
- Proposed anti-social dispersal orders

Ward councillors should be invited by officers to public events, such as openings, festivals etc., in their wards regardless of political affiliation.

The Communications Team will advise group leaders of any ‘photo shoot’ that it has organised in connection with a significant event. The team will aim to give 48 hours’ notice of any photo shoot it has organised to the group leaders.

If officers organise a public meeting, about a specific ward issue all the councillors for that ward should be invited and given as much notice as possible.

If officers undertake consultation about specific ward issues they should consult the councillors for that ward at the start of the consultation.

Ward councillors should be told in advance about anything which particularly affects their ward and which is potentially controversial.

(e) Officer attendance at political group meetings

The Leader of the Council or leader of any political group may ask the Chief Executive or relevant director to give or arrange a private briefing for the party group on a matter of relevance to the Council.

Any briefings offered to or requested by a party group will be offered to the other party groups.

No officer of the Council should attend any political group meeting which includes non-Council members.

Decisions taken by political groups are not Council or Executive decisions and political groups do not have any delegated authority to make formally binding decisions. Officers should not take instructions from political groups.

(f) Advice for councillors with special responsibilities

The Lord Mayor, Cabinet members and committee chairs can ask the Chief Executive, directors and heads of service for extra background information and advice on different courses of action.

Although these councillors have additional responsibilities and different relationships because of their more frequent contact with officers, these councillors must still respect the impartiality of officers. This includes not asking them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.

The leaders of minority political groups can ask the Chief Executive or directors or heads of service for background information or more details about items coming to the next meeting of a committee or the Cabinet. The appropriate chair or Cabinet member will be entitled to receive the same information.

Political group leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

### **23.9 Councillors' briefings on agendas and reports**

(a) Briefings on agendas

Directors and heads of service will give briefings on Council, Cabinet and committee agendas to the Leader and Deputy Leader and committee chairs and vice chairs.

(b) Consultation on agendas

The Leader will be consulted on agendas for the Cabinet. Committee chairs will be consulted on agendas for their committees.

(c) Requests for reports

Instructions for reports to come to the Cabinet or committees can only come from the Leader, the Cabinet, a Cabinet member in respect of the Cabinet and a committee or a committee chair in respect of committees.

Whilst Cabinet members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, senior officers will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between

a Cabinet member and a senior officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

### **23.10 Restrictions on officers' political activities**

Most senior officers and some other officers are politically restricted. These officers cannot be councillors or MPs and cannot say, publish or do anything in their private capacity that seems intended to affect public support for a political party or candidate.

The Head of Business Improvement keeps a list of politically restricted posts. Any council officer in their official capacity must not publish things that seem intended to affect support for a political group on the Council.

No one can be both an officer and a councillor on the same Council.

### **23.11 Support services to councillors and political groups**

Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

### **23.12 Correspondence**

#### **(a) Between councillors and officers**

If emails or letters between officers and councillors are copied to someone else, they should say so. Blind copies should not be sent.

Councillors should not forward information received from an officer to a constituent or member of the public if that information is expressed to be confidential.

#### **(b) Letters on behalf of the Council**

Letters on behalf of the Council will normally be sent by officers rather than councillors. The Leader and committee chairs may write some letters on behalf of the Council, for example representations to government ministers.

These should be copied to the Cabinet or the appropriate committee. Councillors must never send letters that create obligations or give instructions on behalf of the Council.

### **23.13 Media releases and publicity**

Local authorities are accountable to the population they serve. Accountability requires local understanding. This will be promoted by the Council publicly explaining its objectives and policies. In recent years all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides, however, publicity is a sensitive matter in any political environment because of the impact it can have.

Oxford City Council is a local authority in a high profile city and it attracts a lot of media attention. All of the Council's media contact will be professionally managed



to meet the communication needs of the Council and of the media by the Council's Communications Team. The purpose of the team is to advise and support councillors and officers and to maintain and improve the Council's corporate reputation by leading the development, implementation and delivery of an effective media relations service for the Council.

The media is a channel for communicating with Oxford City Council's many varied stakeholders and has a strong influence over how people view the Council and its services. It is therefore crucial that media communications are managed effectively and with due regard for the legal restrictions that the whole Council, led by the media office, must work under and be clear about.

Underpinning all aspects of this protocol is the general principle, enshrined in legislation that the Council will not publish material which in whole or in part appears to be designed to affect public support for a political party.

### (a) The Legal Position

Publicity issued by a local authority is subject to a number of constraints imposed by Section 75 of the Representation of the People Act 1983, section 2 of the Local Government Act 1986 (as amended) and the Code of Recommended Practice on Local Authority Publicity issued in 2011 under section 4 of that Act.

Section 75 of the Representation of the People Act 1983 makes it a criminal offence for the Council to incur any expense with a view to promoting the election of a candidate on account of:

- circulars, publications and advertisements;
- otherwise presenting the candidate or his views;
- disparaging another candidate.

The overarching principle contained in section 2 of the Local Government Act 1986 is that no publicity must be issued by a local authority which "appears to be designed to affect support for a particular political party". As well as refraining from issuing such material itself, a local authority must not give anyone else financial assistance to publish such material.

In seeking to adhere to this principle, account will be taken of the content and style of the material, the time when it is issued and whether or not it refers to a particular party or person identified with it, or whether it promotes or opposes a point of view that is politically controversial.

The Communications Team will advise all councillors on media relations but it cannot support councillors on media relations in respect of views which do not reflect council policies or which affect public support for a political party or the promotion of individual councillors.

### (b) Media enquiries

Officers must refer all media enquiries to the Communications Team and must co-operate promptly with requests for information from the team.

### (c) When to issue media releases



The Communications Team will be guided by the Leader, Cabinet member or committee chair on whether to issue a media release before or after a meeting. The Communications Team will advise these councillors on when a media release would be appropriate, taking into account any recommendations made by directors or heads of service. If there is a disagreement about what a media release should say, the Chief Executive will decide.

### (d) Content of media releases

Quotes on behalf of the Council for media purposes would normally come from Cabinet members or the Leader of the Council. The content of such quotes or press releases will be cleared in advance with the councillors concerned. The Leader, Cabinet members, committee chairs, the Lord Mayor, the Deputy Lord Mayor or the Sheriff will normally speak on behalf of the Council for their area of responsibility. Ward councillors may be quoted on matters that they have significantly influenced. Any quotes from officers must be either factual or consistent with Council policy.

When a media release is issued after a meeting, it must be about things discussed at the meeting. Media releases issued before a meeting should contain factual information only.

The principle of executive decision-making and accountability will be strongly reflected in the Council's media liaison arrangements. In particular:

- Media statements on executive decisions will be made by the appropriate Cabinet member (or their substitute), the Leader of the Council or issued on behalf of the entire Cabinet
- Interviews on executive decisions will only be given by the appropriate Cabinet member, their substitute or the Leader
- The Executive will be given relevant support and advice to enable them to play a proactive role in presenting issues to the media, explain their work and manage controversial issues covered by the media
- Where the Communications Team is asked to draft press releases or letters on behalf of the Executive, such releases/letters will be of a factual nature

Although officers will not be allowed to comment to the media on Executive decisions they may continue to speak to the media within the following parameters:

- Where they have been specifically asked to speak to the media by the Leader, Cabinet, relevant Cabinet member or chair of Scrutiny Committee or relevant scrutiny panel
- On matters of clarification with reference to officer reports submitted for consideration to Executive, Scrutiny, Council or to regulatory committees
- To explain the operational detail of decisions and policies they are implementing

- On issues pertaining to the exercise of professional judgement

The work of regulatory bodies and committees (such as planning or licensing) will be publicised in consultation with relevant chairs and lead officers.

(e) Notification of media releases

All councillors will receive notification of all press releases made on behalf of the Council by the Communications Team. Media releases which are embargoed will be sent to all councillors at the time that the embargo is lifted.

(f) Publicity in the run-up to elections

The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual councillors or groups of councillors. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Councillors holding key political positions should be able to comment in an emergency or where there is a genuine need for a councillor level response to an important event outside the authority's control. Proactive events arranged in this period should not involve councillors likely to be standing for election.

(g) Invitations to media events which are of key significance to the City of Oxford or the Council

Representatives of each political group will be invited to all media events involving councillors which are of key significance to the City of Oxford or the Council. The Communications Team will liaise with the Leader, Cabinet member or committee chair when setting up such media events involving councillors. This will not apply to marketing or campaign work.

(h) Media releases by political groups and individual councillors

When individual councillors or spokespeople for political groups issue media releases, they must make it clear that they are not issuing them on behalf of the Council. Whilst it is legitimate for the Council to publicise local issues, the Council will not involve itself in any publicity which 'personalises' such issues and thereby appears to be designed to affect public support for a political party.

Publicity about individual councillors may include the contact details, the position they hold in the Council (for example, Cabinet member or Chair of Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

Publicity should not be, or liable to misrepresentation as being, 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 her/his justification in defence of them, this should not be done in party political terms, using political slogans or directly attacking policies and opinions of other parties, groups or individuals.

### (i) Scrutiny

The work of the Scrutiny Committee is an important and integral part of the political arrangements of the Council for the purposes of media liaison. In particular:

- Media statements and interviews on scrutiny matters will be made by the convenor of the relevant scrutiny panel or their substitute in consultation with the Chair of the Scrutiny Committee or, if appropriate, by the Chair of the Scrutiny Committee.
- Members of scrutiny panels and the Chair of the Scrutiny Committee will be offered relevant support and advice to enable them to play a proactive role in presenting issues to the media and explain their work.
- Where a minority report is released by a member or members of a scrutiny panel, media statements will be made in consultation with the Chair of the Scrutiny Committee and will be the responsibility of those issuing the report.
- Where the Communications Team is asked to draft press releases/letters on behalf of scrutiny, such releases/letters will be of a factual nature and will contain nothing that could be construed as politically motivated or biased.
- All official scrutiny press releases will be issued by the Communications Team in the standard format.

## 23.14 The Council as an employer

### (a) Fairness in employment

Councillors should not take part in a recruitment process where any of the candidates are friends, relatives, partners or other people they live with. Nor should they have any role in disciplinary action or grievances involving these people.

Councillors should not try to influence appointments (except as members of the Appointments Committee or when appointing a political assistant). Nor should they help any particular candidate by giving them information that the other candidates could not get.

Councillors should not discriminate unfairly against officers and should judge candidates for employment or other rewards on merit.

Councillors should not take part in a recruitment process without having undertaken appropriate training.

Councillors may choose to write personal references for members of staff if requested, but are under no obligation to do so, and should be clear that this is not the employer's reference.

(b) Grievances and disciplinary procedures

Councillors should not try to influence the handling of any grievance. Councillors can report their concerns about an officer's performance or behaviour to a line manager. But they should not try to influence any disciplinary procedure (except as members of the Disciplinary Committee for the Chief Executive, Assistant Chief Executives, Executive Directors and Heads of Service).

Councillors serving on the Disciplinary Committee for the Chief Executive, Assistant Chief Executive, Executive Directors and Heads of Service must base their decisions on the facts and in accordance with the Council's employment obligations. They should not be influenced by party political or personal factors.

Councillors should not take part in any disciplinary process without having undertaken appropriate training.

(c) Accountability and confidentiality

Councillors are accountable for the decisions they make as employers but they should keep individual employment matters confidential.

### 23.15 Gifts and Hospitality

- (a) The arrangements for gifts and hospitality are set out in Appendix 1 of the Employee Code of Conduct. The Code forms part of each employees' contract of employment. If officers are offered a gift or hospitality (called 'gift' from here on) they must notify their Head of Service using iTrent. Officers must seek approval from their Head of Service if they feel the need to accept the gift or endorsement from their Head of Service if they decline the gift. Approval or endorsement must be sought in this way using iTrent.
- (b) There is a voluntary gifts and hospitality disclosure scheme for members for gifts with a minimum value of at least £50. Any councillor who wishes to disclose the offer of a gift should notify the Committee and Member Services Manager.

### 23.16 Responsibility for this code

The Monitoring Officer has overall responsibility for this code and will periodically review how the code is working.

## **24. Planning Code of Practice**

- 24.1 What does this code apply to?
- 24.2 Training for Councillors
- 24.3 Preparation of planning policy documents – public meetings
- 24.4 Councillors' interests in planning applications
- 24.5 Gifts and Hospitality
- 24.6 Need for councillors to make up their minds at committee
- 24.7 When councillors go public
- 24.8 Lobbying
- 24.9 Whipping
- 24.10 Planning applications by Councillors and officers
- 24.11 Planning applications by the Council
- 24.12 Discussions before an application is decided
- 24.13 Public meetings
- 24.14 Members' informal briefings
- 24.15 Site visits
- 24.16 Officers' reports to committee
- 24.17 Committee members speaking in the public speaking slot
- 24.18 Members of the public passing messages to committee members during the meeting
- 24.19 Determining an application
- 24.20 Planning conditions added at the meeting
- 24.21 Decisions that depart from the development plan or officers' recommendations
- 24.22 Complaints and record keeping
- 24.23 Responsibility for this code
- 24.24 Procedure for dealing with planning applications at Oxford City Planning Committee and Planning Review Committee

### **24.1 What does this code apply to?**

This code applies to all planning decisions, whether they are taken by officers, ~~area~~ the planning committees or the planning review committee. It also applies to the preparation of the Local Plan and other planning policy documents.

### **24.2 Training for Councillors**

Councillors are required to attend training and updating sessions on planning issues every two years (election years) and will be told about any changes to the law or the Council's procedures.

### **24.3 Preparation of planning policy documents – public meetings**

At public meetings councillors should be careful to be neutral and to listen to all points of view. They should take care to express themselves with respect to all present including officers. They should never say anything that could be taken to mean they have already made up their mind before an application is determined.

### **24.4 Councillors' interests in planning applications**

#### **(a) Registering and declaring interests**

The members' Code of Conduct requires councillors to register interests. (Part 22.4)

#### **(b) Declaring interests**

Part 22.4(d) states what councillors must do if they have an interest in an item.

All matter of interests must be viewed within the context of the members' Code of Conduct as a whole and regard given to the perception of the public. If members have concerns about a potential interest, they should seek advice from the Monitoring Officer.

#### **(c) Avoiding perception of bias**

Councillors must listen to the advice of the Monitoring Officer if they may be perceived as having made up their minds in advance or having closed their minds to opposing viewpoints.

If a member is a Cabinet member or represents the Council on an outside body and the Council or the outside body is the applicant then particular care should be taken by the member to avoid the perception of bias.

### **24.5 Gifts and Hospitality**

Councillors and officers should avoid receiving gifts or hospitality from anyone involved with a planning application. If gifts or hospitality are unavoidable, they should be kept to the minimum.

Officers should declare offers of gifts or hospitality in the Council's hospitality register as soon as possible, whether they accept them or not. The record of gifts and hospitality will be reviewed annually by the Monitoring Officer.

### **24.6 Need for councillors to make up their minds at committee**

When a planning application comes to committee, councillors must weigh up all the relevant facts and make their decision at the meeting. They must not have already decided how to vote.

This means that councillors need to be careful about anything they say before the committee meeting. Although they can start to form a view, they should never say anything that could give the impression they have already made up their minds. Councillors should not sign letters or petitions that support or oppose an application.

### 24.7 When councillors go public

If a councillor has publicly supported a particular outcome, it will be very difficult for them to appear to make up their mind at committee and they should not participate in the debate or vote. If a councillor believes they have pre-determined an application, they should make this clear at the beginning of the meeting and leave the committee table for that item. In such a situation the councillor may address the meeting as a ward member in the public speaking slot (Part 24.17).

This is not the same as the need to declare a disclosable pecuniary interest. That is a separate requirement of the members' Code of Conduct (Part 22.4 ).

### 24.8 Lobbying

#### (a) Lobbying by councillors

Councillors should not lobby each other on planning applications. Nor should they put pressure on officers to make a particular recommendation or do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.

#### (b) Lobbying of councillors

When they are lobbied, councillors should be careful not to say anything that could give the impression they have already made up their mind. They should stick to advising on procedures and suggesting that the person writes to the Head of Planning Services with their views in order that the comments may be reflected in the officer's report.

If councillors do express an opinion to objectors or supporters, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material planning consideration at committee.

### 24.9 Whipping

Political groups must not whip planning decisions. Councillors must use their individual judgement when deciding how to vote.

### 24.10 Planning applications by Councillors and officers

#### (a) Officers not to act as agents

Officers must not act as agents for planning applications to the Council.

#### (b) Council's handling of applications

If a councillor or an officer or any relation of theirs puts in a planning application to the Council, they must declare their relationship on the application form and not be involved in deciding it or try to influence it improperly. The same goes for applications where a councillor is the agent.

If a councillor is the applicant or the agent, they are likely to have a disclosable pecuniary interest under the members' Code of Conduct and should take no part in the determination of the application.



The Head of Planning Services will tell the Monitoring Officer about any applications by Councillors or officers and any applications where a Councillor is the agent. These applications will always be decided by the area planning committee, or if called in, the planning review committee, not by the Head of Planning and Sustainable Development. The committee report should be able to say that the Monitoring Officer confirms the application has not had any special treatment.

### **24.11 Planning applications by the Council**

Applications by the Council will not get special treatment. They will be subject to the same rules as other applications. The Council will decide them on planning grounds and will not take in to account how it could gain from giving or refusing permission.

The only exception to this is applications for prior approval under identified permitted development rights (see 5.3(b)) which have a 42 day deadline for the local planning authority to oppose. If incorporating a prior approval application to the committee structure takes longer than 42 days for the application to be determined, then this will result in the development being allowed to proceed by default regardless of what the committee decides. In those circumstances the Head of Planning Services will determine the application.

### **24.12 Discussions before an application is decided**

The following applies to discussions with an applicant before an application is put in or before it is decided. These include discussions over the phone, as well as meetings:

- It should be made clear at the start that the discussion will not bind the Council.
- Anyone taking part in the discussion should make it clear whether they are likely to be the decision taker.
- Advice should be unbiased and consistent. It should be based on the local development framework and relevant facts.
- A note should be made of any meeting, which will be included on the application file.
- If the applicant so requests a follow-up letter should be sent, confirming what has been discussed.
- At least two officers should attend any meetings that are likely to be contentious.
- If councillors have a meeting, they should take a planning officer with them. Meetings involving councillors or officers should be recorded on the application file.
- Councillors should not approach applicants to try to achieve planning gain or get a planning application changed.
- Councillors should never say anything that would give the impression that they have already made up their minds in relation the matter.



### 24.13 Public meetings

At public meetings councillors should be careful to be neutral and to listen to all points of view. They should never say anything that could be taken to mean they have already made up their mind.

### 24.14 Members' informal briefings

For complex and/or major applications or pre-application enquiries about forthcoming applications, where there are difficult or technical issues such as viability to consider, it may be appropriate to hold informal briefings for members before an application is submitted to the Council or before an application comes before a committee for formal consideration and determination.

The Head of Planning Services will decide whether an informal briefing is considered to be necessary in any case.

Such a practice is acceptable provided the following guidelines are adhered to:

- Members should understand that an informal briefing is not the committee meeting and therefore no decisions will be taken at the briefing.
- The informal briefing is essentially a fact finding exercise to allow members to understand more about the proposal before an application is submitted to the Council or before formal consideration of the scheme at committee.
- Members can ask questions about the scope of the proposal and about any issues they do not understand but it is not a forum for debate or for stating opinions about the development and certainly not for members to declare how they will vote at the formal meeting.
- Whilst Members can begin to form views about the scheme and certain aspects of it, it is important at this stage for members not to form firm views or to decide how they will vote at the committee meeting. If they do so, they will not be able to take part in the committee consideration and determination of the application as they will be deemed to have pre-determined the application and will have closed their minds.
- The meeting is not a public meeting and therefore members of the public, the press and, in the case of informal briefings which are considering specific applications as opposed to pre-application enquiries, the applicant will not be present. It will also only be appropriate for Members who are likely to sit on the determining committee, their substitutes and ward members to be present.
- If an informal briefing is being held about a pre-application enquiry, the Head of Planning Services will decide whether it would be appropriate to invite the applicant to the first part of the briefing in order to present the proposals to members. After the presentation, a question and answer session can take place so that members can seek clarification of any issues arising. The applicant will then leave the briefing to enable further questioning of officers to take place to aid clarification or to seek further information.

- A record will be kept of the fact that the meeting took place and who attended the meeting but formal minutes or notes of the meeting will not be made or published as this is not a formal committee meeting and no decisions will have been taken.
- Although attendance by members will be encouraged, non-attendance at informal briefings will not prevent their subsequent participation in deciding an application when it comes before a committee.

### 24.15 Site visits

A site visit by a planning committee is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers
- or
- issues relevant to the determination of the application can only be properly understood by seeing the site.

In considering a planning application the planning officers will decide whether a site visit by members is necessary, based on the above criteria, and if so will arrange the site visit. An individual member of the relevant planning committee can make a request for a site visit but it is the officers who will make the decision. If members of the relevant planning committee ask for a site visit at a committee meeting then the committee will decide.

When a site visit is requested by a member of the relevant planning committee justification for visiting the site should be judged on the criteria above.

The reasons why the site visit is requested will be recorded and kept on the file.

Site visits will only be attended by members of the relevant committee and supporting officers. Other people such as applicants, owners or members of the public will not be invited to attend site visits. Applicants or owners will only be present if they are required to give access to a site. Applicants or owners present must not be directly engaged by councillors and all councillor questions must be addressed to the accompanying officer.

Councillors should not seek or accept representations, either as a committee or as individual members, during the visit. Councillors should not comment on the application and will not take any decisions during a site visit but may ask questions of the officer or seek clarification, particularly about the layout of the site or the development and its surroundings, but not in relation to the merits of the application.

Beyond attendance, no formal notes will be recorded of a site visit. Members of the area planning committee or the planning review committee who do not attend a site visit are not precluded from taking part in the determination of the planning application to which it relates. A site visit is not a meeting of the committee and no decision may be made upon the application at a site visit.

If a member does make a site visit on their own then they should only do so from publicly accessible land.

### **24.16 Officers' reports to committee**

Reports should cover all the relevant points, including:

- material considerations
- relevant parts of the development plan
- the relevant planning history of the site.
- Reports should have a recommendation and a technical/professional assessment that clearly justifies it.

If the recommendation is contrary to the development plan clear reasons must be given identifying the material considerations justifying that development plan departure.

Oral reports should be rare and carefully minuted.

### **24.17 Committee members speaking in the public speaking slot**

Committee members can choose to speak during the public speaking slot but they must notify the chair of their intentions before the meeting begins. They cannot participate in determining the application. Once the matter has been concluded, the member can re-join the committee.

### **24.18 Members of the public passing messages to committee members during the meeting**

Messages should never be passed to individual committee members once the meeting has started. If there is a brief adjournment during the meeting, Councillors should not communicate with members of the public during this time as this gives the impression that they might be being influenced.

### **24.19 Determining an application**

Committee members can only determine an application if they have been present throughout the whole presentation and debate. Members that arrive late or leave the room during the deliberation of an application can sit at the committee table but cannot participate in the debate or vote on the application.

When an application is considered over two meetings, only members that attend both meetings can vote on the application.

### **24.20 Planning conditions added at the meeting**

When councillors suggest planning conditions that were not in the report, their wording should be settled and drafted prior to the relevant decision being made, conditions are an integral part of a grant of permission and should be imposed only where lawful and compliant with national policy. Members should receive advice from officers on whether the conditions suggested are compliant with government policy.

#### **24.21 Decisions that depart from the development plan or officers' recommendations**

If the officers recommend making a decision contrary to the development plan, they should give full reasons in the report.

If a committee is considering voting against the officers' recommendations, officers should be asked to explain any effect it might have.

If a committee goes against the officers' recommendation, it must be for planning reasons and these must be clear and convincing. The personal circumstances of the applicant are rarely enough. The reason must be established prior to the motion being voted on. A detailed minute of the reasons should be made and placed on the application file.

The wording of planning conditions to be imposed or the wording of reasons for refusal should be settled before the vote is taken.

#### **24.22 Complaints and record keeping**

The Council has a complaints procedure, which is on the website.

To make complaints easy to investigate, records need to be complete and accurate. Every planning file should contain an account of events from beginning to end. It is important to record reasons for decisions, especially when they are taken by officers and there is no committee report.

The Head of Planning Services will monitor the quality of the Council's planning records.

#### **24.23 Responsibility for this code**

The Head of Planning Services and the Monitoring Officer have overall responsibility for this code. They will review how the code is working.

## **Annex 1 to Part 24:**

### **Procedure for dealing with planning applications at Oxford City Planning Committee ~~Area Planning Committees~~ and Planning Review Committee**

Planning controls the development and use of land in the public interest. Applications must be determined in accordance with the Council's adopted policies, unless material planning considerations indicate otherwise. The Committee must be conducted in an orderly, fair and impartial manner. Advice on bias, predetermination and declarations of interests is available from the Monitoring Officer.

#### **The following minimum standards of practice will be followed:**

1. All members of the Committee will have pre-read the officers' report. Committee members are also encouraged to view any supporting material and to visit the site if they feel that would be helpful. (In accordance with the guidance at 24.15 of the Planning Code of Practice).
2. At the meeting the Chair may draw attention to this procedure. The Chair will also explain who is entitled to vote.
3. The sequence for each application discussed at Committee shall be as follows:
  - (a) the planning officer will introduce it with a short presentation;
  - (b) any objectors may speak for up to 5 minutes in total;
  - (c) any supporters may speak for up to 5 minutes in total;
  - (d) speaking times may be extended by the Chair, provided that equal time is given to both sides. Any non-voting City Councillors and/or Parish and County Councillors who may wish to speak for or against the application will have to do so as part of the two 5-minute slots mentioned above;
  - (e) voting members of the Committee may raise questions (which shall be directed via the Chair to the lead officer presenting the application, who may pass them to other relevant officers and/or other speakers); and
  - (f) voting members will debate and determine the application.
4. In determining an application Committee members should not:
  - (a) rely on considerations which are not material planning considerations in law;
  - (b) question the personal integrity or professionalism of officers in public;
  - (c) proceed to a vote if minded to determine an application against officer's recommendation until the reasons for overturning the officer's recommendation have been formulated including the reasons for refusal or the wording of any planning conditions; or
  - (d) seek to re-design, or negotiate amendments to, an application. The Committee must determine applications as they stand and may impose appropriate conditions.

### **5. Public requests to speak**

Members of the public wishing to speak must notify the Committee and Member Services Officer by noon on the working day before the meeting, giving their name, the application/agenda item they wish to speak on and whether they are objecting to or supporting the application. Notifications can be made via e-mail or telephone, to the Committee and Member Services Officer (whose details are on the front of the Committee agenda).

### **6. Written statements from the public**

Any written statement that members of the public or Councillors wish to be considered should be sent to the planning officer by noon two working days before the day of the meeting. The planning officer will report these at the meeting. Material received from the public at the meeting will not be accepted or circulated, as Councillors are unable to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material consideration arising. Any such material will not be displayed or shown at the meeting.

### **7. Exhibiting model and displays at the meeting**

Applicants or members of the public can exhibit models or displays at the meeting as long as they notify the Committee and Member Services Officer of their intention by noon, two working days before the start of the meeting so that members can be notified.

### **8. Recording meetings**

Members of the public and press can record the proceedings of any public meeting of the Council. If you do wish to record the meeting, please notify the Committee and Member Services Officer prior to the meeting so that they can inform the Chair and direct you to the best place to record. You are not allowed to disturb the meeting and the Chair will stop the meeting if they feel a recording is disruptive.

The Council asks those recording the meeting:

Not to edit the recording in a way that could lead to misinterpretation of the proceedings. This includes not editing an image or views expressed in a way that may ridicule, or show a lack of respect towards those being recorded.

To avoid recording members of the public present unless they are addressing the meeting.

### **9. Meeting Etiquette**

All representations should be heard in silence and without interruption. The Chair will not permit disruptive behaviour. Members of the public are reminded that if the meeting is not allowed to proceed in an orderly manner then the Chair will withdraw the opportunity to address the Committee. The Committee is a meeting held in public, not a public meeting.

## **25. Whistle Blowing Policy**

- 25.1 Who can use this policy?
- 25.2 What does this policy apply to?
- 25.3 Purpose of whistle blowing policy
- 25.4 Protecting the identity of whistle blowers
- 25.5 How will the Council protect whistle blowers?
- 25.6 Anonymous allegations
- 25.7 Untrue allegations
- 25.8 Role of trade unions and professional associations
- 25.9 How do workers blow the whistle?
- 25.10 How will the Council respond to whistle blowing?
- 25.11 Taking concerns further
- 25.12 Monitoring and reporting
- 25.13 Responsibility for this policy
- 25.14 How to respond to a whistleblowing concern – Flow chart

### **25.1 Who can use this policy?**

This policy is for Council officers whether they be full or part-time employees, secondees, casual workers or volunteers, or contractors. Members of the public can use the Council's complaints procedure or complain to the ombudsman.

### **25.2 What does this policy apply to?**

This policy applies to anything illegal, improper, unethical or wrong that is done by:

- officers
- councillors
- co-opted committee members
- anyone representing the Council
- partner organisations
- contractors, consultants or other suppliers

Examples would include a criminal offence, fraud or corruption, damage to the environment, safeguarding concerns, theft or misuse of public money, breach of a legal obligation, a failure to follow the Council's finance, contract or other rules or a deliberate attempt to conceal any of these things.

The Council has other policies and procedures, for example on recruitment and selection, discipline, grievances, bullying and harassment and diversity. The whistle blowing policy should only be used when other policies are inappropriate.

If an employee raises a disclosure whilst they are subject to another of the Council's procedures, for example, Disciplinary, Dispute Resolution, Capability or



Absence Management Procedure, parallel investigations may be conducted. The Procedures already instigated will not, in most cases, be suspended. However, the employee's right to raise a concern under this Procedure will not be affected.

### **25.3 Purpose of whistle blowing policy**

Officers with serious concerns about any of the Council's work or activities are expected to blow the whistle. This policy document makes it clear that an employee can do so without fear of victimisation, subsequent discrimination or disadvantage. This policy:

- encourages officers to blow the whistle within the Council rather than say nothing or take their concerns elsewhere
- protects whistle blowers from reprisals as long as they have acted honestly and in the public interest
- provides a procedure for whistle blowing
- ensures whistle blowers get a response
- gives advice on what to do if the response is not good enough.

### **25.4 Protecting the identity of whistle blowers**

The Council cannot guarantee to protect the identity of whistle blowers as it may, during an investigation, have to say where it got its information from and disclose the original complaint. The whistle blower may also have to act as a witness in any subsequent hearing.

### **25.5 How will the Council protect whistle blowers?**

The Council will protect whistle blowers from reprisals as long as they had a reasonable belief that the allegations were true and made them in good faith. Reprisals will be treated seriously as a disciplinary offence and dealt with through the disciplinary procedure. Where workers blow the whistle but do not cite the policy they will still be protected under it.

The Council will try to minimise any difficulties resulting from whistle blowing. For example, it will advise whistle blowers about the procedure if they have to act as witnesses.

### **25.6 Anonymous allegations**

This policy encourages workers to put their names to allegations but the Council may investigate allegations made anonymously. In deciding whether to investigate an anonymous allegation, the Council will consider how serious it is, whether it is believable and whether evidence can be obtained from a non-anonymous source.

### **25.7 Untrue allegations**

Workers will not suffer reprisals for making allegations that turn out to be untrue, as long as they had a reasonable belief that the allegations were true and made them in the public interest.



Allegations that are made without a reasonable belief as to their truth or not made in the public interest are likely to be treated as a disciplinary offence and dealt with through the disciplinary procedure.

### **25.8 Role of trade unions and professional associations**

Workers can raise concerns themselves or ask their trade union or professional association to act on their behalf. Whistle blowers can bring a trade union or professional association representative or a friend with them to meetings.

### **25.9 How do workers blow the whistle?**

- (a) Saying that the whistle blowing procedure is being used

The whistle blower should wherever possible make it clear from the start that they want to use the whistle blowing procedure.

- (b) Putting concerns in writing

Whistle blowers should wherever possible put their concerns in writing, giving as much detail and including relevant dates. Whistle blowers are not expected to prove that their allegations are true but they need to show that there are reasons for raising their concern and it was made in the public interest. If a whistle blower does not feel they can put their concerns in writing, they can be interviewed instead (25.10(c)).

- (c) Who should whistle blowers go to with their allegations?

Whistle blowers should normally go to their line manager or head of service but if the whistle blower does not want to go to their line manager or head of service, they can go to the Chief Executive, a director, the Monitoring Officer, the Head of Financial Services or the Head of Business Improvement.

If the whistle blower suspects fraud or corruption, they can also go to the Council's internal auditors or to the Council's appointed external auditors who are currently Ernst and Young, LLP.

### **25.10 How will the Council respond to whistle blowing?**

- (a) Notification of allegation

Upon receipt of an allegation under this policy the person receiving the allegation must immediately notify the Monitoring Officer, the Head of Financial Services and the Head of Business Improvement (unless the allegation relates to one or more of them).

- (b) Appointment of an officer to investigate

The person receiving the complaint will agree, in consultation with the Monitoring Officer, the Head of Financial Services and the Head of Business Improvement how (unless the allegation relates to one or more of them) the allegation will be investigated and write to the whistle blower within 10 working days. The letter should:

- acknowledge that the whistle blower has used the whistle blowing policy

- say how their concern will be dealt with and how long they think this will take
- tell them whether any initial enquiries have been made
- say what further action will be taken (or say why no further action will be taken)
- Tell them they have the right to bring someone with them to any meetings they have to attend about the allegation.

### (c) Interviews

If the whistle blower has not put their concerns in writing, they may be interviewed. A summary of the interview will be made which should be signed by the person conducting the interview and the whistle blower.

### (d) Further action

After preliminary investigation the Council will take further action if the investigation officer decides it would be in the public interest to do so. Further action may include:

- Arranging an investigation by management or internal auditors
- Arranging a disciplinary process
- Referring allegations to the police
- Referring allegations to the external auditor
- Arranging an independent inquiry if the allegations are very serious or complicated

### (e) Response to whistle blowers at the end of the investigation

If the law allows, the Council will tell the whistle blower the outcome of any investigation within 10 working days of it ending.

### (f) Support

Whistle blowers are encouraged to obtain support and advice that may include their trade union representative or HR team contact, a designated representative for bullying and harassment or the charity Public Concern at Work (PCAW), the whistleblowing charity, which provides a confidential independent helpline for whistleblowers. Contact details are shown below.

Public Concern at Work (Independent whistleblowing charity)  
Helpline: (020) 7404 6609  
E-mail: [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)  
Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)

## 25.11 Taking concerns further

If a worker has sought advice and feels it is right to raise their concerns outside the Council, people they could approach include their local Council, their local councillor, the external auditor, the health and safety executive, a government

department, a solicitor, the police, an MP or a relevant professional body or regulatory organisation.

If a worker does raise their concerns outside the Council, they must do it without passing on confidential information. The Monitoring Officer can give advice on this.

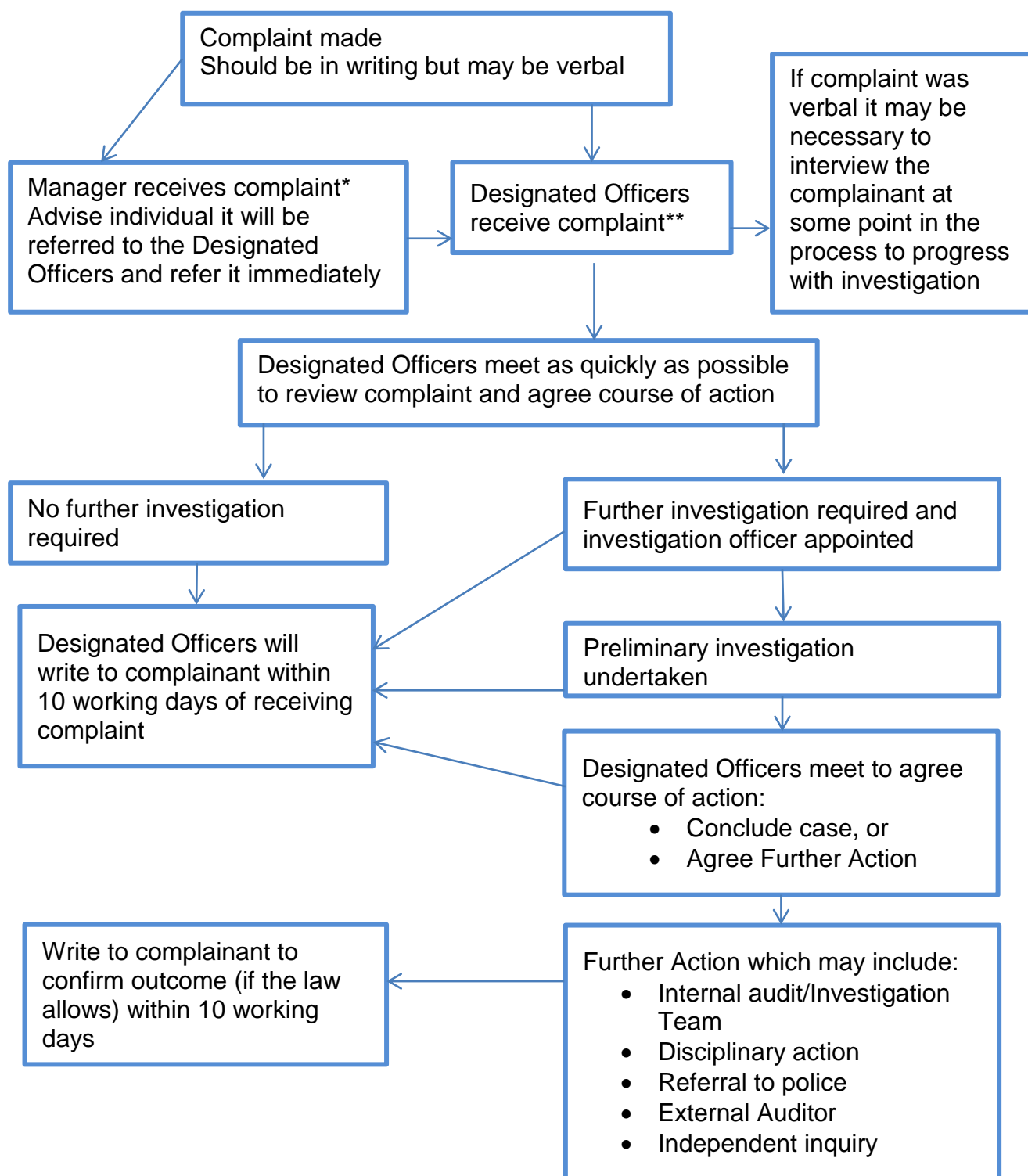
### **25.12 Monitoring and reporting**

The Head of Financial Services will report to each meeting of the Audit and Governance Committee on the number (if any) of whistle blowing complaints made as part of the Council's anti-fraud and corruption awareness framework.

### **25.13 Responsibility for this policy**

The Monitoring Officer has overall responsibility for this policy and how it is used and how the policy is working.

## 25.14 How to respond to a whistleblowing concern – Flow chart



\* If there is any doubt as to whether the complaint could be considered to be whistleblowing the manager must refer it as such.

\*\* Unless the complaint is about one or more of the Designated Officers when it should be referred to an Executive Director or the Chief Executive.

This is an overview only and should be used in conjunction with the Whistleblowing Policy. Designated Officers are Head of Business Improvement, Head of Financial Services and Monitoring Officer.

## **26. Councillors' allowances**

- 26.1 Basic allowance
- 26.2 Allowance reductions
- 26.3 Special responsibility allowances
- 26.4 Co-optees allowance
- 26.5 Choosing not to be paid a basic or special responsibility allowance
- 26.6 Repayment of allowances
- 26.7 Maternity or Adoption Leave
- 26.8 Allowances for child and other dependants' care
- 26.9 Allowances for travel
- 26.10 Reasonable adjustments
- 26.11 How to claim allowances
- 26.12 Indexing of allowances in the scheme

### **26.1 Basic allowance**

Each councillor gets a basic allowance of £5,142 p.a.

### **26.2 Allowance reductions**

Council has collectively agreed that councillors will forgo part of their future allowance payments in the following circumstances:

- (a) A 15% reduction will be applied for councillors who attend less than two thirds of the scheduled meetings required within a Special Responsibility (26.3).
- (b) A 15% reduction will be applied for:
  - (i) Members who fail to attend more than four meetings of Council in the municipal year except when a serious medical condition is the reason for absence;
  - (ii) Members who fail to attend an induction for newly elected councillors. A newly elected councillor is any councillor who was not holding City Council office at the time of the election in question.
- (c) A 10% reduction from future allowances will be applied for:
  - (i) Members who fail to attend compulsory planning and development control training (held every two years).
  - (ii) Members who fail to attend compulsory code of conduct training (held annually).
  - (iii) Members who are appointed to a Licensing Committee who fail to attend compulsory licensing training (held annually).

Attendance at meetings for the purposes of 26.2(a) and (b)(i) will be based on the public attendance records for Council, Cabinet and committee meetings (as

appropriate) at the end of the municipal year and any reductions will be applied for the duration of the subsequent municipal year for those councillors continuing to hold the relevant office or special responsibility. Shareholder meetings will be excluded from the requirements of 26.2(a).

Attendance at training for the purposes of 26.2(b)(ii) and (c) will be based on the attendance records held by the Head of Law and Governance. Any reductions will be applied from the date of the last training or induction session offered in a municipal year for the remainder of the municipal year.

### 26.3 Special responsibility allowances

Some Councillors get special responsibility allowances:

Special Responsibility	Allowance	Cash amount
Leader	3 x basic allowance	£15,426
Deputy leader	1 x basic allowance	£5,142
Non-Statutory Deputy Leader	1 x basic allowance	£5,142
Lord Mayor	1 x basic allowance	£5,142
Deputy Lord Mayor	0.25 x basic allowance	£1,286
Sheriff	0.25 x basic allowance	£1,286
Cabinet member with particular responsibilities given by the Leader (including Leader and Deputy Leader if they hold particular responsibilities)	1.5 x basic allowance	£7,713
Cabinet member without particular responsibilities	0.5 x basic allowance	£2,571
Chair of Scrutiny Committee	1 x basic allowance	£5,142
Chair of Audit and Governance Committee	0.25 x basic allowance	£1,286
Chair of a Planning Committee	0.5 x basic allowance	£2,571
Leader of an opposition group	1 x basic allowance	£5,142 Divided equally among opposition group leaders
Scrutiny Standing Panel Chair	0.25 x basic allowance	£1,286  Maximum of 2 Standing Panel SRAs available. Panel must meet at least 5 times to qualify. If more Standing Panels are set up then 0.5 x basic allowance (£1,286) to be divided between the Panel Chairs

No one can have more than two special responsibility allowances. Special responsibility allowances for the Civic Office Holders are not included in this rule. If a councillor has more than two special responsibilities, they will get the allowances for the two special responsibilities that pay the most.

Where a councillor is also a member of another Council, that councillor may not receive allowances from more than one Council, in respect of the same duties.

### **26.4 Co-optees allowance**

No allowance shall be paid to co-opted members.

### **26.5 Choosing not to be paid a basic or special responsibility allowance**

A councillor may elect to forego any part of their entitlement to an allowance under this scheme by providing written notice to the Monitoring Officer.

### **26.6 Repayment of allowances**

Where allowances have been paid in advance for a period during which a councillor no longer holds a role to which an SRA applies or is no longer a councillor, those allowances will be repaid.

### **26.7 Maternity or Adoption Leave**

Any councillor wishing to take a period of maternity or adoption leave will continue to receive the basic allowance. For a period of non-attendance at qualifying meetings to extend beyond six months full council would first need to grant a special dispensation under Section 85 of the Local Government Act 1972.

Where a qualifying councillor in receipt of a special responsibility allowance wishes to take a leave of absence from the duties for which they receive the special responsibility allowance due to maternity or adoption leave it will be at the discretion of the councillor affected to determine whether they wish to temporarily step down from their role. If so, they can receive maternity or adoption leave payments equivalent to half of the special responsibility allowance(s) to which they are entitled for a period of up to six months. Only Councillors who have been in receipt of a special responsibility for at least three months before the date their leave of absence commences will qualify for maternity or adoption leave payments in respect of that special responsibility. These payments are not contingent on the councillor being re-appointed to their previous role(s) at the end of their period of absence.

An application should be made to the Monitoring Officer for maternity or adoption leave payments during a period of absence from a special responsibility and the affected member will have to relinquish all relevant duties and responsibilities to their replacement member for the full duration of the cover period. They may however continue to pass on knowledge to their replacement member on an informal basis and this contribution is recognised by the payment of reduced allowances during a period of maternity or adoption leave for up to six months. Any member choosing to step down from the Cabinet to take a period of absence will no longer be a member of the Cabinet until such time as they are re-appointed to the Cabinet. Membership of the Cabinet is limited to ten councillors.



### 26.8 Allowances for child and other dependants' care

Councillors can claim for the actual costs incurred by them in making arrangements for the care of children or other dependants to attend:

- Council
- The Cabinet
- Any Council committee or sub-committee
- Any outside bodies the Council has appointed them to
- Conferences and seminars agreed by the Head of Law and Governance
- Meetings with directors or officers agreed by the Head of Law and Governance
- Any other events agreed by the Head of Law and Governance

Councillors can claim the actual cost of this care as long as the carer has been paid at least the Oxford Living Wage and invoices/receipts are provided. Where the carer is employed at a level below the Oxford Living Wage the councillor can still claim if they provide evidence of making top up payments to the provider up to the level of the Oxford Living Wage.

The maximum that any member can claim for carers' allowances in any financial year is £1,000. In special circumstances this level may be increased by the Head of Law and Governance after consultation with the Committee and Member Services Manager.

### 26.9 Allowances for travel

No travel allowance will be paid for journeys inside the City of Oxford boundary other than those agreed in advance by the Monitoring Officer as a reasonable adjustment for a councillor with a permanent or temporary disability (26.10) or as an exemption for a councillor with a low income. Travel allowances will only be available for the following events, agreed in advance, which take place outside of the city boundary:

- Conferences and seminars agreed by the Head of Law and Governance
- Meetings with directors or officers agreed by the Head of Law and Governance
- Any other events agreed by the Head of Law and Governance.

Any claims relating to events taking place outside the Oxford city boundary should be agreed in advance and be in line with the staff rates for travel allowances. Best use should be made at all times of travel concessions arranged by the Committee and Member Services Team.

Reimbursement for travel outside the UK will not be allowed with the exception of pre-arranged events for the Lord Mayor which will be limited to two trips per year for the Lord Mayor, or representative, and consort.



Any additional requests from the civic office holders will be dealt with by the Head of Law and Governance. Any agreement would then be subject to the availability of a budget to pay for the travel.

A councillor may apply to the Head of Law and Governance for a maximum of £1,000 per year (1 April to 31 March) to allow for additional expenses if they are unemployed or on a low income and affordability is a barrier to them performing their role as a councillor. This could include travel expenses for council business within the city of Oxford boundary. In assessing claims the Head of Law and Governance will review the councillor's Register of Interests and may request further documentation such as proof of ongoing entitlement to working age benefits (other than Child Benefit). Councillors' entitlement to these allowances would be reviewed annually and councillors would be expected to inform the Head of Law and Governance if they stopped receiving a qualifying benefit.

### **26.10 Reasonable adjustments**

A councillor may apply to the Monitoring Officer for a maximum of £1,000 per year (1 April to 31 March) to allow reasonable adjustments to be made to meet their needs should they have a temporary or permanent disability.

The Monitoring Officer has the discretion to increase the amount available to each qualifying councillor appropriate to their requirements if necessary.

### **26.11 How to claim allowances**

Councillors do not have to submit claims for the basic and special responsibility allowances. These are paid automatically, in 12 instalments in line with the corporate payment schedule set by the Council's payroll team.

Councillors need to submit claims for care and travel on the forms provided. These should be accompanied by receipts/invoices and must be sent to the Committee and Members' Services Manager. Claims for care, and travel will only be paid if they are made within two months of the meeting (unless the Head of Law and Governance agrees there is a good reason for the delay). Councillors are paid in line with the corporate payment schedule set by the Council's payroll team.

### **26.12 Indexing of allowances in the scheme**

Councillor's basic allowances will increase annually on 1 April at the same rate as the percentage cost of living uplift in the local pay settlement for local government employees for that year.

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## **27. ICT Acceptable Use Policy**

- 27.1 Policy statement
- 27.2 Purpose
- 27.3 Scope
- 27.4 Risks
- 27.5 User responsibilities
- 27.6 Managers responsibilities
- 27.7 Privacy
- 27.8 Policy compliance
- 27.9 Infrastructure security
- 27.10 Removable media
- 27.11 ICT access
- 27.12 Remote access
- 27.13 Software policy
- 27.14 Email
- 27.15 Internet use
- 27.16 Use of fixed line phone, mobile phones and smart phones
- 27.17 Government Connect & Information Protection
- Appendix 1 – HMG Security Policy Framework
- Appendix 2 – Exclusions

### **27.1 Policy statement**

This policy sets out the Council's requirements for ICT Acceptable Use.

### **27.2 Purpose**

Council staff, contractors and Councillors will be required to have access to the Council's ICT systems, applications and equipment in the performance of their duties in order for them to carry out their business. For all users of the Council's ICT facilities, this policy describes the Council's position on acceptable usage.

### **27.3 Scope**

This policy applies to all users of the Council's ICT facilities whether this is at work, at home or elsewhere. The policy applies to all users who may be employees, contract staff, temporary staff, volunteers or Councillors.

### 27.4 Risks

Oxford City Council recognises that there are risks associated with users accessing and handling information in order to conduct official Council business.

This policy aims to mitigate the following risks:

- The non-reporting of information security incidents,
- Inadequate destruction of data,
- The loss of direct control of user access to information systems and facilities etc.
- Misuse of the Council's ICT facilities

Non-compliance with this policy could have a significant effect on the efficient operation of the Council and may result in financial loss and an inability to provide necessary services to our customers.

### 27.5 User responsibilities

Users of ICT facilities are responsible for:

- Informing their manager (or in the case of councillors the Head of Law and Governance) if they believe that others are using systems inappropriately.
- Notifying the ICT Service Desk if they believe that their personal login details have become known to another person.
- Safeguarding personal data.
- Contacting the ICT Service Desk if they suspect a virus infection.
- Ensuring that personal use of Oxford City Council ICT equipment remains occasional and reasonable and does not interfere with everyday workload and commitments or endanger the Council's ICT services.

### 27.6 Managers responsibilities

Managers are responsible for ensuring that all their employees are aware of this policy and act in accordance with its requirements (or in the case of councillors the Head of Law and Governance).

### 27.7 Privacy

All systems may be monitored and audited for administrative and management purposes so personal privacy cannot be assumed.

Systems may be accessed in exceptional circumstance at management discretion during an individual's absence to ensure continuation of business.

### 27.8 Policy compliance

If any member of staff is found to have breached this policy, they may be subject to Oxford City Council's disciplinary procedure. Any breaches of the policy by elected members would be treated as code of conduct complaints. Members can seek further advice from Committee and Member Services.

If a criminal offence is considered to have been committed further action may be taken to assist in the prosecution of the offender(s).

If you do not understand the implications of this policy or how it may apply to you, seek advice from your line manager (or in the case of councillors the Head of Law and Governance).

### 27.9 Infrastructure security

- Desktop PCs should not have data permanently stored on the local hard drive.
- Network drives must be used to store data and documents.
- A laptop hard drive may be used only temporarily to retain documents being moved from one system to another.
- Use of Council equipment by friends or family is strictly forbidden.
- Staff should be aware of their responsibilities in regard to the Data Protection Act.
- Equipment that is to be reused or disposed of must have all of its data and software erased / destroyed.

### 27.10 Removable media

- All data stored on removable media devices must be encrypted where possible.
- Damaged or faulty removable media devices must not be used.
- Care must be taken to physically protect the removable media device and stored data from loss, theft or damage.
- Removable media devices that are no longer required, or have become damaged, must be returned to ICT Services for secure disposal.
- Removable media devices should be used only for the transfer of data and not for permanent storage.

### 27.11 ICT access

- Passwords must be protected at all times and must be changed when prompted.
- It is a user's responsibility to prevent their user ID and password being used to gain unauthorised access to Council systems.

- Partner agencies or third party suppliers must contact the ICT Service Desk to enable any connection to the Oxford City Council network.
- Staff shall not permit third party access without prior consent from the ICT Service Desk.

### 27.12 Remote access

- It is the user's responsibility to use portable computer devices in an acceptable way. This includes not installing software, taking due care and attention when moving portable computer devices and not emailing "OFFICIAL and above information" to a non-Council email address.
- Users should be aware of the physical security dangers and risks associated with working within any remote office or mobile working location.
- It is the user's responsibility to ensure that access to all "OFFICIAL and above information" is controlled.
- All "OFFICIAL and above data" held on portable computer devices must be encrypted.

### 27.13 Software policy

- All software acquired must be purchased through ICT Services, subject to scrutiny.
- Under no circumstances should personal or unsolicited software be loaded onto a Council machine.
- Every piece of software is required to have a licence and the Council will not condone the use of any software that does not have a licence.
- Changes to software must not be made by users or third parties, without prior consent from the ICT Service Desk.
- Users are not permitted to bring software from home (or any other external source) and load it onto Council computers.
- Illegal reproduction of software is subject to civil damages and criminal penalties.

### 27.14 Email

- All emails that are used to conduct or support official Oxford City Council business must be sent using the "[@oxford.gov.uk](mailto:@oxford.gov.uk)" email address.
- All emails sent via the Government Connect Secure Extranet (GCSx) must be of the format "[@oxford.gcsx.gov.uk](mailto:@oxford.gcsx.gov.uk)".
- Non-work email accounts must not be used to conduct or support official Oxford City Council business.

- Councillors and users must ensure that any emails containing sensitive information must be sent from an official Council email.
- All “OFFICIAL and above” external e-mail must carry the official Council disclaimer.
- Under no circumstances should users communicate material (either internally or externally), which is defamatory, obscene, or does not comply with the Council’s Equal Opportunities Policy.
- Where GCSx email is available to connect the sender and receiver of the email message, this must be used for all external email use and must be used for communicating “OFFICIAL and above” material.
- In no circumstances is automatic forwarding of email permitted. Auto-forwarding affords no control or protection against the accidental forwarding of personal, private, or sensitive information out of the Council, and as a consequence, leaves the Council open to the risk of potential data breaches and fines.

### 27.15 Internet use

- Provided it does not interfere with your work, the Council permits personal use of the internet in your own time (for example during your lunch break).
- Users must not create, download, upload, display or access knowingly, sites that contain pornography or other “unsuitable” material that might be deemed illegal, obscene or offensive.
- The laws concerning the protection of copyright and intellectual property rights must be respected.
- Downloading and storage of music and video files and images without a bona fide business reason is forbidden.
- Users must assess any risks associated with internet usage and ensure that the internet is the most appropriate mechanism to use.
- Users must not subscribe to, enter, or use peer-to-peer networks or install software that allows sharing of music, video or image files.
- Users must not enter or use online gaming or betting sites.
- Users must not subscribe to or enter “money making” sites or enter or use “money making” programs.
- Users must not run a private business via the internet from Council equipment or premises.
- On-line shopping from a secure site is permitted in the user’s own time but the Council has no liability for any transaction and goods should not normally be delivered to the workplace.

The above list gives examples of some “unsuitable” usage but is neither exclusive nor exhaustive. “Unsuitable” material would include data, images, audio files or

video files the transmission of which is illegal under British law, and, material that is against the rules, essence and spirit of this and other Council policies.

### **27.16 Use of fixed line phone, mobile phones and smart phones**

- Users should ensure that, as far as practicable, private phone calls are restricted to non-work time.
- Users must comply with the Council's specific prohibition on the use of mobile phones when driving on Council business.
- Mobile phones should not be used to distribute, receive or store any material which is offensive or prohibited.

### **27.17 Government Connect & Information Protection**

Information Protective Marking (IPM) is an information security classification scheme that requires the prominent marking of information and documents with a short standard wording that indicates how the information should be handled from a security point of view.

A document should be protectively marked either if there would be significant impact to the Council if the confidentiality, integrity or availability of the document was compromised. If you are the 'originator' of a document or record (i.e. the author or someone responsible for receiving and / or distribution) then you are responsible for adding a protective marking if it is not already marked.

- All information assets, where appropriate, must be assessed and classified by the owner in accordance with the HMG Security Policy Framework (SPF). (Appendix 1).
- Information sent via the Government Connect Secure Extranet (GCSx) must be labelled appropriately using the SPF guidance. (Appendix 1).
- Access to information assets, systems and services must be conditional on acceptance of the Acceptable Use Policy.
- OFFICIAL information must not be disclosed to any other person or organisation via any insecure methods including paper based methods, fax and telephone.
- Disclosing OFFICIAL classified information to any external organisation is also prohibited, unless via the GCSx email.
- Where GCSx email is available to connect the sender and receiver of the email message, this must be used for all external email use and must be used for communicating OFFICIAL material.
- The disclosure of OFFICIAL classified information in any way other than via GCSx email is a disciplinary offence.



### **Appendix 1 – HMG Security Policy Framework**

All information assets must be classified and labelled in accordance with the HMG Security Policy Framework (SPF). The classification will determine how the document should be protected and who should be allowed access to it. Any system subsequently allowing access to this information should clearly indicate the classification.

The SPF requires information assets to be protectively marked into one of 3 classifications. HMG operates a Classification Policy to identify and value information according to its sensitivity and to drive the right protections. This comprises three levels: OFFICIAL, SECRET and TOP SECRET for which there are distinct security arrangements. OFFICIAL covers most of the day-to-day business of government, service delivery, commercial activity and policy development.

Further details can be found here:

<https://www.gov.uk/government/publications/security-policy-framework>

### **Appendix 2 – Exclusions**

This policy excludes non-electronic forms of data and information which shall be subject to non-ICT policies within the Council.

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