

# Public Document Pack



**TRAFFORD**  
**COUNCIL**

## **ANNUAL MEETING OF THE COUNCIL – 24 MAY 2017**

### **ITEM 12 – DELEGATION OF FUNCTIONS AND AMENDMENTS TO THE CONSTITUTION**

#### **SUPPLEMENTARY PAPERS**

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(a) <b>Delegation of Functions - Officer Scheme of Delegation</b>	1 - 56
(b) <b>Update of the Constitution</b>	57 - 344

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## 4. SCHEME OF DELEGATION TO OFFICERS

### **INTRODUCTION**

1. The purpose of this scheme is to provide arrangements for delegations to officers of the Council's Executive and Non-Executive functions.
2. The Scheme of delegation set out below has been compiled in accordance with Section 101 Local Government Act 1972 and the requirements of the Local Government Act 2000. The designated officers, or those authorised to act in their place, are authorised to discharge the functions delegated to them in this Scheme.
3. The following powers and duties are delegated to the officers named. Subject to any restriction imposed by the Council or Executive, those officers can delegate further as appropriate to any officer in his/her Service any power or duty which the Council or Executive has already delegated to them.
4. Notwithstanding any decision of the Council or Executive in relation to the delegation of any item to any officers of the Council, that item shall cease to be delegated if that officer has declared a personal or financial interest in that item.

### **GENERAL PROVISIONS**

1. All officer delegations are to be exercised in accordance with the Constitution, and consistently with the approved Policy and Budgetary Framework.
2. Any delegation to an officer to take action under a particular statutory provision shall be deemed to authorise action under any statutory re-enactment or amendment of that provision, and any statutory regulations, order, or direction made under that provision both before and after the date of this Constitution. References to statutory requirements in this scheme include relevant European legislation and directives as applicable.
3. In deciding whether or not to exercise delegated powers, officers should have regard to the desirability of consulting with the appropriate Executive Portfolio Holder or Committee Chairman. Officers will always be entitled to refer matters for decision to the Council, the Executive or relevant Committee, as appropriate, where they consider it expedient to do so.
4. Significant decisions taken by Officers should be published in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and guidance issued by the Director of Legal and Democratic Services.
5. With regard to situations which arise between Committee or Executive meetings and require emergency action which cannot reasonably await the next meeting, the Chief Executive, relevant Corporate Director or Director of Legal and Democratic Services has authority to take such action in consultation with the Chairman, Vice-Chairman and Opposition Spokesperson of the Committee concerned (or with such of the latter as are available for consultation) or with the relevant Executive Portfolio Holder and subject to a subsequent report to the next meeting of the Committee or the Executive.

WHO IS RESPONSIBLE	FUNCTION
<b>CHIEF EXECUTIVE</b>	<p><b>A. <u>GENERAL MATTERS</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <ol style="list-style-type: none"> <li>1. To undertake all matters associated with the professional management of the Council.</li> <li>2. To exercise any power delegated to any officer at any time when that officer is unable or unwilling to act.</li> <li>3. To give a decision on the applicability of any delegated power in any specific case.</li> <li>4. To require any officer of the Council to refer a matter to a Committee or the Executive for decision notwithstanding the fact that the officer may have delegated authority to deal with that matter.</li> <li>5. The taking of any necessary action, including the incurring of expenditure, in connection with an emergency or disaster in the Borough. (Note: This delegation is also exercisable by all Corporate Directors.)</li> <li>6. To determine, in conjunction with the Chief Finance Officer, whether representation to the relevant Government Department should be made for activation of the “Bellwin” Scheme of Emergency Financial Assistance to Local Authorities for any expenditure relating to major incidents which occur in Trafford.</li> <li>7. To deal with matters relating to the development of the Community Strategy and Corporate Plan.</li> <li>8. To appoint replacement members to the Independent Remuneration Panel whenever necessary and agree their terms of reference, in consultation with the Political Group Leaders.</li> </ol> <p><b>B. <u>ELECTIONS</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <ol style="list-style-type: none"> <li>9. In consultation with the relevant ward councillors and Group Leaders to discharge the function of dividing electoral divisions into polling districts at local government elections and altering such districts and to be responsible for the ongoing review of polling districts, polling places and polling stations between the 4 yearly reviews for parliamentary elections (Sections 18A, 18B and 31 of the Representation of the People Act 1983).</li> <li>10. To determine fees and conditions for the supply of copies of extracts of elections documents. (Rule 48(3) Local Elections (Principal Areas) Rules 1986 and Rule 48(3) Local Elections (Parishes and Communities) Rules 1986.)</li> </ol>

<b>CHIEF EXECUTIVE</b>	<p><b>C. <u>HUMAN RESOURCES</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <p>11. The overall direction of all human resource matters.</p> <p>12. The administration and implementation of the Council's organisational, employee development and human resource plans.</p>
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<p><b>CHIEF EXECUTIVE AND CORPORATE DIRECTORS</b></p>	<ol style="list-style-type: none"> <li>1. The management and administration of the services for which they are responsible and the incurring of expenditure for such purposes within the approved budget.</li> <li>2. In relation to any matters delegated to them, to take any action which is calculated to facilitate or is conducive or incidental to the discharge of the Council's functions within their service area.</li> </ol>
<p><b>CORPORATE DIRECTORS AND DIRECTOR OF HUMAN RESOURCES (5,6,7,9) CHIEF EXECUTIVE(7, 9)</b></p>	<p><b>A. <u>HUMAN RESOURCES</u></b></p> <p>The following delegations are subject to:</p> <ol style="list-style-type: none"> <li>(a) the corporate human resources policies adopted by the Council.</li> <li>(b) any statutory provisions or requirements.</li> <li>(c) any other instructions given from time to time by the Chief Executive or Director of Human Resources where overriding corporate, financial or recruitment controls are to be strictly observed.</li> </ol>
<p><b>COUNCIL (8)</b></p>	<ol style="list-style-type: none"> <li>3. To implement all the Council's policies relating to the employment of staff.</li> <li>4. The creation of a maximum of 3 new posts up to and including Band 12 and deletion of posts up to and including band 12 i.e. where the job description has previously been agreed and evaluated by HR.</li> <li>5. The creation/change of up to 3 new posts up to and including Band 12 for which there is no approved job description and the duties are substantially new.</li> <li>6. Responsibility for all Service Reviews – including the creation/re-grading and deletion of posts above Band 12.</li> <li>7. Responsibility for directorate wide reviews and the development of corporate and cross cutting proposals.</li> <li>8. Decisions on proposals affecting Director level posts are subject to the prior approval of the Chief Executive. The Council will approve all salary packages for Chief Officer posts in excess of £100,000.</li> <li>9. Before referring any matters deemed by the Chief Executive to be of strategic significance to the Employment Committee for consideration and/or determination, the Chief Executive shall consult with, and obtain the views of the Executive.</li> <li>10. To act in accordance with the provisions of the Council's locally-agreed arrangements, including the appointment to posts below Head of Service level.</li> <li>11. To act in accordance with the provisions of the Council's locally-agreed arrangements, including:- <ol style="list-style-type: none"> <li>(a) To determine those groups of employees who can participate in the flexible working hours schemes.</li> </ol> </li> </ol>

**DIRECTOR OF  
HUMAN  
RESOURCES  
11 (I), (M), (O),  
(P), (Q), (R),  
12, 13**

- (b) To determine the arrangements that should apply in respect to the carry forward of up to five days from one leave year to the next and to approve any carry forward of leave in excess of five days.
- (c) To determine the arrangements in respect to the attendance of employees at courses and professional meetings for periods not exceeding five days, at the expense of the authority.
- (d) To determine the arrangements in respect to the payment of subsistence allowances in appropriate cases in accordance with the provisions of the National Scheme of Conditions of Service and the Supplemental Conditions of Service.
- (e) To determine the arrangements for the granting of payment at the standard mileage rate in respect of the use of cars for specific approved journeys.
- (f) To take disciplinary action against an employee, including suspension and dismissal, in consultation with appropriate Human Resources officers, in accordance with the agreed disciplinary procedure.
- (g) To determine payments to officers temporarily undertaking additional duties.
- (h) To approve or disapprove temporary appointments of 12 months or less. Temporary appointments for periods in excess of 12 months to be agreed by the Chief Executive.
- (i) To approve the discretionary application of the Council's relocation Scheme for Newly Appointed Officers.
- (j) To determine the arrangements for the approval of job sharing arrangements, reduced hours, term time working or other flexible working arrangements in appropriate circumstances, subject to there being no detrimental effect on the service.
- (k) To determine the arrangements for the approval of applications for facilities for courses leading to a qualification, including time off (day release etc.) subject to being satisfied that the courses are appropriate to the work of the officers.
- (l) To determine the arrangements for the granting of leave with pay to officers for attendance at meetings of approved outside bodies.
- (m) To determine the arrangements for the granting of leave in accordance with the Special Leave for Public Duties Policy.
- (n) To determine the arrangements for the granting of leave in accordance with the Special Leave for Dependents and Bereavement Policy.
- (o) To grant leave with pay to not more than three officers appointed as delegates to attend annual conferences of their Trade Unions, together with any member of staff who is a member of the National Executive.
- (p) To grant leave with or without pay for trade union purposes including

<p><b>CHIEF EXECUTIVE AND CORPORATE DIRECTORS</b></p>	<p>training in accordance with the ACAS Code of Practice on Time Off for Trade Union Duties and Activities.</p> <p>(q) To grant leave with pay to staff serving on Staff Councils or other Joint Negotiating Bodies.</p> <p>(r) To approve a long service award in those cases where the exact length of an employee's service contract cannot be verified.</p> <p>12. To consider and make payments, not exceeding £500, in respect of claims by employees for loss of, or damage to, personal property arising from their official duties.</p> <p>13. To enter into settlement agreements with employees.</p>
	<p><b>B. <u>FINANCIAL, COUNCIL AND CONTRACT PROCEDURES</u></b></p> <p>14. To act as indicated in the Council's:-  Financial Procedure Rules  Council Procedure Rules  Contract Procedure Rules  Internal Code of Practice on Financial Management</p> <p>15. To incur revenue expenditure.</p> <p>16. To incur expenditure on individual capital schemes.</p> <p>17. To approve price variations under contracts.</p> <p>18. Disposing of a surplus or obsolete capital asset, other than land and property at the best price obtainable in accordance with the procedures agreed with the Chief Finance Officer.</p> <p>19. To write-off stocks and stores up to a book value of £50,000 in consultation with the Chief Finance Officer and in accordance with the Finance Procedure Rules.</p> <p>(Note: Each designated officer must ensure that the Financial and Contract Procedure Rules set out in the Constitution are observed throughout his/her Directorate. He/she shall also ensure that all relevant staff are fully aware of and accept the content of such aspects of financial management. Designated officers must maintain a record of those officers to whom this Scheme has been issued, thus providing a framework of financial administration and control that facilitates compliance with Section 151 Local Government Act 1972).</p> <p><b>C. <u>PLANNING PERMISSION AND PROPERTY</u></b></p> <p>20. Under the Town and Country Planning General Regulations 1992 to seek planning permission for development by the Council or in respect of land vested in the Council.</p> <p>21. The management of buildings and facilities under their control, subject to advice and guidance from the Corporate Director of Economic Growth, Environment and Infrastructure in relation to the strategic and corporate use of assets.</p>



**CHIEF  
EXECUTIVE  
AND  
CORPORATE  
DIRECTORS**

22. To permit the casual use of property by outside organisations, in accordance with the policy of the Council.

**D. GENERAL MATTERS**

23. To deal with lost or uncollected property.

24. To authorise, in writing, officers of the Council to exercise statutory rights of entry on to property in pursuance of their duties.

25. To take necessary measures to ensure that high standards of health, safety and welfare are achieved in the activities of the Council and its service areas, in compliance with the Health and Safety at Work etc. Act 1974 and the Council's Health and Safety Policies.

26. To nominate appropriate officers who can authorise surveillance under the Regulation of Investigatory Powers Act 2000 in pursuance of the Council's statutory duties and in accordance with the Scheme of Authorisation made in accordance with the Act. Surveillance shall be authorised in advance of any such activity being undertaken by the relevant Officer.

27. To authorise staff possessing such qualifications as may be required by law or in accordance with the Council's policy to take samples, carry out inspections, enter premises, form opinions, issues notices and fixed penalties and generally perform the functions of a duly authorised Officer of the Council (however described) under the statutory codes relating to:

public health, mental health, children and young persons, social services, housing, education, town planning, rating, licensing, trading standards and consumer services, highways, building control, shops, food safety, environmental health, animal health and welfare, health and safety at work,

under the provisions of the Greater Manchester Act 1981 or relating to any other statutory function or duty of the Council and to issue any necessary Certificates of Authority. In relation to any powers delegated to the Chief Executive which require to be dealt with by a Solicitor of the Supreme Court, his/her power shall in turn be delegated to the Director of Legal and Democratic services if necessary.

28. To deal with requests for access to personal files and data in accordance with the relevant legislation and regulations.

29. In consultation with the appropriate Executive Portfolio Holder, to authorise attendance by councillors/co-opted members at conferences/seminars.

30. To sign and serve documents and notices on behalf of the Council.

31. The taking of any necessary action, including the incurring of expenditure, in connection with an emergency or disaster in the Borough.

**CORPORATE DIRECTOR  
ECONOMIC GROWTH,  
ENVIRONMENT AND  
INFRASTRUCTURE**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision, to take necessary and appropriate action in respect of the following:

**A Economic Growth**

1. To prepare and submit applications for regeneration funding to any providers of external funding for which the Council may become eligible, and with regard to European Funding, the power to sign off public authority certificates.
2. In consultation with the Executive Portfolio Holder to deal with all business grant or loan applications which comply with the agreed criteria. Any other grant or loan applications to be referred to the Executive.
3. In consultation with the Executive Portfolio Holder to generate revenue from economic growth services, activities, initiatives and programmes in accordance with Council policies, statutory requirements, guidance and Codes of Practice'.

**B Housing Renewal**

1. To determine applications for grants to improve properties and to take all necessary steps to ensure that any action relating to the implementation of renewal areas, grants and necessary repairs of properties is carried out.

**C Asset Management**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:

Land and Property

1. To undertake estates management functions, including dealing with applications to develop, alter or assign property, where the Council's consent as landlord is required, and to determine whether action should be taken under relevant property related legislation.
2. To be responsible for progressing all land and property transactions.
3. To take action to protect the Council's legal or financial position in relation to the management of property.
4. Land Sales Programme:
  - i) In respect of the Land Sales Programme, as approved from time to time, authority to:
    - a) Engage external resources where this will assist in implementation of the programme.
    - b) Submit for planning consent on any of the properties included in the programme where this will assist in marketing.

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INFRASTRUCTURE**

- c) Negotiate and accept bids.
- d) Advertise the intention to dispose of a site in the event that it comprises open space as defined by the Town and Country Planning Act 1990, in accordance with relevant statutory procedure and if any objections are received to refer them to the Executive for consideration.
- e) Offset eligible disposal costs against the capital receipts in accordance with capital regulations up to a maximum of 4% of the value of the receipt
- ii) In respect of the Land Sales Programme, in consultation with the Executive Portfolio Holder, authority to
  - a) Approve the substitution or addition of sites to the Land Sales Programme.
  - b) Approve the hiring of security services or the demolition of any property should this become necessary.
  - c) Authorise an alternative method of sale where appropriate.
- 5. Subject to compliance with the Council's agreed arrangements, appropriate budgetary provision and to securing the best consideration that can be obtained:
  - a) to approve the taking of, or the grant, renewal, assignment, transfer, surrender, taking of surrenders, review, variation and terminations of any leases, licences, easements and wayleaves, consents and rights in land, for a consideration that does not exceed £25,000 per annum or a premium of £100,000
  - b) to approve the acquisition and disposal of land, buildings or other property interests for a consideration not exceeding £250,000
- 6. To approve the purchase price and all compensation payable in respect of land and buildings included in Compulsory Purchase Orders, including home loss and disturbance payments, and to authorise acquisitions by agreement as an alternative to the making of a Compulsory Purchase Order.
- 7. All rent reviews and lease renewals.
- 8. Sale of freeholds in accordance with the Leasehold reform Act 1967, in accordance with the prevailing rate of capitalisation.
- 9. The installation of wireless apparatus, Telecom installations, Water Authority installations, electricity sub-stations, gas governors and other minor works in or on properties under the management of the Asset Management Service.
- 10. Where the sale of that property has been authorised, to place for auction any miscellaneous properties where such a course of action is expedient to effect a sale of the land/property.
- 11. To appoint consultants for small works in line with agreed policy.
- 12. To authorise the repair and maintenance of Council property in

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accordance with the approved budget or the use of virement.

13. To settle claims under Part 1 of the Land Compensation Act 1973 and Claims resulting from the laying of sewers and other apparatus under the Public Health Act 1936, Water Acts and Land Drainage Acts.
14. To agree terms and conditions of re-purchase of defective former Council or public authority dwellings under Part XVI, Housing Act 1985.
15. The acquisition and disposal of Chief Rents on Council property.
16. The Authority to make proposals, objections and agreements in respect of rating assessments on corporate land and property including, where necessary, attendance at Valuation tribunals and Lands Tribunals.
17. To prioritise works in respect of access for the disabled and fire precaution work.
18. To approve the appointment of estate agents for residential disposals on the basis agreed by the Council.
19. To manage all building services for the Council's administrative buildings.
20. To act in the best interests of the Council in relation to energy management.
21. To repair and maintain buildings and grounds within approved revenue estimates for these purposes.
22. To authorise statutory authorities to carry out essential works.
23. To determine requests for inscriptions to be added to Cenotaphs throughout the Borough.

**Markets**

24. To be responsible for the management of any markets that the Council may operate in the Borough, including the letting, transfer and surrender of stalls, applications for change of trade, collection of charges and any matters under the market regulations.
25. To licence or refuse temporary markets in accordance with the policy approved by the Council

**Lettings and Public Halls**

26. To control the range and frequency of events in public halls, subject to obtaining planning permission when necessary.
27. To approve lettings and concessions of Council accommodation for hire, in accordance with the Council's approved scheme.

<p><del>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF REGULATORY SERVICES JOINTLY WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</del></p>	<p><u>Planning Enforcement</u></p> <p>1. <del>Authority to exercise all functions, powers and duties includes the authority to take appropriate enforcement action, including issuing notices and cautions and, in consultation with the Director of Legal &amp; Democratic Services, bringing proceedings under any appropriate legislation, statutory provisions and by-laws.</del></p>
<p>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF PLANNING AND DEVELOPMENT</p>	<p><b><u>D PLANNING AND DEVELOPMENT MANAGEMENT</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision, to take necessary and appropriate action in respect of the following:</p> <p>1. <b>Definitions</b></p> <p>For the purposes of this scheme and for the avoidance of doubt: -</p> <p>a) 'planning application' means:</p> <ul style="list-style-type: none"> <li>❖ Applications for Outline Planning Permission, Full Planning Permission and Approval of Reserved Matters</li> <li>❖ Applications for development within the curtilage of a dwellinghouse</li> <li>❖ Applications for minerals and waste development (including Review of Minerals Permissions)</li> <li>❖ Applications under Section 73 of the Town and Country Planning Act 1990 to vary, modify or remove a planning condition, including minor material amendments and applications to extend the time limit on a permission. Applications under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011</li> <li>❖ Applications requiring the completion of a legal agreement / planning obligation under S106 of the Town and Country Planning Act or any other enabling power.</li> <li>❖ Applications for 'relevant demolition' in a conservation area.</li> <li>❖ Applications for Listed Building Consent and other heritage consents under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Listed Buildings and Conservation Areas) Regulations 1990</li> <li>❖ Applications for consent to display Advertisements (under the Town and Country Planning (Control of Advertisement) Regulations 2007</li> <li>❖ Applications for non-material amendments under S96A of the Town and Country Planning Act 1990</li> </ul>

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SERVICES; OR HEAD OF  
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DEVELOPMENT**

- ❖ Applications for permission under the Town and Country Planning General Regulations 1992
- ❖ Application for Hazardous Substances Consent under the Planning (Hazardous Substances) Act 1990.
- ❖ Applications for prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- ❖ Applications for permission in principle and technical details consent under the Housing and Planning Act 2016, including the inclusion of a site on Part 2 of the Council's brownfield land register (but for the avoidance of doubt, not Part 1). Applications for Nationally Significant Infrastructure Projects under the Planning Act 2008 (as amended) where the Local Planning Authority is a consultee and a Local Impact Report is required.
- ❖ Applications for approval of details under the High Speed 2 Act(s) (or howsoever those provisions are enacted).

b) "application to be determined by committee" means (other than applications fully delegated to officers and excluded by Part 3):-

- i) Applications where six or more representations\* contrary to the Officers' recommendation have been received from separate addresses within the prescribed period.

\* For the purposes of this section a representation shall be taken to mean a letter, a signature on a petition or e-mail.

- ii) Where an application has been "called in" for determination by the Committee by either (i) a Member who represents a ward within the same Locality Partnership area in which the application site lies, or (ii) by the Chairman of the Committee. For the avoidance of doubt there is no geographical limit to the call in powers of the Chairman. Such call-ins are to be made in writing with planning reasons provided within the period of 28 days of the date of issue of the relevant Weekly List of Applications submitted to the Council and the Member to attend the meeting of the Committee when the application is considered. Proposals considered to be a material departure from the provisions of the Development Plan or of other Development Plan Documents which officers are minded to approve and where the officer recommendation is for approval, save where (i) Development Plan policies are 'out of date' (in National Planning Policy Framework terms) and the proposal is in accordance with national policy and / or (ii) the proposals comprise a minor departure from the standards set out in adopted SPGs and SPDs or their successor documents.

- iii) Applications in which a Member or Officer has declared a personal or pecuniary interest.

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- iv) Applications for development by or on behalf of the Council (including a Local Authority controlled school) to which an objection has been made which is material to the development proposed.
- c) 'planning permission' includes approvals and consents issued in respect of a 'planning application' as defined in section 1(a)
- d) 'the prescribed period' means the period within which consultees and residents are required to submit representations following consultation/notification and/or publicity of applications in accordance with statute and the Council's approved arrangements. (Usually 21 days for new applications and 10 days for amended plans received during the course of processing an application).
- e) 'the Act' means the Town and Country Planning Act 1990
- f) 'the Order' means the Town and Country Planning (General Permitted Development) (England) Order 2015
- g) 'the Committee' means the Planning and Development Management Committee
- h) Any reference to an Act, Order or Regulation in this Part D shall be interpreted to mean any amendment or replacement to the said Act, Order or Regulation

## **2. Arrangements For Exercising Delegated Powers**

The powers delegated to officers in this scheme shall be exercisable by the Corporate Director of Economic Growth, Environment and Infrastructure, Director of Growth and Regulatory Services or Head of Planning and Development except where on his/her written instruction, or in the event of his/her absence for a period exceeding 24 hours, they shall be exercisable by other senior managers within the Economic Growth, Environment and Infrastructure Directorate.

## **3. Planning Applications**

### **3.1 Processing Planning Applications**

- a) To discharge the Local Planning Authority's duties under the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- b) To determine the validity of any planning or other application made to the Local Planning Authority.
- c) To determine whether an applicant has carried out necessary pre-application consultation under S61W of the Act.
- d) To determine what consultation, notification and publicity

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is appropriate and to carry this out in accordance with statute and the Council's approved arrangements.

- e) To maintain for inspection registers of applications and associated matters, brownfield land, works to protected trees and decision notices as required by statute.
- f) To determine whether or not an application appears to be a departure from the Development Plan and to take appropriate procedural action.
- g) To determine whether or not an Environmental Impact Assessment is required, stipulate the minimum information needed and, if necessary, require additional information on receipt of a statement under the Act and the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- h) To determine on the receipt of Outline Applications whether further information is required under the Town and Country Planning (Development Management Procedure) (England) Order 2015 .
- i) Jointly with the Chief Finance Officer to operate the system of charging fees for planning applications, pre-application advice, site visits, Planning Performance Agreements, High Hedge complaints under Part 8 of the Anti-social Behaviour Act 2003 and the High Hedges (Appeals) (England) Regulations 2005 and any other charging fees within the remit of the Planning Service including the assessment and receipt of fees under the charging scheme.
- j) To issue all decision notices when exercising powers under the Act and other relevant legislation.
- k) To take all steps necessary to implement the Community Infrastructure Levy Regulations 2010 (as amended) ("CIL") including (without limitation) all necessary enforcement action under CIL.

### 3.2 Determination of Planning Applications

To determine all planning applications except those falling under the provisions in 1(b) 'Applications to be determined by Committee'.

The following planning applications are fully delegated to officers and the provisions in 1(b) do not apply:-

- a) Applications for prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- b) Applications for permission in principle and technical details consent under the Housing and Planning Act 2016, including the inclusion of sites on Part 2 of the Council's brownfield land



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register under the Town and Country Planning (Brownfield Land Register) Regulations 2017 .

- c) Applications for advertisement consent under the Town and Country Planning (Control of Advertisements) Regulations 2007.
- d) Non-material amendments under Section 96A of the Town and Country Planning Act 1990.
- e) Repeat applications for proposals which have previously been subject to a determination by the Local Planning Authority / Planning Inspectorate, are of fundamentally the same nature and description, there has been no material change in planning circumstances and the officer recommendation remains in accordance with the previous decision (where there is any doubt, the Chairman of the Committee should be consulted) For the avoidance of doubt this provision does not include S73 applications.
- f) Screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- g) To decline to determine planning applications under the provisions of Section 70(A) of the Act and Section 81A of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- h) To attach conditions (and associated reasons) to planning permissions determined under this delegation and to make modifications to the standard planning conditions as necessary.
- i) To attach reasons for refusal where permission or consent is refused.
- j) To approve or refuse details and plans submitted to discharge conditions attached to planning permissions, including those imposed by an Order or Direction.
- k) To finally dispose of applications.

**3.4 Minerals Applications**

- l) To make Orders in respect of the control of minerals development under the Town and Country Planning Act 1990.

**3.5 Response To Consultations**

- m) To respond to consultations from the Secretary of State in respect of Crown Development under S293 of the Town and Country Planning Act 1990.
- n) To respond to consultations from neighbouring Councils on applications received by those Councils for development where the response would accord with the provisions of the

	<p>Development Plan, or where development plan policies are out of date, national planning policy.</p> <p>o) To respond to consultations under Section 36 of the Electricity Act 1989 and the Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 where the response would accord with the provisions of the Development Plan, or where development plan policies are out of date, national planning policy.</p> <p>p) To respond to consultations under Section 37 of the Electricity Act 1989 (overhead electricity lines of less than 132kV or less than 2km in length) where the response would accord with the provisions of the Development Plan, or where development plan policies are out of date, national planning policy.</p> <p>q) To respond to consultations under the Planning Act 2008 in respect of Nationally Significant Infrastructure Projects where the response would accord with the provisions of the Development Plan, or where development plan policies are out of date, national planning policy, save where a Local Impact Report is required where such consultations will be subject to the provisions in 1(b).</p>
<p><b>HEAD OF PLANNING AND DEVELOPMENT IN CONSULTATION WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p>r) To determine applications for Certificates of Lawfulness in relation to existing and proposed uses or development under the Act.</p> <p>s) To determine applications for Certificates of Lawfulness of Proposed Works to a Listed Building under the Planning (Listed Buildings and Conservation Areas) Act 1990</p> <p>t) To determine applications for Certificates of Appropriate Alternative Development.</p> <p>u) To agree variations and/or modifications to planning agreements/ obligations by agreement or application under section 106A or 106BA of the Act or through formal or informal dispute resolution provisions..</p>
<p><b>HEAD OF PLANNING AND DEVELOPMENT IN CONSULTATION WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p><b>4. Planning Appeals / Secretary of State call in</b></p> <p>4.1 To defend the decisions of the Council at appeal (including applications 'called in' for determination by the Secretary of State') through engagement with all necessary steps of the process.</p> <p>4.2 To decide whether the Council requests that a particular appeal be dealt with by the local inquiry, informal hearing or the written representations procedure.</p> <p>4.3 To agree matters arising during the process which do not conflict with the provisions of the Development Plan / national policy or the resolution of the Committee in order to best present the Council's case.</p>

	<p>4.4 To appoint consultants to assist the Council where necessary, with the agreement of the Chairman of the Planning and Development Management Committee if the decision has been made by that Committee.</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF PLANNING AND DEVELOPMENT JOINTLY WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p><b>5. Enforcement Of Planning Control</b></p> <p>5.1 Generally:-</p> <ul style="list-style-type: none"> <li>a) To take initial action to deal with breaches of planning control including the service of Planning Contravention Notices / notices under Section 330 of the Town and Country Planning Act 1990 to obtain relevant information in order to assess whether or not a breach of planning control has occurred.</li> <li>b) To serve notice regarding powers of entry onto land and to issue authorisation to officers of the Council to enter land for enforcement purposes.</li> <li>c) To serve Breach of Condition Notices.</li> <li>d) To serve Enforcement Notices and Listed Building Enforcement Notices.</li> <li>e) To withdraw, modify and reissue any Enforcement Notice including following a decision by the Committee to grant permission for development / work which affect that Enforcement Notice or Listed Building Enforcement Notice.</li> <li>f) To serve Stop Notices and Temporary Stop Notices.</li> <li>g) To make applications for Planning Enforcement Orders in respect of deliberately concealed unauthorised development.</li> <li>h) To bring prosecutions in respect of breaches of planning control.</li> <li>i) To make applications for an injunction to restrain breaches of planning control.</li> <li>j) To take all necessary enforcement action under the Planning (Hazardous Substances) Act 1990 and any amendment thereto.</li> <li>k) To serve Building Preservation Notices where there is an imminent threat of demolition of a building.</li> <li>l) To maintain for inspection registers of enforcement notices as required by statute.</li> <li>m) To determine the expediency of planning enforcement action.</li> <li><b>n) To serve completion notices.</b></li> </ul> <p>5.2 Advertisements:-</p>

<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF PLANNING AND DEVELOPMENT JOINTLY WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<ul style="list-style-type: none"> <li>a) To serve Discontinuance Notices and removal notices under the Act and the Town and Country Planning (Control of Advertisements) Regulations 2007.</li> <li>b) To enforce the control of fly-posting through the obliteration and/or removal of any unauthorised placard or poster on private land.</li> <li>c) To bring prosecutions in respect of breaches of the Advertisement Regulations.</li> </ul> <p>5.3 Neglected/ Untidy Land:-</p> <ul style="list-style-type: none"> <li>a) To take action, including the service of Notices under Section 215 of the Act, requiring owners/ occupiers to carry out proper maintenance of land where its condition detracts from the amenity of the area, and to carry out such works in the event that the owners/ occupiers fail to do so.</li> <li>b) To authorise entry onto land to carry out works required by a Section 215 Notice and to recover expenses reasonably incurred in doing so.</li> <li>c) To bring prosecutions in respect of breaches of Section 215 Notices..</li> </ul>
<p><b>HEAD OF PLANNING AND DEVELOPMENT JOINTLY WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p>6. <b>Heritage</b></p> <p>6.2 To approve or refuse requests for grant aid for works to Listed Buildings or buildings within Conservation Areas within the approved budget.</p> <p>6.3 To issue Listed Building Repair Notices.</p> <p>6.4 To issue Notices for Urgent Works to Listed Buildings and buildings in Conservation Areas and to retrieve the Council's reasonable costs for works carried out.</p> <p>6.5 To enter into Listed Building Heritage Partnership Agreements.</p> <p>6.6 To make Local Listed Building Consent Orders.</p>
<p><b>HEAD OF PLANNING AND DEVELOPMENT JOINTLY WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p>7 <b>Trees And Hedgerows</b></p> <p>1.1 Trees</p> <ul style="list-style-type: none"> <li>a) To make, confirm and amend Tree Preservation Orders subject to confirmation (or otherwise) by the Chairman, Vice Chairman and Opposition Spokesperson in those cases where the Order is opposed.</li> <li>b) To determine applications for works to, including felling of, trees protected by Tree Preservation Orders including the imposition of any conditions.</li> </ul>

	<ul style="list-style-type: none"> <li>c) To serve Tree Replacement Notices under S207 of the Town and Country Planning Act 1990.</li> <li>d) To process notices under S211 of the Town and Country Planning Act 1990 (notices for works to trees in a conservation area).</li> <li>e) To approve or refuse requests for grant aid for works to protected trees and new planting within the approved budget.</li> </ul> <p>7.2 Hedgerows</p> <ul style="list-style-type: none"> <li>a) To make and confirm Hedgerow Retention and Replacement Notices.</li> <li>b) To determine applications under the Hedgerow Regulations 2007.</li> </ul> <p>7.3 To bring proceedings for breach of tree preservation or hedgerow control..</p> <p>7.4 High Hedges</p> <p>To carry out all necessary procedures under Part 8 of the Anti-social Behaviour Act 2003 and High Hedges (Appeals) (England) Regulations 2005 in respect of high hedge complaints, including the bringing of legal proceedings.</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF REGULATORY SERVICES</b></p>	<p><b>E <u>BUILDING CONTROL</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision, to take necessary and appropriate action in respect of the following:</p> <ol style="list-style-type: none"> <li>1. <b>Building Regulation Applications</b> <ol style="list-style-type: none"> <li>1.1 Processing Building Regulation Applications.</li> <li>1.2 Jointly with the Chief Finance Officer to operate the system of charging fees for applications, including ensuring that the correct fee has been paid under the approved charging scheme.</li> <li>1.3 To issue all decision notices relating to the determination of building regulation applications.</li> <li>1.4 Determination of Building Regulation Applications.</li> <li>1.5 To determine applications under the Building Regulations.</li> <li>1.6 To determine applications for relaxation of the Building Regulations.</li> <li>1.7 To issue conditional notices of approval.</li> <li>1.8 To determine amendments to approved schemes and to determine</li> </ol> </li> </ol>

	<p>whether the variation requires a further application and fee.</p> <p>1.9 To issue Certificates of Completion of Work.</p> <p>1.10 To deal with the submission of Building Notices under the Building Act.</p> <p>1.11 To deal with the submission of Initial Notices under the Building Act.</p> <p>1.12 To deal with applications under the LANTAC scheme.</p> <p><b>2. Other Building Control Matters</b></p> <p>2.1 To approve or refuse minor amendments to Building Regulation applications not requiring a new application.</p> <p>2.2 To exercise all other functions under the Building Act.</p> <p>2.3 To enter into Partnership schemes.</p> <p><b>3. Contraventions</b></p> <p>3.1 To authorise action, including legal proceedings to ensure compliance with building control requirements.</p> <p>3.2 In respect of building control and general powers, to serve notices or to approve or reject plans under the Highways Act 1980, Section 180 for pavement lights and ventilators.</p> <p><b>4. Miscellaneous Planning And Building Control Matters</b></p> <p>4.1 To sell service publications in accordance with the Council's scheme of charging.</p> <p>4.2 Authority to sell departmental publications to the general public at printing or copying cost, plus postal charges where applicable, but that no charge be made for the issue of copies to Members and other Council departments and first copies of guidelines, etc. to architects, estate agents, civic societies and similar persons or voluntary organisations.</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE OR DIRECTOR OF GROWTH AND REGULATORY SERVICES</b></p>	<p><b>F. <u>STRATEGIC HOUSING</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <ol style="list-style-type: none"> <li>1. All matters concerning the relationship between the Council and Trafford Housing Trust limited and other providers.</li> <li>2. To discharge the Council's functions under legislation relating to homeless persons.</li> <li>3. To deal with special circumstances not adequately provided for within the Council's allocations policy</li> </ol>

	<p>4. In consultation with the Executive Portfolio Holder to:</p> <ul style="list-style-type: none"><li>i) add further Section 106 planning agreement commuted sums and CIL payments to the Capital Programme, and:</li><li>ii) approve future Registered Social Landlord schemes for grant funding.</li></ul>
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<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF REGULATORY SERVICES</b></p>	<p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision, to take necessary and appropriate action in respect of the following:</p>
	<p><b>A. ENVIRONMENT</b></p> <p><u>Regulatory Services</u></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <ol style="list-style-type: none"> <li>1. To carry out the functions, duties and powers of the Council in relation to statutory nuisances, offensive trades, pest control, infectious diseases, food and drugs, poisons, animal health, welfare and safety, environmental protection, pollution control, air quality, smoke-free legislation, health and safety at work, shops, consumer protection, trading standards, housing standards, houses in multiple occupation, the management of on and off street parking, abandoned vehicles and environmental enforcement.</li> <li>2. To carry out all licensing, registration and enforcement functions, including determining applications and imposing conditions in connection with scrap yards, hairdressers and barbers, street traders, acupuncturists, tattooists, ear piercers and electrolysis, pet shops, animal boarding establishments, animal trainers and exhibitors, zoos, caravan sites, slaughter houses, riding establishments, dog breeders and dangerous wild animals.</li> <li>3. Authority to carry out the all duties of the Council's Chief Inspector of Weights &amp; Measures is delegated to the Regulatory Services Manager (Trading Standards and Licensing).</li> <li>4. To take direct action to remove unlawful itinerants' encampments from Council-owned and other land in certain circumstances.</li> <li>5. To authorise all action required to repair and/or improve conditions in private sector housing, to protect the health, safety and welfare of the occupants and persons visiting the premises, to bring long term empty domestic properties back into use and to investigate harassment and illegal eviction of private sector tenants.</li> <li>6. Except where otherwise specified, authority to exercise all functions, powers and duties includes the authority take appropriate enforcement action, including issuing notices and cautions and, in consultation with</li> </ol>



**CORPORATE  
DIRECTOR  
ECONOMIC  
GROWTH,  
ENVIRONMENT  
AND  
INFRASTRUCTURE;  
DIRECTOR OF  
GROWTH AND  
REGULATORY  
SERVICES; OR  
HEAD OF  
REGULATORY  
SERVICES**

the Director of Legal and Democratic Services, bringing proceedings under any appropriate legislation, statutory provisions and by-laws.

Licensing

7. To grant, renew, transfer, suspend and vary, where no objections have been received, and to make conditions in relation to annual licences, occasional licences, registrations, certificates, permits, permissions and consents relating to:

- Amusement with prizes
- Betting and Gaming
- Certificates of Suitability
- Cinema and Cinema Clubs
- Dealers in Game
- Door Staff
- Entertainment Clubs (Part IX)
- Hackney Carriage Drivers and Proprietors
- House-to-House Collections
- Late Night Refreshment Houses
- Lotteries
- Motor Salvage Operators
- Nurses Agencies
- Performances of Hypnotism
- Pools Promoters
- Premises for the solemnisation of marriage
- Private Hire Drivers, Proprietors and Operators
- Prize Bingo
- Scrap Metal Dealers
- Street Collections
- Theatre Licences
- Track Betting

8. In accordance with the Licensing Act 2003, authority to determine:

- (a) Applications for personal licences provided no objection is made;
- (b) Applications for premises licences/club premises certificates, provisional statements and to vary premises licences/club premises certificates provided no relevant representation is made;
- (c) Applications to vary designated premises' supervisor, for transfer of premises licences and for interim authorities provided that no police objection is made, and
- (d) Requests to be removed as designated premises supervisor

9. To award penalty points (up to a maximum of 150 points) to hackney carriage/private hire drivers, proprietors and operators in accordance with the current penalty point system.

10. To suspend the licence of a vehicle for reasonable cause where the vehicle owner has failed to renew the certificate of compliance.

<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF REGULATORY SERVICES</b></p>	<p>11. To suspend vehicle licences under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 where he/she is not satisfied as to the fitness of the vehicle to be used as a hackney carriage or private hire vehicle.</p> <p><u>Safety at Sports Grounds</u></p> <p>12. Authority to make all decisions relating to the content, issue, service, review and amendment of General Safety Certificates and Special Safety Certificates under the provisions of the Safety at Sports Grounds Act 1975 as amended, and authority to sign such Certificates.</p> <p>13. Authority to serve prohibition notices under Section 10 of the Safety at Sports Grounds Act, as amended by the Fire Safety and Safety at Places of Sports Act 1987. This is in respect of sports grounds in the Borough where it is considered that spectator safety is seriously at risk, on the understanding that any such notice would be served only after full consultation with the Police Ground Commander and other emergency services as appropriate.</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND REGULATORY SERVICES; OR HEAD OF REGULATORY SERVICES</b></p>	<p><u>Public Health</u></p> <p>14. To appoint suitably qualified persons as proper officers under the following legislation:</p> <p style="padding-left: 40px;">Public Health (Control of Disease) Act 1984 and regulations made thereunder National Assistance Act 1948 National Assistance (Amendment) Act 1951</p> <p>15. To appoint suitably qualified persons to act as Public Analyst under Section 27 of the Food Safety Act 1990.</p> <p>16. To appoint suitably qualified persons to act as Agricultural Analyst under Section 67 of the Agriculture Act 1970.</p> <p>17. Authority to act on behalf of the Council in respect of the following legislation:-</p> <p style="padding-left: 40px;">Public Health (Control of Disease) Act 1984 and all Regulations made thereunder. National Assistance Act 1948. National Assistance (Amendment) Act 1951</p> <p>is delegated to the Consultant for Communicable disease Control (Also to include Director of Public Health and Consultants in Public Health Medicine).</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT, AND</b></p>	<p><b>B. <u>Highways, Engineering And Traffic Management</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <p>1. To exercise the Council's functions, powers and duties in respect of:</p>

**INFRASTRUCTURE****CORPORATE  
DIRECTOR  
ECONOMIC  
GROWTH,  
ENVIRONMENT,  
AND  
INFRASTRUCTURE**

- (a) regulation of the use of the highway
- (b) protection of highways and highway users
- (c) the adoption of highways
- (d) the maintenance and improvement of public highways
- (e) dangerous or dilapidated buildings or structures, dangerous excavations and dangerous trees on land accessible to the public
- (f) abandoned vehicles
- (g) private streets and unadopted highways
- (h) interference with highways and streets
- (i) footpaths, cycleways and bridleways
- (j) sewers and land drainage
- (k) the management of on and off street parking
- (l) transport
- (m) fleet management and maintenance
- (n) Traffic Management Statutory Duty

including the authority to grant or refuse privileges, licences, permits, approvals and consents relating to matters in, on, over or under the highway, serve, receive and advertise notices, execute works, recover costs and authorise any appropriate enforcement and legal action.

2. In relation to road traffic orders:

- (a) To make and implement temporary road traffic orders under the provisions of any relevant legislation.
- (b) Subject to there being no unresolved objection, to make and implement traffic regulation orders.

3. To arrange for the temporary prohibition or restriction of traffic on roads by temporary traffic regulation order or notice and the temporary diversion of rights of way.

4. To deal with all matters relating to the private street works code and to inspect and adopt sewers following private street works.

5. To exercise the Council's powers to name streets and require the renumbering of buildings in streets, subject to consultation with Ward Councillors.

6. To exercise the Council's powers and duties in relation to the safety of reservoirs.

7. To be the lead Local Flood Authority, responsible for the powers transferred from the Environment Agency, including ordinary watercourse regulation under the Flood Risk Regulation 2009 and Flood and Water Management Act 2010.

8. To be responsible for operation of the Council's policy with respect to sewer ownership and water resources (non-mains water) and oversee the Council's obligations as a riparian owner.

9. To serve notices of approval or rejection of plans under Sections 263 and 264 of the Public Health Act 1936.

<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT, AND INFRASTRUCTURE</b></p>	<p>10. To recover the cost of maintaining certain lengths of public sewers under Section 24 of the Public Health Act 1936.</p> <p>11. The power to make arrangements with the appropriate statutory undertakers to ensure the provision of utilities to service developments promoted by the Council or to localities within the area of the Council where the Council deems such provision to be necessary.</p> <p>12. To deal with applications for easements and wayleaves affecting highways.</p> <p>13. To negotiate with prospective sponsors with regard to charges which may be made for advertisements on sponsored litter bins, together with locations and other pertinent commercial matters.</p> <p>14. To exercise functions required by the Road Traffic Act 1974 to promote road safety:-</p> <ul style="list-style-type: none"> <li>(a) to carry out studies into accidents arising out of the use of vehicles on roads or parts of roads other than trunk roads within the Borough, and</li> <li>(b) following consultation with the Executive Portfolio Holder, authorisation to disseminate information and advice relating to the use of roads and to give practical training to road users or any class or description of road users in the light of such studies (other measures to be reported to the Executive).</li> </ul> <p>15. In consultation with the Police, to approve the siting of temporary school crossing patrol points in such circumstances, for example, as road works and royal visits.</p> <p>16. To determine all applications for signs within the Borough.</p> <p>17. Authority in consultation with local Ward Members, the Chairman, the Vice-Chairman and the Opposition Spokesperson of the Planning Development Control Committee and the Police to consider applications for the placing of tables, chairs and certain associated furniture on the highway. If the application is considered suitable to serve notices, obtain necessary consents from owners and occupiers and, if no objections are received, to grant permission subject to such conditions as he/she considers appropriate.</p>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE IN CONSULTATION WITH DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES</b></p>	<p>1. To determine applications for Definitive Map Modification Orders.</p>

<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE</b></p>	<p><b>C. <u>Environmental Services</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:</p> <ol style="list-style-type: none"> <li>1. To manage and maintain the Council's parks, play areas and open spaces.</li> <li>2. To give authorisation for events in the Borough's Parks, [in consultation with the Executive Portfolio Holder.]</li> <li>3. Authority to let facilities in parks and recreation grounds.</li> <li>4. To arrange exhibits for horticultural shows as required.</li> <li>5. To exercise the Council's functions, powers and duties in relation to cemeteries, crematoria, burial grounds and memorials.</li> <li>6. To exercise the Councils functions, powers and duties in relation to: <ul style="list-style-type: none"> <li>(a) Refuse collection and recycling</li> <li>(b) Waste management</li> <li>(c) Street cleaning, including litter, refuse and controlled waste</li> </ul> </li> <li>7. To fix charges for refuse collection and recycling.</li> <li>8. To exercise the Council's functions, powers and duties in relation to: <ul style="list-style-type: none"> <li>(a) Nuisance vehicles</li> <li>(b) Graffiti and fly posting</li> <li>(c) Abandoned vehicles</li> </ul> </li> </ol>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE</b></p>	<p><b>D. OPERATIONAL SERVICES FOR EDUCATION</b></p> <ol style="list-style-type: none"> <li>1. All matters relating to the supply of school milk and school meals.</li> <li>2. To negotiate with prospective suppliers with regard to charges which may be made for out-door media advertisements</li> </ol>
<p><b>CORPORATE DIRECTOR ECONOMIC GROWTH, ENVIRONMENT AND INFRASTRUCTURE; DIRECTOR OF GROWTH AND</b></p>	<p><b>E HOUSING RENEWAL</b></p> <ol style="list-style-type: none"> <li>1. To issue licences and certificates as appropriate for licensing and accreditation schemes for privately rented properties.</li> <li>2. To authorise all action required to address public health concerns within private sector housing including statutory nuisances, filthy and verminous premises, pest control, local drainage concerns and accumulations.</li> </ol>

**REGULATORY  
SERVICES;  
HEAD  
REGULATORY  
SERVICES**

**OR  
OF**

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<p><b>CORPORATE DIRECTOR CHILDREN, FAMILIES AND WELLBEING</b></p>	<p>The Corporate Director Children, Families and Wellbeing is appointed as the Council's statutory Director of Children's Services under Section 18 of the Children Act 2004. Accordingly, he/she has the responsibility for all the functions of the statutory Director under that Act and all other relevant legislation.</p>
<p><b>Except item 12 which is the responsibility of the Director of Human Resources and item 14 which is the responsibility of Access Trafford in T&amp;R Directorate)</b></p>	<p><b>A. <u>EDUCATION SERVICES</u></b></p> <p>In accordance with Council policy, statutory requirements and guidance and relevant Codes of Practice, to take necessary and appropriate action in respect of the following:</p> <p><b><u>General</u></b></p> <ol style="list-style-type: none"> <li>1. To discharge the functions conferred on or exercisable by the Council in its capacity as local education authority.</li> <li>2. To discharge the functions of the Council in relation to early years' development and provision.</li> <li>3. To deal with administrative matters arising from the management of the Education Service which includes all matters relating to admission to maintained and controlled schools in the Borough.</li> <li>4. To take necessary action to ensure measures are in place to promote good attendance.</li> <li>5. To approve or disapprove applications for grants, awards, fees, concessions or allowances by or for pupils or students.</li> <li>6. In consultation with the Director of Legal and Democratic Services, to authorise proceedings in respect of irregular or non-attendance at school.</li> <li>7. To administer the regulations regarding the employment of children.</li> <li>8. In exceptional circumstances and in consultation with the School, to take decisions to ensure the appropriate provision of education for pupils which may involve, where risks of disruption are unacceptable, the closure of school buildings for a temporary period.</li> <li>9. To maintain and revise the Scheme for the Local Management of Schools in accordance with the resourcing and other relevant policies of the Council.</li> <li>10. To maintain the mechanisms by which a continuing positive dialogue may take place with non-Local Education Authority institutions.</li> <li>11. The provision of home/school transport for pupils.</li> </ol> <p><b><u>School Support Services</u></b></p> <ol style="list-style-type: none"> <li>12. All the Council's functions in relation to the employment of teachers and other school based staff including appointment, termination of appointment and reimbursement of expenses properly incurred.</li> <li>13. To arrange the secondment and transfer of staff with the approval of the Governors concerned.</li> </ol>

<p><b>CORPORATE DIRECTOR CHILDREN, FAMILIES AND WELLBEING</b></p> <p><b>(Except item 12 which is the responsibility of the Director of Human Resources and item 14 which is the responsibility of Access Trafford in T&amp;R Directorate)&gt;</b></p>	<p>14. To implement a scheme for assessing the eligibility of applicants for free school meals.</p> <p><b><u>Special Education – Education Health and Care Plans</u></b></p> <p>15. Arrangements for determining whether a child is in need of an Education, Health and Care Plan</p> <p>16. Preparation of Education, Health and Care Plans and provision.</p> <p>17. Arrangements to implement special education provisions specified in Education, Health and Care Plans.</p> <p>18. To approve grant aid for parental visits at appropriate times to children with special needs in residential schools and colleges.</p> <p>19. The provision of education to individual pupils “otherwise than in school”.</p> <p><b><u>School Improvement</u></b></p> <p>20. Arrangements for the monitoring of school performance.</p> <p>21. Arrangements for intervening in schools under Special Measures or otherwise causing concern in accordance with the School Standards Framework Act 1998.</p> <p>22. To exercise the Council's reserve power under the School Standards and Framework Act 1998 to prevent a breakdown of discipline</p> <p>23. Arrangements for receiving OFSTED reports.</p> <p><b><u>Young People's Services</u></b></p> <p>24. To discharge the duty of the Council in relation to young people’s services</p> <p>25. To ensure voluntary youth organisations and youth welfare services have access to facilities in Trafford to enable them to deliver services.</p> <p>26. To approve remission of fees for youth service courses in cases not already covered, where payment of the fee would cause unnecessary hardship.</p> <p><b><u>Miscellaneous</u></b></p> <p>27. To fix charges for any occasional activity, sale of goods over the counter or by machine, hire of equipment and other permitted use not contained in the approved list of charges.</p> <p><b><u>B. CHILDREN’S SERVICES</u></b></p> <p>In accordance with Council policies, statutory requirements, guidance, relevant Codes of Practice, National Care Standards and subject to overall budget provision to exercise all relevant children social services functions as conferred by; the Children Act 1989, the Adoption and Children Act 2002, the Local Authority Social Services Act 1970, the Children (Leaving Care) Act 2000 and the Protection of Children Act 1999 in the interests of safeguarding and promoting the</p>
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**CORPORATE  
DIRECTOR  
CHILDREN,  
FAMILIES  
AND  
WELLBEING**

welfare of children and young people:

**General**

1. To exercise the Council's Children's Services' functions, powers and duties under the Children Act 1989, Children Act 2004 and all other legislation relevant to the safety and welfare of children and their families.
2. To discharge any function exercisable by the Authority under Section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children and young people and any functions exercised pursuant to an arrangement made under S10 of the Children Act 2004 to include making arrangements for the management of services provided.
3. To manage the Council's Children's Services' establishments
4. To give all necessary consents in relation to the education, emigration, medical treatment (including operations), absence abroad on holiday, adoption of careers, marriage and all other similar matters relating to children looked after by or on behalf of the Council.
5. In consultation with the Director of Legal and Democratic Services, the commencement of proceedings, appearances at court as appropriate, making of applications and representations, and the imposition of any requirements in relation to any matters relating to the protection, safety and welfare of children.
6. To make arrangements for the hearing and determination of any complaint relating to the discharge of children's services' functions, whether from a client or a member of the public.
7. Administering grants, loans, charges and other forms of assistance.
8. The determination of individual applications for provision under community care legislation and the implementation of such provision.
9. The administration of services for the welfare of children and young people with disabilities or mental health needs and their carers.
10. The receipt into the guardianship of the Council of such people with mental health problems for whom this may be appropriate.
11. To be consulted and offer objection or no objection to an application for hospital admission or guardianship under the Mental Health Act 1983 as nearest relative of a child in the care of the Council.

**Adoption Services**

12. To establish and maintain an Adoption Agency and engage fully in the development of the Regional Adoption Agency.
13. To exercise all the Council's functions as an adoption agency subject to future legislative changes related to Regional Adoption Agencies.
14. To establish and maintain an adoption service to meet the needs of children

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who have been or may be adopted, parents and guardians of such children and persons who have adopted or may adopt such a child up until the Regional Adoption Agency is fully operational.

15. After taking note of the recommendations of the Adoption Panel, and subject to the leave of the Court where necessary, to apply for Orders to place children for adoption.

**Fostering Services**

16. To establish and maintain a Fostering Agency.
17. To exercise all the Council's functions as a fostering agency.
18. To establish and maintain a fostering service to meet the needs of children who have been or may be fostered, parents and guardians of such children and persons who have fostered or may foster such a child.
19. After taking note of the recommendations of the Family Placement Panel, and subject to the leave of the Court where necessary, to place children for fostering.

**Secure Accommodation**

20. The function of placing and reviewing the placement of children and young persons in secure accommodation.
21. To provide or arrange with another local authority the provision of sufficient secure accommodation.
22. Arrangements for the provision of accommodation, where necessary, with other authorities or organisations.

**Day Care**

23. To provide day care to children in need who have not reached compulsory school age, and to provide school children in need with care outside school hours or during school holidays.

**Private Fostering**

24. All matters relating to the supervision of privately fostered children including being satisfied as to the welfare of privately fostered children and to visit them as laid down in regulations.
25. To approve foster parents' payments in respect of the community fostering programme pursuant to Regulation 3 of the Foster Placement (Children) Regulations 1991 and Section 23(2)(a)(i) Children Act 1989.
26. To apply the provisions of Schedule 7 to the Children Act 1989, with regard to the permitted number of foster children for whom a foster parent may care.
27. Approving, where required, applications by foster parents for residence orders and to pay appropriate allowances to foster parents.

**Investigation and Social Reports**

28. To investigate a child's circumstances at the request of a court and to report to that court.
29. To make enquiries into the circumstances of any child the subject of an emergency protection order.
30. To investigate where the local authority may have reasonable grounds to believe that a child may be suffering significant harm, to allow the authority to decide what action to take to promote the welfare of the child.

**Review of Children's Cases**

31. To review the cases of children looked after within the appropriate timescales.

**Charging for Services**

32. Decisions regarding charging for services to children.

**Miscellaneous**

33. To act on behalf of the Executive in statutory consultation with the Local Education Authority for the purposes of Section 36(8) of the Children Act 1989.
34. To safeguard and promote the welfare of children in need in accordance with Section 17 Children Act 1989:-
  - a) By providing services or undertaking functions consistent with the duties identified in Part 3 of the Act and Schedule 2 within budgetary provision with the exception of:-

Schedule 2, paragraph 18(1), relating to the power to guarantee apprenticeship and articles of clerkship for children in need.
  - b) By undertaking the duties of the Local Authority mentioned in Parts 4 and 5 of the Children Act 1989.
35. To express an opinion, when asked by the Education, Health and Care (EHC) Assessment Service, as to whether a child with an EHC plan has disabilities.
36. To make arrangements for the assessment, within specified time limits, of children who are regarded as disabled and who are about to leave full-time education in regard to needs for which provision of services is required by one or more of: Part III of The National Assistance Act 1948; Section 2 of the Chronically Sick Disabled Persons Act 1970; Schedule 8 to the National Health Services Act 1977.
37. To be consulted by the Court in regard to remands of individual children in criminal proceedings.

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38. To make application to a Court for a declaration that a child should be remanded in a remand centre or a prison for the protection of the public.
39. When in force to make applications in relation to the remand of individual children under the Children and Young Persons Act 1969, Section 23.

**Matters Relating to Income and Expenditure**

40. To deal with matters relating to the collection of income as follows:-
- (a) To determine the contribution to be made by a young person accommodated by the department.
  - (b) Parental Contribution – To decide on the issue, withdrawal or reissue of contribution notices in respect of maintenance charges for persons liable to contribute in respect of children looked after and the enforcement of those charges through the Court.
41. Authority to incur expenditure in relation to children looked after in residential and family settings and young people provided with aftercare, within budgetary provision subject to the following.
- (a) To dispense in any year to any family under Section 17 The Children Act 1989 the equivalent of 10 weeks payment of the boarding out scales at the highest rate and rounded to the nearest £5.
  - (b) To make payments and allowances for children in residential or fostering placements in accordance with the regional schedules and Council policy as below:
    - (i) Boarding Out Allowances  
  
To increase future boarded out rates annually, in line with Northwest Association of Social Services Authorities recommendations, subject to adequate budgetary provision.
    - (ii) Discretionary Grants
  - (c) To make payments to non-parents looking after a child under residence orders.
  - (d) Authority to incur expenditure as appropriate following burial and cremation under the Children Act 1989, Schedule 2, paragraph 20.
42. To authorise:-
- (a) the placing of contracts for the residential care of children with such establishments as he/she considers will meet the assessed needs of the child, for an appropriate fee and within the approved budgetary provision.
  - (b) the placing of contracts for the domiciliary and day care of children with such organisations or individual as he/she considers will meet the assessed needs of the child, for an appropriate fee and within the approved budgetary provision.

<p><b>CORPORATE DIRECTOR CHILDREN, FAMILIES AND WELLBEING</b></p> <p><b>CHIEF EXECUTIVE</b></p>	<p>43. In respect of day nurseries, in accordance with Financial Procedure Rules, and in consultation with the Chief Finance Officer and the Executive Portfolio Holder, to deal with requests for abatement from assessed minimum charges to nil assessment, each case being judged on its individual circumstances.</p> <p>44. To agree to disregard up to the full amount of the attendance allowance or disabled living allowance received in appropriate cases.</p> <p><b><u>Local Safeguarding Children Board</u></b></p> <p>45. Responsibility for ensuring that the Local Safeguarding Children Board is an effective vehicle for the promotion of child protection and the safeguarding of children in Trafford.</p> <p>46. To appoint or remove the chair of the Trafford Safeguarding Children Board in partnership with TSCB members and hold the chair to account for the effective work of the board, drawing on TSCB information as appropriate</p> <p><b><u>Reporting Arrangements</u></b></p> <p>47. Mandatory reporting to the relevant Government departments, agencies and inspectorates.</p>
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**CORPORATE  
DIRECTOR  
CHILDREN,  
FAMILIES  
AND  
WELLBEING**

The Corporate Director Children, Families and Wellbeing is appointed as the Council's statutory Director of Adult Social Services under the Local Authority Social Services Act 1970 with responsibility for local authority Social Services functions in respect of adults. Accordingly, he/she has the responsibility for all the functions of the statutory Director under that Act and all other relevant legislation.

**MATTERS RELATING TO ADULT SOCIAL SERVICES**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice, National Care Standards and subject to overall budget provision to provide the following directly or through delegated authority (other than integration and co-operation, Safeguarding and power to charge):

**General**

1. To manage the Council's Adult Social Services' functions and establishments.
2. To discharge the Council's functions and duties and exercise the Council's powers under relevant legislation relating to the care of older people, people with physical disabilities, people with learning difficulties and persons who are mentally ill, instituting legal proceedings where appropriate in consultation with the Director of Legal and Democratic Services. To take into account the needs of carers in so doing.
3. To discharge the Council's functions and duties and exercise the Council's powers under the Care Act 2014 including, instituting legal proceedings, where appropriate, in consultation with the Director of Legal and Democratic Services.
4. To ensure the provision of community and home based services.
5. The provision of equipment and adaptations to property.
6. The determination of individual applications for provision under the Care Act and the implementation of such provision.
7. The hearing and determination of any complaint or representation relating to the discharge of Adult Services' functions, whether from a client or a member of the public.
8. Arrangements for the provision of accommodation, where necessary with other authorities or organisations.
9. Administering grants, loans, charges and other forms of assistance, in accordance with Council policy and legislation.
10. The exercise of the Council's functions under Mental Health legislation, including guardianship, the appointment of approved social workers, the exercise of the function of nearest relative and the authorisation of individual social workers to act in that capacity and the authorisation of deprivation of liberty.
11. Arrangements for the burial or cremation of persons in the care of the Council, or where no other person takes responsibility.

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12. The development of support and health improvement initiatives throughout the Borough, either independently or in partnership with local health bodies.

**Safeguarding**

13. To be responsible for ensuring appropriate practices and procedures are in place for safeguarding vulnerable adults.

14. To carry out a safeguarding enquiry, or cause others to do so, where a person is experiencing or is at risk of abuse and neglect to decide what action, if any, is necessary and by whom.

15. To arrange an independent advocate for adults who are subject to a safeguarding enquiry or Safeguarding Adults Review (SAR).

16. To set up a Safeguarding Adults Board or similar partnership vehicle to develop strategic safeguarding policy and practice.

17. To cooperate with relevant partners to protect adults.

**Miscellaneous Matters**

18. To establish a complaints procedure and to give publicity to this procedure, pursuant to Section 7B of the Local Authority Social Services Act 1970 and the Complaints Directions 1990, as reformed by The Local Authority Social Services and NHS Complaints (England) Regulations 2009.

19. Dealing with requests for access to personal files in accordance with the relevant legislation and regulations.

**DIRECTOR OF  
PUBLIC  
HEALTH**

**PUBLIC HEALTH**

Without prejudice to the specific delegations to the Director of Public Health the Corporate Director of Children, Families and Wellbeing will maintain a strategic overview of the discharge of the Council's functions in relation to public health.

The holder of the post of Director of Public Health shall be responsible for the management of the public health consultant function within the Children, Families and Well-being Directorate and the discharge of the statutory responsibilities of the Director of Public Health. This includes:

20. Preparing the annual report on the health of the local population

21. Responsibility for all of the Council's duties to take steps to improve public health

22. Responsibility for the delivery of any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act.

23. Exercising the Council's functions in planning for, and responding to, emergencies that present a risk to public health, their local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders.

24. Carrying out of such other public health functions as the Secretary of State specifies in regulations

**DIRECTOR OF  
PUBLIC  
HEALTH**

25. Being responsible for the Council's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.
26. If the local authority provides or commissions a maternity or child health clinic, then regulations made under section 73A(1) will also give the Director of Public Health responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food Regulations 2005 as amended).
27. Being a member of the Health and Well Being Board.

The following mandatory (prescribed functions) and other (non prescribed) public health services will be commissioned by the Integrated Structure with clinical oversight and advice provided by the Public Health Consultant function under the guidance of the Director of Public Health:

**Mandatory (Prescribed Functions)**

28. Appropriate access to sexual health services (i.e., comprehensive sexual health services (including testing and treatment for sexually transmitted infections, contraception outside of the GP contract and sexual health promotion and disease prevention)
29. Steps to be taken to protect the health of the population, in particular, giving the local authority a duty to ensure there are plans in place to protect the health of the population.
30. Ensuring NHS commissioners receive the public health advice they need
31. The National Child Measurement Programme
32. NHS Health Check assessment.

**Other (Non Prescribed Functions)**

33. Tobacco control and smoking cessation services
34. Alcohol and drug misuse services
35. Public health services for children and young people aged 5-19 (including Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)
36. Interventions to tackle obesity such as community lifestyle and weight management services
37. Locally-led nutrition initiatives
38. Increasing levels of physical activity in the local population
39. Public mental health services
40. Dental public health services
41. Accidental injury prevention
42. Population level interventions to reduce and prevent birth defects
43. Behavioural and lifestyle campaigns to prevent cancer and long-term conditions
44. Local initiatives on workplace health
45. Supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
46. Local initiatives to reduce excess deaths as a result of seasonal mortality
47. The local authority role in dealing with health protection incidents, outbreaks and emergencies
48. Public health aspects of promotion of community safety, violence prevention and response
49. Public health aspects of local initiatives to tackle social exclusion
50. Local initiatives that reduce public health impacts of environmental risks.





**CORPORATE  
DIRECTOR  
TRANSFORMATION  
AND RESOURCES**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice, National Care Standards and subject to overall budget provision:

**A. HUMAN RESOURCES**

1. Authority, after consultation where appropriate with the Portfolio Holder, chairman of the Employment Committee, Trade Unions and staff representatives, to approve revisions and amendments which are not significant to corporate human resources strategies and policies in so far as they relate to the appointment, terms and conditions of employment and dismissal of staff.
2. Authority to approve all other corporate human resources strategies, policies and procedures.
3. To determine discretionary termination compensation payments up to 66 weeks of pay.

**B LIBRARIES**

1. The management and control of all the Council's library facilities. This includes:
  - (a) in consultation with the Executive Portfolio Holder, determining admission charges, fees and concessions for the use of such facilities, and to agree variations from standard charges;
  - (b) authorising the emergency closure of premises and facilities, without notice, in the interests of public safety;
  - (c) to agree seasonal and other variations in the hours of opening of facilities, and the closure of facilities at bank holidays;
  - (d) selecting of books, periodicals and newspapers for the libraries;
  - (e) permitting and organising exhibitions.
2. The development of library services throughout the Borough.
3. To fix charges for any occasional activity, sale of goods over the counter or by machine, hire of equipment and other permitted use not contained in the approved list of charges.

**C. SPORTS, LEISURE AND ARTS**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:

**General**

1. All matters concerning the relationship between the Council, Trafford Community Leisure Trust and other sports and leisure providers with

<p><b>CORPORATE DIRECTOR TRANSFORMATION AND RESOURCES</b></p>	<p>whom we have a contractual arrangement.</p> <ol style="list-style-type: none"> <li>2. With the exception of facilities operated by Trafford Community Leisure Trust and facilities within parks, the management and control of all the Council's sports, leisure and arts facilities. This includes: <ol style="list-style-type: none"> <li>(a) in consultation with the Executive Portfolio Holder, determining admission charges, fees and concessions for the use of such facilities, and to agree variations from standard charges;</li> <li>(b) authorising the emergency closure of premises and facilities, without notice, in the interests of public safety;</li> <li>(c) to agree seasonal and other variations in the hours of opening of facilities, and the closure of facilities at bank holidays;</li> <li>(d) permitting and organising exhibitions.</li> </ol> </li> <li>3. The development of sport and arts services throughout the Borough.</li> <li>4. To fix charges for any occasional activity, sale of goods over the counter or by machine, hire of equipment and other permitted use not contained in the approved list of charges.</li> <li>5. To set ticket prices for arts events.</li> </ol> <p><b><u>D ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014</u></b></p> <ol style="list-style-type: none"> <li>1. The exercise of all functions, powers and duties relating to Community Safety, including the taking of any appropriate enforcement action.</li> <li>2. The issuing of notices and cautions and, in consultation with the Director of Legal and Democratic Services, bringing proceedings under any appropriate legislation, statutory provisions and by-laws.</li> </ol> <p><b><u>E GENERAL</u></b></p> <ol style="list-style-type: none"> <li>1. To grant or refuse applications for use of the Borough Badge.</li> <li>2. To take necessary action to implement the Equality Standard for Local Government.</li> </ol>
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**CHIEF  
FINANCE  
OFFICER**

In accordance with Council policies, statutory requirements, guidance and Codes of practice, and subject to overall budget provision:

**General**

1. To be the Council's Chief Finance Officer as required and described in s151 of the Local Government Act 1972, responsible for the effective financial administration of the Council.
2. To administer the General Fund and the Collection Fund and to collect and disburse monies from these funds as appropriate, and/or determine procedures and controls for the proper financial administration of any parts of these funds administered by other officers, and in all cases to ensure that there is an effective internal audit function to review and monitor compliance with rules, procedures, policies, directives and controls.
3. To prepare the annual Statement of Accounts and to ensure that the Council, its appropriate Committees, the Executive and the Corporate Management Team receives appropriate and regular monitoring reports on the Councils' financial performance.
4. To make such entries as are required, in the Council's accounts to comply with relevant regulations and codes of best practice that have the weight of law.
5. To create reserves, execute accounting transactions and make adjustments:-
  - a. Up to £500,000 per transaction;
  - b. Between £500,001 - £1,500,000 per transaction – delegation to be exercised in consultation with the Executive portfolio holder;
  - c. Over £1,500,000 per transaction – delegation to be exercised in consultation with the Leader of the Council, Deputy Leader of the Council and Executive portfolio holder.
6. To determine and arrange all insurance cover for Council requirements and in consultation with the Director of Legal & Democratic Services as appropriate to determine all claims made on the self-insured fund.
7. To consider and determine applications for virement between revenue or capital budgets, and to otherwise maintain budget plans on the Councils' ledger system consistent with the approved plans and management information needs of the Council.
8. To be the Council's authorised signatory for all grant claims, requests and lease arrangements (except for property related leases under a value to be determined in consultation with the Corporate Director for Economic Growth and Prosperity) made by the Council.
9. To prosecute, initiate and appear on behalf of the Council in any legal proceedings relating to national non-domestic rates and Council Tax and any other similar matters.

**CHIEF  
FINANCE  
OFFICER**

**Borrowing and Investment**

10. To raise money by any means permitted by statute and intra vires as is most appropriate at the relevant time.
11. To proactively manage the Council investment and debt portfolio, including the early repayment of debt, in accordance with the Council's Treasury Management Strategy and within the approved prudential indicators.
12. To act as Registrar for the Council's Mortgage, Bonds and similar schemes.

**Debt Recovery**

13. To administer the Council's procedures to deal with debt recovery.
14. Following consultation with appropriate Directors, to request the Director of Legal and Democratic Services to take any action necessary for the recovery of arrears of claims and other appropriate debts due to the Council, including appearance in the Magistrates' Court in person or by his duly authorised officer and including actions for the recovery of possession of mortgaged property.
15. To write-off individual items of irrecoverable income of up to £25,000 (excluding VAT) as specified in the Finance Procedure Rules.
16. To write off any income that is irrecoverable due to liquidation, bankruptcy or insolvency.
17. In consultation with the and the Executive Member for Finance, to write off any other income due to the Council (e.g., any individual item in excess of £25,000)

**National Non-Domestic Rates**

18. To charge, collect and recover any non-domestic rates payable.
19. To consider and determine applications for relief under Section 43 of the Local Government Finance Act 1988 (mandatory charitable relief).
20. To consider and determine applications made under Section 44A of the Local Government Finance Act 1988 (as amended by the Local Government and Housing Act 1989) (granting relief for unoccupied parts of hereditaments).
21. To consider and determine applications for relief under Section 47 of the Local Government Finance Act 1988 as amended by Clause 69 of the Localism Act 2011 having regard to the guidelines previously laid down (discretionary rate relief).
22. To consider and determine applications made under Section 49 of the Local Government Finance Act 1988 (reduction or remission of liability on the grounds of hardship).
23. To prosecute and appear on behalf of the Council at any legal proceedings.

<p><b>CHIEF FINANCE OFFICER</b></p>	<p>24. To exercise reasonable discretion in making suitable arrangements for the collection of rates by instalments within the context of statutory provisions and the Council’s resolutions.</p> <p>25. To annually estimate and set the Non-Domestic Rate Tax Base for local and national requirements pursuant to the relevant legislation and Council policy.</p> <p><b><u>Council Tax</u></b></p> <p>26. To charge, collect and recover any Council Tax payable.</p> <p>27. To establish and maintain a list of liable persons and to request certain information in order to achieve this objective in accordance with legislation.</p> <p>28. To consider, determine, grant (as appropriate) and review any application for statutory and discretionary discounts, relief, reductions and exemptions.</p> <p>29. To impose penalties in certain instances.</p> <p>30. To attend Valuation Tribunals.</p> <p>31. To prosecute and appear on behalf of the Council at any legal proceedings.</p> <p>32. To exercise reasonable discretion in making suitable arrangements for the collection of rates by instalments within the context of statutory provisions and the Council’s resolutions.</p> <p>33. The determination of the Council Tax base in accordance with Section 33(1) of the Local Government Finance Act 1992.</p> <p>34. To annually estimate and set the Council Tax Base for local and national requirements pursuant to the relevant legislation and Council policy.</p> <p>35. To annually determine the level of available Collection Fund Surplus.</p> <p><b><u>Council Tax Support and Housing Benefit Rent Allowances and Rent Rebates)</u></b></p> <p>36. To administer the Council Tax support and housing benefits scheme and make all determinations necessary for its proper administration including:</p> <ul style="list-style-type: none"> <li>a. determining the period benefit is awarded for, subject to any statutory maximum.</li> <li>b. determining applications for benefit to be backdated</li> <li>c. consider and determine the granting of additional relief in exceptional circumstances</li> <li>d. determining overpayments and pursuing recovery where appropriate</li> <li>e. considering appeals and attending Appeal Tribunals if required</li> <li>f. considering awards of extra Housing Benefit under discretionary powers</li> <li>g. where otherwise “exceptional hardship” would be caused.</li> </ul>
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**CHIEF  
FINANCE  
OFFICER**

- 37. To cancel applications where insufficient information has been received at any time after a minimum of 4 weeks has elapsed, from the further written request for the necessary information being made.
- 38. To withhold benefit in circumstances to be defined in consultation with the Director of Legal and Democratic Services.
- 39. In respect of Housing Benefit to determine the appropriate level of rent to be met by the scheme having regard to rents which are unreasonable

**DIRECTOR OF  
LEGAL AND  
DEMOCRATIC  
SERVICES**

**Appeals**

To consider and determine all appeals relating to NNDR, Council Tax and Council Tax support

**Adult Social Care - Matters Relating to Income and Expenditure**

- 40. To assess for and collect charges under the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.
- 41. To offer deferred payments in line with the Care and Support (Deferred Payments Agreements) Regulations 2014
- 42. To ensure debt recovery is pursued in line with the Care Act and the Council's Care & Residential Services Debt Management & Recovery Policy
- 43. To protect the property of adults being cared for away from home in accordance with Section 47 of the Care Act

**Discretionary Welfare Assistance**

- 40. To administer the Discretionary Housing Payments Scheme including the setting of criteria, making payments and establishing a review procedure.
- 41. To administer and determine the award of discretionary Council Tax Support in accordance with Council policy.
- 42. To administer the Trafford Assist fund, including the setting of criteria, issuing awards and establishing review procedures.

<p><b>DIRECTOR OF HUMAN RESOURCES IN CONSULTATION WITH CHIEF FINANCE OFFICER</b></p>	<p><b><u>Human Resources</u></b></p> <p>43. To act in accordance with the Council's locally-agreed arrangements, including:-</p> <ul style="list-style-type: none"> <li>a. To administer the payment of all remuneration, compensation and other emoluments to employees of the Council.</li> <li>b. To make deductions from employees' salaries in respect of sums or debts lawfully due to the Council, in accordance with statute, the relevant contract of employment, by agreement and/or in accordance with Council policy determined by Members.</li> <li>c. In consultation with the Chief Executive, to implement national and provincial pay awards within approved estimated.</li> <li>d. To approve or refuse applications for staff car leases in accordance with the Council's Salary Sacrifice Car Lease Scheme and applications for other salary sacrifice schemes.</li> </ul> <p>44. To determine requests received from employees under the terms of the council's Voluntary Redundancy and Early Retirement Scheme where total costs associated with the request do not exceed £100,000 and the payback period does not exceed 5 years.</p>
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<p><b>CHIEF FINANCE OFFICER</b></p>	<p><b><u>Miscellaneous Matters</u></b></p> <p>45. To revise the financial limits in the scheme to assist schools to purchase items of school equipment if the need arises in the light of experience.</p> <p>46. In consultation with the Director of Children, Families and Wellbeing to deal with all classes of improvement grants.</p> <p>47. In consultation with the Corporate Director of Children’s, Families and Wellbeing Services, determine, administer and action the Council’s Scheme for Financing Schools.</p> <p>48. To be the Council’s authorised signatory for all grant claims and bids made by the Council.</p> <p>49. To determine and issue any protocols, rules, procedures, guidance and best practice for the effective discharge of proper financial administration in a devolved environment, including determining all relevant accounting practices and instructions.</p> <p>50. To be and to select other officers under the Chief Finance Officer’s direct managerial control to be bank signatories.</p> <p>51. To approve holders of Credit and Purchase cards in the Council’s name.</p> <p>52. To approve all leases or similar credit arrangements (excluding property related).</p> <p>53. To exercise the following privileges, and to extend these privileges to other officers who are under the Chief Finance Officers’ direct managerial control:</p> <ol style="list-style-type: none"> <li>a. Enter any Council premise at any time pursuant to investigations of financial irregularity and/or to secure any asset or documentation</li> <li>b. To request any Council officer or Member to produce and release any Council monies, instruments, stocks, financial record or other asset immediately</li> <li>c. To give instruction to any Council officer or Member pursuant to investigations of financial irregularity and/or to prevent financial loss or liability being incurred</li> <li>d. To remove and/or instruct on the security of any document and/or asset in furtherance of any investigation of financial irregularity and/or to prevent loss or liability being incurred</li> <li>e. To determine whether any matter of financial irregularity and/or corruption will be brought to the attention of the Police</li> <li>f. To require any officer of the Council to fully cooperate with any investigation of financial irregularity</li> </ol>
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**DIRECTOR  
OF LEGAL  
AND  
DEMOCRATIC  
SERVICES**

In accordance with Council policies, statutory requirements, guidance, Codes of Practice and subject to overall budget provision:

**General**

1. To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council and make applications to court as required.
2. To make any order or direction, give or serve any notice, or sign on behalf of the Council, or witness the sealing of any document necessary to give effect to any decision lawfully taken by or on behalf of the Council.
3. To grant authority for someone (other than an admitted solicitor) to appear in the Magistrates' Court, on behalf of the Council, under Section 223 of the Local government Act 1972.
4. To institute criminal proceedings in respect of offences against any legislation (including by-laws) that the Council is authorised to enforce and to institute and respond to any appeals arising out of such proceedings.
5. In consultation with the relevant Director, to serve any notices required in pursuance of the Council's functions or powers.
6. To approve, in consultation with the relevant Director, the payment of financial compensation not exceeding £1,000, in order to resolve a complaint submitted in accordance with the Council's Complaints' Procedure.
7. On the instructions of a Director, to take all necessary steps to secure the removal of any person or persons from land.
8. To grant authority to officers to enter premises in exercise of statutory powers and duties.
9. To establish and administer appeal committees to determine statutory education and exclusion appeals; to appoint additional members to the Panel as necessary and to appoint panel members to act as chairmen of the committees.
10. To execute documents under Seal and to authorise other officers, as necessary, to do the same.
11. To settle claims against the Council in consultation with the relevant Director.
12. To certify and settle claims under the Land Compensation Act 1973.
13. To serve requisitions as to ownership of property under various statutory provisions.
14. To attach the Council's Seal to Tree Preservation Orders made under delegated powers.
15. To administer the Council's responsibilities under the Data Protection and Freedom of Information legislation.

**DIRECTOR  
OF LEGAL  
AND  
DEMOCRATIC  
SERVICES**

16. To maintain the Local Land Charges' register, respond to local searches and deal with the registration of Common Land etc.
17. To apply for injunctions in appropriate cases in pursuance of the Council's statutory functions and duties or to protect people or property.
18. Authority to act jointly with the Chief Finance Officer in respect of paragraph 6 of the Accounts and Audit Regulations 2011.
19. To administer the Members' Scheme of Allowances.
20. To set a reasonable fee for supplying a copy of the Independent Remuneration Panel's report to interested parties.

**Planning and Highways**

21. In consultation with the Corporate Director of Economic Growth, Environment and Infrastructure to enter into agreements and bonds with developers or others in accordance with planning and highway legislation
22. Jointly with the Head of Planning Services authority to determine applications for Certificates of Lawful Use or Development.
23. Jointly with the Head of Planning Services authority to issue Stop Notices and take further enforcement action and, in other cases, serve Enforcement Notices, Stop Notices or Breach of Condition Notices.
24. To accept blight notices where all statutory requirements are met and to serve counter notices in response to purchase notices and blight notices served on the Council.
25. Authority to lodge objections to vehicle operators' licences, in consultation with the Corporate Director of Economic Growth, Environment and infrastructure, where it appears that the operating centre is not suitable and if necessary, to appear at any hearing into the grant of an Operators' Licence.

**Mortgages**

26. At the request of the Chief Finance Officer to take action (including the institution and prosecution of Court proceedings), against mortgagors who are persistently in default.
27. Approval of occasional variations of first mortgages given by a building society for the purchase of Council houses by tenants to enable the society to charge a higher rate of interest for further advances on the same properties.
28. In consultation with the Chief Finance Officer, to consider and determine applications from owners of former Council dwellings for the Council's approval to Building Society further advances taking priority over the Council's claim for repayment of discount, subject to both officers being satisfied that the Council's financial interests are safeguarded in each case.

**DIRECTOR  
OF LEGAL  
AND  
DEMOCRATIC  
SERVICES**

**Asset Management**

29. At the request of the Chief Officer responsible for the property concerned, to serve notice to quit on tenants, to recover possession of property, and to terminate the leases of business premises required for demolition or redevelopment.
30. To confirm Compulsory Purchase Orders in accordance with section 14A of the Acquisition of Land Act 1981, where empowered to do so by the relevant Secretary of State.

**Local Government Standards**

31. To maintain a register of member's interests consistent with the adopted Code of Conduct.
32. To decide on whether to investigate or reject or informally resolve a complaint and to arrange an investigation (having consulted with the Independent Person).
33. To refer an investigation finding of breach to the Standards Committee for hearing (having consulted with the Independent Person).
34. To determine requests for dispensation on grounds 1-3 below, subject to a member's right to appeal to the Standards Committee:

The grounds are:

- (1) So many members have disclosable personal interests (dpi's) that it would impede the transaction of the business;
- (2) Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter;
- (3) Without the dispensation, every member of the Executive would have a (dpi) prohibition from participating.

## Appointment of Officers

1. As set out in Article 12 of the Constitution, the following designations have been made:
  - a) The Chief Executive is designated Head of Paid Service in accordance with section 4 of the Local Government and Housing Act 1989
  - b) The Director of Legal and Democratic Services is designated Monitoring Officer in accordance with section 5 of the Local Government and Housing Act 1989. The Principal Solicitor (Corporate and Commercial) is designated as the Deputy Monitoring Officer.
  - c) The Chief Finance Officer is designated as the Statutory Chief Finance Officer in accordance with section 151 of the Local Government Act 1972. The Head of Financial Management is designated as the Deputy Statutory Chief Finance Officer.
2. The Chief Executive is appointed Returning Officer for any constituency or part of a constituency coterminous with or contained in the Borough of Trafford
3. The Chief Executive is appointed Returning Officer for the elections of Councillors for the Borough of Trafford and of Councillors for parishes within the Borough.
4. The Chief Executive is appointed Registration Officer for any constituency or part of a constituency coterminous with or contained in the Borough of Trafford.
5. The Chief Executive following consultation with the Leader of the Council may appoint a Corporate Director to the role of Deputy Chief Executive on such terms and conditions including remuneration, as the Chief Executive sees fit. The Deputy Chief Executive shall:
  1. undertake any duties delegated to him/her by the Chief Executive
  2. perform duties of the Chief Executive set out in this Constitution either;
    - (i) upon the instruction of the Chief Executive; or
    - (ii) upon the instruction of the Leader of the Council when the Chief Executive is absent from his/her duties for whatever reasons for a period of five consecutive working days or more. During such times, the Deputy Chief Executive shall undertake any of the powers of the Chief Executive set out in this Constitution, except where the Constitution already provides for deputising arrangements (for example, Proper Officer functions)
6. The Director of Legal and Democratic Services is appointed as the officer who may do acts in respect of Registration in the event of the Chief Executive's absence or incapacity
7. The Corporate Director Children, Families and Wellbeing is appointed as the Statutory Director of Children' Services under section 18 of the Children Act 2004

8. The Corporate Director Children, Families and Wellbeing is appointed as the Statutory Director of Social Service (Adults ) under section 6 of the Local Authority Social Services Act 1970
9. The Head of Governance is appointed as the Statutory Scrutiny Officer under the Local Democracy, Economic Development and Construction Act 2009
10. The Director of Public Health is appointed as the Statutory Director of Public Health as required under the Health and Social Care Act 2012.
11. The officers specified in the following table are appointed Proper Officer for the purpose of the respective functions specified in relation to them:

<b>Registration Service Act 1953</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S3, 9,13 & 20	Registration of Births, Deaths and Marriages	Director of Legal and Democratic Services (Head of Legal Services)
<b>Local Government Act 1972</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 83	Witness and receipt of declaration and acceptance of office	Chief Executive (Director of Legal and Democratic Services)
S 84	Receipt of written notice of resignation of office	Chief Executive (Director of Legal and Democratic Services)
S 88(2)	Convening of meeting of the Council to fill a casual vacancy in the office of Chairman	Chief Executive (Director of Legal and Democratic Services)
S 89(1)(b)	Receipt of notice of casual vacancy in the office of Councillor from two local government electors	Chief Executive (Director of Legal and Democratic Services)
S 100B	Exclusion of parts from reports open to inspection	Director of Legal and Democratic Services
S 100C(2)	Responsibility to prepare a written summary of those parts of the committee proceedings which disclose exempt information	Director of Legal and Democratic Services
S 100D	Responsibility for identifying background papers and compiling list of such documents	For each report, the officer named in it as the responsible officer
S 100F(2)	Decision to exclude from production to Members documents disclosing exempt information	Chief Executive (Director of Legal and Democratic Services)
S 115	Responsibility for receipt of money due from officers	Chief Finance Officer

S 146(1)	Authorisation to produce a declarations and certificates with regard to securities	Chief Finance Officer
S 191	Functions with regard to Ordnance Survey	Corporate Director Economic Growth, Environment and Infrastructure.
S 210	Officer in whom power in respect of a charity will vest as at 1 April 1974	Director of Legal and Democratic Services
S 225(1)	Deposit of documents and giving of acknowledgements or receipts.	Director of Legal and Democratic Services
S 229	Certification of photographic copies of	Director of Legal and Democratic Services
S 234(1)	Authentication of documents	Director of Legal and Democratic Services
S 238	Certification of byelaws	Director of Legal and Democratic Services
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings	Chief Executive (Any Corporate Director/Director of Legal and Democratic Services)
Para 4(3) of Part 1 of Schedule 12	Receipt of notices from Members regarding address to which a summons to a meeting is to be sent	Chief Executive (Director of Legal and Democratic Services)
<b>Local Government Act 1974</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 30 (5)	Publication of notice of Local Commissioner's report on investigation of a complaint	Director of Legal and Democratic Services
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 41	Certification of copies of resolutions, minutes and other documents	Director of Legal and Democratic Services
<b>Rates Act 1984</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 7	Certification of rate	Chief Finance Officer
<b>Local Government and Housing Act 1989</b>		

<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 2	Preparation of list of politically restricted posts	Corporate Director Transformation and Resources
S 15, 16, 17	Receipt of notices relating to political groups	Chief Executive (Director of Legal and Democratic Services)
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
S 8 (1) and (5)	Receipt of notice of constitution of a political group, or the change of name of a political group	Chief Executive (Director of Legal and Democratic Services)
S 9 and 10	Receipt of notice of Councillor's membership of, or cessation of membership of, a political group	Chief Executive (Director of Legal and Democratic Services)
S 13	Officer to whom the wishes of a political group are expressed	Chief Executive (Director of Legal and Democratic Services)
S 14	Responsibility for notifying a political group about allocations and vacancies of seats	Chief Executive (Director of Legal and Democratic Services)
<b>The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
Reg 5 (2)(3)and (4)	Responsibility to produce a notice giving 28 days' notice of its intention to hold a meeting in private.	Director of Legal and Democratic Services
Reg 5 (6)and (7)	Responsibility to gain approval from the Chairman of Scrutiny Committee to the consideration of an item in private where notice in accordance with Regulation 5 (2) was not practical and the publication of the notice thereafter.	Director of Legal and Democratic Service
Reg 6	Responsibility for giving notice of the time and place of a public meeting.	Director of Legal and Democratic Service
Reg 7	Responsibility to ensure that certain copy documents are available for public inspection	Director of Legal and Democratic Services
Reg 9 (1), (2) and (3)	Responsibility to produce a notice giving 28 days' notice of its intention to take a key decision.	Director of Legal and Democratic Services



<i>Reg 10</i>	Responsibility to inform the Chairman of Scrutiny Committee of the intention to take a key decision where notice in accordance with Regulation 9 was not practical and the publication of the notice thereafter.	Director of Legal and Democratic Services
<i>Reg 11</i>	Responsibility for dealing with cases of special urgency.	Director of Legal and Democratic Services
<i>Reg 12</i>	Responsibility for the recording of executive decisions taken at meetings	Director of Legal and Democratic Services
<i>Reg 13(1), (2) and (3) and Reg 14</i>	Responsibility for the recording of executive decisions taken by individual members	Director of Legal and Democratic Services
<i>Reg 13 (4) and Reg 14</i>	Responsibility for the recording of executive decisions taken by Officers	Relevant Corporate Director
<i>Regs 15 and 21</i>	Responsibility for ensuring that background papers are available for inspection	Director of Legal and Democratic Services
<i>Reg 20</i>	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information, exempt information or the advice of a political advisor or assistant	Director of Legal and Democratic Services
<b>The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000</b>		
<b>Reference</b>	<b>Description</b>	<b>Proper Officer</b>
<i>Reg 4</i>	Publication of the number that is equal to 5 per cent of the number of local government electors for the authority's area	Head of Governance
<b><i>The Local Authorities (Standing Orders) (England) Regulations 2001</i></b>		
<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
<i>Reg 3 &amp; 4 and Schedule 1</i>	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment. This officer is the proper officer referred to in the Officer Employment Procedure Rules set out in Part 3 of the Constitution	Chief Executive

12. The officer of the Council named in the second column below is appointed the Proper Officer of the Council in relation to references to the officer named in the first column in:

- (i) any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before the 26 October 1972 which reference is to be construed as a reference to the proper officer of the Council;
- (ii) any reference in any local statutory provision which, by virtue of any Order made under the Local Government Act 1972, is to be construed as a reference to the proper officer of the Council.

**1.  
Reference**

Town Clerk or Clerk of the Council

Treasurer

Surveyor

**2.  
Proper Officer**

Chief Executive

Chief Finance Officer

Corporate Director of Economic Growth,  
Environment and Infrastructure

13. This schedule of appointments is to be read in conjunction with the Scheme of Delegation to Officers (Part 3 Section 4 of the Council's Constitution) which contains information about other functions delegated to, and exercisable, by officers.
14. The deputy Proper Officer, if any, is given in brackets after the Proper Officer. The deputy Proper Officer is appointed to act where the Proper Officer is absent and/or unable to act for any reason. An officer appointed as a Proper Officer may also make arrangements for the carrying out of the relevant duties and functions by another officer. In the event of an officer being for any reason unable to act or the post being vacant the Chief Executive or in their absence, the Director of Legal and Democratic Services, and in the absence of both, the Chief Finance Officer, shall nominate an officer to act in their stead.
15. Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no Proper Officer appointment has, for the time being, been made either in accordance with this schedule of Proper Officer functions or the Scheme of Delegation to Officers.



**TRAFFORD  
COUNCIL**

**CONSTITUTION  
FOR  
EXECUTIVE GOVERNANCE**

**May 2017**

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- Members' Allowances Scheme

## SUMMARY AND EXPLANATION

### The Council's Constitution

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

In delivering services and performing their duties all Councils work within a wider legal context which says how they should operate – this includes the Human Rights Act, Local Government Acts and various regulations. This constitution is a local expression of the way in which Trafford will operate within this wider framework.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### Contents of the Constitution

Article 1 of the Constitution commits the Council to provide clear leadership to the community and to work with the community for the community. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

Article 1	The Constitution
Article 2	Members of the Council
Article 3	The Council and its Community
Article 4	The Council meeting
Article 5	Chairing the Council
Article 6	Overview and Scrutiny of decisions
Article 7	The Executive
Article 8	Regulatory and other committees
Article 9	The Standards Committee
Article 10	Not Used
Article 11	Joint arrangements
Article 12	Officers
Article 13	Decision making
Article 14	Finance, contracts and legal matters
Article 15	Review and revision of the Constitution
Article 16	Suspension, interpretation and publication of the Constitution

Schedule 1: Description of Executive Arrangements

## **Other Parts of the Constitution**

- Part 3 Lists responsibilities for carrying out the Council's functions
- Part 4 Contains detailed rules of procedure for a variety of bodies and functions
- Part 5 Contains codes and protocols relating to Members of the Council and officers employed by the Council
- Part 6 Contains the Members' Allowances Scheme

## **How the Council operates**

The Council is composed of 63 councillors with one-third elected three years out of four. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their ward constituents, including those who did not vote for them.

The Council has agreed a Code of Conduct (see Part 5 of this Constitution) to ensure high standards in the way that councillors carry out their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council Meeting appoints one councillor to be the Executive Leader of the Council and also appoints councillors to the Executive. The Leader and the Executive Members together make up the Executive of the Council. The Executive is the part of the Council which is responsible for most day to day decisions. The Council is also responsible for the appointment of committees.

## **How Decisions are made**

The Executive is made up of the Leader who is a councillor and a Cabinet of up to nine other councillors. When major (or "key") decisions are to be discussed or made, these are published in a Notice published at least 28 days before a decision is to be made. If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. The only exception to this is if the decision needs to be taken urgently.

## **Overview and Scrutiny**

There are two overview and scrutiny committees which support the work of the Executive and the Council as a whole. They also look at the work of partners, including local health services. They allow the community to have a greater say in Council matters by making inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny committees also monitor the decisions of the Executive. The Scrutiny Committee can 'call-in' a decision which has been made by the Executive or by an individual Member of the

Executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Executive reconsider the decision. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy. The Health Scrutiny Committee considers health matters and engages with health commissioners and providers in addition to the Executive.

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

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

### **Rights of Members of the Public**

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

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

Members of the public have the right to:

- vote at local elections if they are registered;
- contact a local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive if they are registered voters;
- submit or sign a petition asking the Council to consider an issue (see part 4) .
- contribute to investigations by the overview and scrutiny committees in whatever ways the committees consider appropriate.
- find out, from the Notice of key decisions to be taken, what major decisions are to be decided by the Executive or officers, and when;
- attend meetings of the Executive where key decisions are being discussed or decided except where, for example, personal or confidential matters are being discussed;

- see reports and background papers, and any record of decisions made by the Council and the Executive;
- complain to the Council about any aspect of the services provided by the Council and receive a response within the time period set out in the Council's Complaints Procedure.
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after having first raised their complaint with the Council and given the Council a chance to respond; and
- inspect the Council's accounts and other published financial information and make their views known to the external auditor.

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

The Council welcomes participation by its residents in its work. For further information on your rights, please contact your nearest information office at Access Trafford (telephone 0161 912 2000) or access the Council's web site on [www.trafford.gov.uk](http://www.trafford.gov.uk) In addition, rights are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.



## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

## **ARTICLE 1 – THE CONSTITUTION**

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

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

### **1.02 Constitution**

This document and all its appendices, is the Constitution of Trafford Council.

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

The purpose of the Constitution is to:

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

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

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

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

## **ARTICLE 2 – MEMBERS OF THE COUNCIL**

### **2.01 Composition and eligibility**

- (a) The Council will comprise 63 members, otherwise called councillors. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the appropriate Secretary of State.
- (b) Only registered voters of the Borough of Trafford or those living or working there for a specified period will be eligible to hold the office of Councillor.

### **2.02 Election and terms of Councillors**

The ordinary election of a third of all councillors will be held on the first Thursday in May in each year, except that in 2005, and every fourth year after that, there will be no regular election. The terms of office of councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### **2.03 Filling of casual vacancies**

Casual vacancies which may arise as a result of a councillor ceasing to be a member before the termination of his/her term of office will be filled by the holding of a by-election. The by-election will be held on an appropriate Thursday. However, in all cases where a person ceases to become a councillor in the final 6 months of their term of office the election will be held in abeyance until the normal May election. The terms of office of councillors elected at a by-election will start on the day they are elected.

### **2.04 Roles and functions of all Councillors**

#### **(a) Key roles**

All councillors will:-

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and involvement in decision making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council;

- (vi) maintain the highest standards of conduct and ethics; and
- (vii) take part in Member development and training.
- (b) **Rights and duties**
  - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions.
  - (ii) They will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor, or Officer entitled to know it.
  - (iii) For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.05 **Conduct**

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

## 2.06 **Allowances**

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

## 2.07 **Register of Interests**

- (a) The Council’s Monitoring Officer has established and will maintain a register of such interests of councillors and co-opted voting members of the Council as are specified in the Code of Conduct (see Part 5). All councillors and voting co-opted Members must provide the Monitoring Officer with the relevant information and update this as necessary.
- (b) The Register is available for inspection by members of the public at Trafford Town Hall during usual office hours and declarations by councillors are available on the Council’s website.

## **ARTICLE 3 – THE COUNCIL AND ITS COMMUNITY**

### **3.01 Rights of Members of the Public**

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

#### **(a) Voting and petitions**

Rights for residents on the electoral roll for the area include the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution. People who live and/or work in the area can present petitions to the Council as set out in Section 4 of this Constitution.

#### **(b) Information**

Members of the public have the right to:

- (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and part of the meeting is therefore held in private;
- (ii) attend meetings of the Executive when key decisions are being considered except where confidential or exempt information is likely to be disclosed, and part of the meeting is therefore held in private;
- (iii) find out from Notice of Key Decisions what key decisions will be taken by the Executive and, when it is expected that they will be taken.
- (iv) see the majority of reports and background papers, and any records of decisions made by the Council and the Executive; and
- (v) inspect the Council's accounts and published financial information and make their views known to the external auditor.

#### **(c) Participation**

Members of the public can participate in, and contribute to investigations by overview and scrutiny committees when appropriate.

Any person (or their representative) who submits a planning application which is considered by the Planning and Development Management Committee will have the opportunity to address the Committee for a maximum of 3 minutes subject to having given prior written notice to the Head of Planning and Development.

Similarly, one representative on behalf of any objectors to a planning application which is considered by the Planning and Development Management Committee will have the opportunity to address the Committee

for a maximum of 3 minutes subject to having given prior written notice to the Head of Planning and Development.

(d) **Complaints**

Members of the public have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after having first raised their complaint with the Council and given the Council a chance to respond;

**3.02 Responsibilities of Members of the Public**

Members of the public must not be violent, abusive or threatening to councillors, officers or others involved in Council business and must not wilfully harm things owned by the Council, councillors or officers.

Eligible local residents are legally required to register to vote and are actively encouraged to exercise their vote.

## ARTICLE 4 – THE COUNCIL MEETING

### 4.01 Meanings

#### (a) Policy Framework

The policy framework means the following plans and strategies:-

(i) those required by law:

- Crime and Disorder Reduction Strategy
- Trafford Local Plan
- Licensing Policy
- Gambling Policy

(ii) those which the Council has decided to include:

- Council's Corporate Plan (if produced)
- Equalities framework
- Treasury Management Strategy

#### (b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the Council's Investments Strategy, the control of its capital expenditure and the setting of virement limits.

#### (c) Housing Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be

contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

- (d) appointing the Leader from the date of election as Leader to the first annual meeting after their normal day of retirement as a Councillor i.e. up to 4 years (or following the removal, incapacity or resignation of the Leader).
- (e) agreeing and/or amending the terms of reference for committees (other than Executive Committees), deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.06;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and
- (l) all other matters which, by law, must be reserved to the Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

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

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

#### **4.04 Responsibility for functions**

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



## ARTICLE 5 – CHAIRING THE COUNCIL

### 5.01 Role and function of the Chairman

The Mayor and in his or her absence, the Deputy Mayor will have the following roles and functions:

#### (a) Chairing the Council Meeting

The Chairman of the Council shall be the Mayor, who will be a Member of the Council, and will be elected annually by the Council. The Mayor and Deputy Mayor will hold office as the Chairman and Vice-Chairman of the Council until:

- (i) (s)he resigns from the office; or
- (ii) (s)he is disqualified from being a councillor.; or
- (iii) (s)he is no longer a councillor; or
- (iv) the first Annual Meeting after their normal day of retirement as a councillor, save that the Council may by resolution remove the Chairman or Vice-Chairman from office at an earlier date.

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

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary in consultation with the Monitoring Officer;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the main place at which members who are not on the Executive are able to hold the Executive to account;
4. to promote public involvement in the Council's activities; and
5. to attend such civic and ceremonial functions as the Executive Leader and (s)he determine appropriate.

#### (b) Ceremonial Role

The Mayor is the first citizen of the Borough and shall take precedence in the Borough. The Mayor will represent the Borough at civic functions both locally and nationally and will fulfil all the traditional ceremonial functions that are fundamental to the civic life of Trafford.

## **ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES**

### **6.01 Terms of reference**

The Council will appoint the overview and scrutiny committees set out in Section 6.05 to discharge the functions conferred by the Local Government Act 2000, the Health and Social Care Act 2001, Police and Justice Act 2006, National Health Service Act 2006, Local Government and Public Involvement in Health Act 2007, Local Democracy, Economic Development and Construction Act 2009, the Flood and Water Management Act 2010 and the Health and Social Care Act 2012.

These committees are collectively referred to in this Constitution as overview and scrutiny committees.

### **6.02 General role**

Within their terms of reference, overview and scrutiny committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Authority's functions.
- ii) make reports and/or recommendations to the full Council and/or the Executive and/or any joint committee or area board in connection with the discharge of any functions;
- iii) consider any matter affecting the area or its inhabitants; and
- iv) have the right to request the exercise of the right to call-in, for reconsideration, executive decisions made but not yet implemented by the Executive and key decisions made but not yet implemented by officers.

### **6.03 Specific functions**

These are set out in the terms of reference for each overview and scrutiny committee which are set out in Part 4 of this Constitution.

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

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

### **6.05 Overview and Scrutiny Committees**

The Council will appoint the following overview and scrutiny committees:-

- Scrutiny Committee
- Health Scrutiny Committee

The Scrutiny Committee shall deal with all functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time.

Where the Committee consider education matters, the Committee will include an additional 5 non-elected voting co-opted members as follows:-

- 1 Church of England representative,
- 1 Roman Catholic Church representative,
- 3 parent governor representatives,

and 3 non-elected, non-voting co-opted members who are teacher representatives.

The Scrutiny Committee shall deal with all functions relating to the Crime and Disorder Reduction Partnership in order to discharge the relevant functions as laid out in the Police and Justice Act 2006.

The Health Scrutiny Committee shall deal with all functions of the Council under the Health and Social Care Act 2012 to review and scrutinise matters relating to the health service in Trafford and make reports and recommendations to local NHS bodies.

## **ARTICLE 7 – THE EXECUTIVE**

### **7.01 Role**

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

### **7.02 Form and composition**

The Executive will consist of the Executive Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader of the Council.

### **7.03 Leader**

The Leader will be a councillor elected to the position of leader by the Council. The term of office of the Leader is from the date of election as Leader to the first annual meeting after their normal day of retirement as a councillor i.e. up to 4 years. The Leader will hold office until:

- (a) (s)he resigns from the office; or
- (b) (s)he is disqualified from being a councillor; or
- (c) (s)he is no longer a councillor; or
- (d) the first Annual Meeting after their normal day of retirement as a councillor save that the Council may by resolution remove the Leader from office at an earlier date.

### **7.04 Deputy Leader**

The Leader of the Council shall appoint an Executive Member as Deputy Leader with power to act in the Leader's absence.

### **7.04 Executive members**

Executive members appointed by the Leader of the Council (including the Executive Member appointed as Deputy Leader) shall hold office until:

- (a) they resign from office; or
- (b) (s)he is disqualified from being a councillor; or
- (c) they are no longer councillors; or
- (d) the Annual General Meeting following the meeting at which they are appointed to the Executive save that the Leader of the Council may remove them from office either individually or collectively at an earlier date.

### **7.05 In the event that the office of Leader becomes vacant the following procedure shall be followed:**

- (a) if the vacancy arises as a result of a Council resolution, the Council will appoint a replacement at the same meeting;

- (b) if the vacancy arises at any other time the Chief Executive will call a meeting of Council to be held on a date agreed with the Chairman of the Council if no ordinary meeting of Council is due to be held within a reasonable time. At this meeting the Council shall appoint a councillor to the vacant office.

#### **7.06 Deputy Executive Members**

Members may be appointed to act as Deputies for the Executive Members but will not be members of the Executive nor serve on the Scrutiny Committees. The Deputy Executive Members will support the Executive Members in their role and will be able to attend Executive meetings. They will be able to speak at Executive meetings in the absence of the Executive Member, however, they will not have any decision making powers.

#### **7.07 Proceedings of the Executive**

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

#### **7.08 Responsibility for functions**

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

## **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES**

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

- (a) The Council will appoint the committees set out in the left hand column of the table “Responsibility for Council Functions” in Part 3 of this Constitution to discharge the functions described in column 3 of that table.
- (b) These Committees will conduct their proceedings in accordance with Article 13.
- (c) The Council will appoint a Health and Wellbeing Board with the membership and terms of reference as set out in the table “Responsibility for Council Functions” in Part 3 of this Constitution. The Board will conduct their proceedings in accordance with the procedure rules in Part 4 of the Constitution.

## **ARTICLE 9 – THE STANDARDS COMMITTEE**

### **9.01 Standards Committee**

The Council will appoint a Standards Committee as required under the provisions of the Localism Act 2011.

### **9.02 Composition**

#### **(a) Membership**

The Standards Committee will be composed of:

- Eleven councillors (other than the Chairman of the Council and the Leader);
- three people who are not councillors or officers of the Council or any other body having a standards committee (Independent members);
- two members of a parish council wholly or mainly in the Council's area (Parish members).

#### **(b) Independent members**

Independent members are not entitled to vote at meetings.

#### **(c) Parish members**

A Parish member may be present when matters relating to those parish councils or their members are being considered.

Parish members are not entitled to vote at meetings.

#### **(d) Chairing the Committee**

A member of the Executive may not chair the Committee.

### **9.03 Role and Function**

The Standards Committee will have the following roles and functions:

- To promote and maintain high standards of conduct;
- To make recommendations to Council on the council's code of conduct and its register of interests;
- To determine by way of its Hearing Panel whether a breach of the code has occurred; if so, whether to take any action and, if so, what action to take,
- To determine appeals from the Monitoring Officer's decision on dispensations.

- To grant general dispensations and to determine requests for dispensations either referred from the monitoring officer or received from a member or co-opted member.

The Council has delegated to the Monitoring Officer the following:-

- Decisions on whether to investigate or reject or informally resolve a complaint and the power to arrange an investigation (having consulted with the Independent Person);
- Power to refer an investigation finding of breach to the Standards Committee for hearing (having consulted with the Independent Person);
- Power to determine requests for dispensation on grounds 1-3 below, subject to a member's right to appeal to the Standards Committee.

The grounds are:

- (1) So many members have disclosable personal interests (dpi's) that it would impede the transaction of the business;
- (2) Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter;
- (3) Without the dispensation, every member of the Executive would have a (dpi) prohibition from participating;



**ARTICLE 10 – NOT USED**

## **ARTICLE 11 – JOINT ARRANGEMENTS**

### **11.01 Arrangements to promote well being**

The Executive, in order to promote the economic, social or environmental well-being of its area, may:

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

### **11.02 Joint arrangements**

- (a) The Council may make arrangements, as necessary, with one or more local authorities to carry out such functions as it considers appropriate. These arrangements may involve the appointment of a joint committee.
- (b) The Executive, as defined in Article 7, may make joint arrangements, as necessary, to carry out functions for which it is responsible. These arrangements may involve the appointment of a joint committee.

### **11.03 Appointments to a Joint Committee**

- (a) Except as set out below, the Executive shall only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (b) The Executive may appoint members to a joint committee from outside the Executive where –
  - the joint Committee is discharging a function in relation to five or more authorities, or
  - the function discharged is a function which is required by statute to be discharged by a joint Committee, or
  - the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area.

In these circumstances the political balance requirements do not apply to such appointments.

### **11.04 Information on Joint Arrangements**

Details of any joint arrangements including any delegations to joint committees are set out in the Council's scheme of delegation.

### **11.05 Access to information**

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

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

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

### **11.07 Contracting out**

Provided there is no delegation under 11.06 of the Council's discretionary decision making the Council (for non executive functions) and the Executive (for executive functions) may contract out to another body or organisation functions

- which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or
- under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

## ARTICLE 12 – OFFICERS

### 12.01 Management structure

(a) **General**

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

(b) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Legal and Democratic Services	Monitoring Officer
Chief Finance Officer	Chief Finance Officer (Section 151 Officer)

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

(c) **Structure**

The Head of Paid Service will determine and publicise a description of the overall officer structure of the Council and amend it as necessary. This is available at any Access Trafford office and on the Council's web site [www.trafford.gov.uk](http://www.trafford.gov.uk).

### 12.02 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council**

The Head of Paid Service will report to full Council, or to the Employment Committee, on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions**

The Head of Paid Service may hold the post of Chief Finance Officer if a qualified accountant, but may not be the Monitoring Officer.

- (c) The core role of the Chief Executive is:
- to have overall corporate management and operational responsibility (including overall management responsibility for all officers);
  - to provide professional advice to all parties in the decision making process (the Executive, overview and scrutiny, full council and other committees);
  - together with the Monitoring Officer to be responsible for a system of record keeping for all the authority's decisions; and
  - to represent the authority on partnership and external bodies (as required by statute or the Authority). The Chief Executive may delegate this function where necessary and appropriate.

### 12.03 Functions of the Monitoring Officer

The Monitoring Officer will:-

- (a) maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) after consulting with the Head of Paid Service and Chief Finance Officer, report to the full Council, or to the Executive in relation to an executive function, if (s)he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) conduct investigations into complaints and make reports or recommendations in respect of them to the Standards Committee.
- (e) ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) provide advice to all councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

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

#### **12.04 Functions of the Chief Finance Officer**

The Chief Finance Officer will

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

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

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

#### **12.06 Conduct**

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

#### **12.07 Employment**

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

#### **12.08 Conflicts of Interest**

- (a) If, having regard to the particular circumstances it appears that the Monitoring Officer has a clear and substantial conflict of interest, any reference to the Monitoring Officer in any guidance, protocol or

procedure approved by the Council dealing with standards and conduct shall be substituted by reference to the Chief Finance Officer.

- (b) If, having regard to the particular circumstances it appears that the Chief Finance Officer has a clear and substantial conflict of interest, any reference to the Chief Finance Officer in any guidance, protocol or procedure approved by the Council dealing with standards and conduct shall be substituted by reference to the Monitoring Officer.
- (c) If, having regard to the particular circumstances it appears that the Chief Executive has a clear and substantial conflict of interest, any reference to the Chief Executive in any guidance, protocol or procedure approved by the Council dealing with standards and conduct shall be substituted by reference to the Monitoring Officer.

## **ARTICLE 13 – DECISION MAKING**

### **13.01 Responsibility for decision making**

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **13.02 Principles of decision making**

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

- (a) Proportionality (meaning the action must be proportionate to the results to be achieved)
- (b) Due consultation (including the taking of relevant professional advice)
- (c) Respect for human rights
- (d) The public sector equality duty and general equality duties.
- (e) Presumption in favour of openness
- (f) Clarity of aims and desired outcomes
- (g) Due consideration to be given to alternative options
- (h) Reasons for the decisions to be given provided there is no breach of confidentiality

### **13.03 Types of decision**

#### **(a) Decisions reserved to full Council**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

#### **(b) Key decisions**

- (h) An executive decision taken by the Executive, an Executive Member or an officer will be a Key Decision if it comes within one or more of the following categories:
  - i) It is likely to result in the Council incurring expenditure or making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates; or



- ii) to be significant in terms of its effects on communities living or working in 2 or more Trafford wards.
  - iii) It forms part of the development of, or the development of a change to, the Policy Framework or Budget.
  - iv) It involves securing approval in principle to the acquisition or disposal of land or property the value of which is estimated to exceed £500,000.
  - v) It involves securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licenses, easements or wayleaves, at considerations in excess of £250,000 per annum or a premium of £500,000
  - vi) Its consequences are likely to result in compulsory redundancies or major changes to the terms and conditions of employment of a significant number of Council employees.
- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

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

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.05 Decision making by the Executive**

Subject to Article 13.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

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

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

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

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

## **ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **14.01 Financial management**

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

### **14.02 Contracts**

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

### **14.03 Legal proceedings**

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

### **14.04 Authentication of documents**

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

Contracts for the supply of goods, materials and services or for the execution of works which exceed £50,000 in value shall be entered into formally in writing and signed by at least two officers of the Council.

Every such contract which exceeds £250,000 in value shall be entered into formally in writing and shall as considered appropriate by the Director of Legal and Democratic Services either be under the common seal of the Council and attested by the Director of Legal and Democratic Services or by an officer nominated by him/her, or shall be signed by two officers nominated by the Director of Legal and Democratic Services (which may include the Director of Legal and Democratic Services).

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Director of Legal and Democratic Services or some other person authorised by him/her.

## **ARTICLE 15 – REVIEW AND REVISION OF THE CONSTITUTION**

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

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

#### **Protocol for Monitoring and Review of Constitution by the Monitoring Officer**

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

1. observe meetings of different parts of the member and officer structure;
2. examine the audit trail relating to a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.
5. Take such other action as (s)he considers appropriate.

Before making any recommendations or suggesting significant amendments to the Constitution the Monitoring Officer will consult the Standards Committee, the Scrutiny Committee and the Executive.

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

#### **(a) Approval**

Changes to the Constitution will only be approved by the full Council after consideration of the proposals by the Monitoring Officer.

#### **(b) Change from a leader and cabinet form of executive to Mayoral arrangements, or vice versa**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

## **ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

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

- (a) The Articles of this Constitution may not be suspended.
- (b) Any suspension of any of the Rules set out in this Constitution must be in accordance with the procedures set out in those Rules.

### **16.02 Interpretation**

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

### **16.03 Publication**

- (a) The Head of Paid Service will provide access to an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies are available on the Council's website and available for inspection at Council offices and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available via the Council's website and is updated as necessary.

## **SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 11 (Joint Arrangements) insofar as any joint committee is determining matters delegated to it by the Executive;
4. Article 13 (Decision Making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions).
6. Part 4 . Procedure rules

**PART 3**

**RESPONSIBILITY FOR FUNCTIONS**

## RESPONSIBILITY FOR FUNCTIONS

### 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function		Decision making body and Delegations
1.	Any function under a Local Act in so far as it relates to registration, licensing and regulatory functions. All other functions under the Act shall be executive functions.	The appropriate regulatory committee
2.	The determination of any appeal against any decision made by or on behalf of the Authority for which no specific provision has been made.	The Appointments and Appeals Committee or such other body or person as is specified in relevant council policies.
3.	The making of arrangements pursuant to <a href="#">section 51A of the Education Act 2002</a> and the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012	The Director of Legal and Democratic Services is given delegated authority to appoint to and make changes to Panels and to make all necessary arrangements for the determination of appeals in accordance with prescribed regulations and guidance.
4.	The making of arrangements pursuant to section 94(1) and (4) and schedule 4 of the Education Act 2002 and the School Admissions (Appeals Arrangements) (England) regulations 2012.	As 3 above.
5.	The making of arrangements pursuant to s95 (2) SSFA 1998 and schedule 4 of the EA 2002 and school admissions (appeals arrangements) (England) regulations 2012	As 3 above.
6.	The making of arrangements to ask questions on police matters at council meetings to be put on the discharge of the functions of the Police and Crime Commissioner.	The Council



	<b>Function</b>	<b>Decision making body and Delegations</b>
7.	Any function relating to contaminated land.	The Council is responsible for the adoption or approval of any plan or strategy after the submission of a draft by the Executive. All other functions are delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the Scheme of Delegation to Officers and with advice from the Director of Public Health.
8.	The discharge of any function relating to the control of pollution or the management of air quality. (Pollution Prevention and Control Act 1999; Part IV, Environment Act 1995; Part I, Environmental Protection Act 1990; Clean Air Act 1993)	The Council is responsible for the adoption or approval of any plan or strategy after the submission of a draft by the Executive. All other functions are delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the Scheme of Delegation to Officers and with advice from the Director of Public Health.
9.	The service of an abatement notice in respect of a statutory nuisance.	Council function delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the Scheme of Delegation to Officers.
10.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough.	The Council

	<b>Function</b>	<b>Decision making body and Delegations</b>
11.	The inspection of the Authority's area to detect statutory nuisance.	Council function delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the Scheme of Delegation to Officers.
12.	The investigation of any complaint as to the existence of a statutory nuisance.	Council function delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the scheme of Delegation to Officers.
13.	The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Council, except to the extent that it relates to actions preliminary to the exercise of powers to make Compulsory Purchase Orders which is an Executive function. Delegated in both cases to the Director of Legal and Democratic Services, or in the case of functions under the Town and Country Planning Acts, the Head of Regulatory Services or the Head of Planning and Development.
14.	The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Council, except to the extent that it relates to actions preliminary to the exercise of powers to make Compulsory Purchase Orders which is an Executive function. Delegated in both cases to the Director of Legal and Democratic Services.
15.	The making of agreements for the execution of highway works under s.278, s.38, s.6, s.8, s.72, s.184 of the Highways Act 1980, s.111 of the Local Government Act 1972, s.23 of the New Roads and Streetworks Act 1991	Executive function delegated to the Corporate Director of Economic Growth, Environment and Infrastructure for determination in accordance with the Scheme of Delegation to Officers.

	<b>Function</b>	<b>Decision making body and Delegations</b>
16.	<p>The appointment of any individual –</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than</p> <p style="margin-left: 20px;">i) the authority</p> <p style="margin-left: 20px;">ii) a joint committee of two or more authorities or</p> <p>(c) to a Committee or Sub-Committee of such a body</p> <p>and the revocation of any such appointment.</p>	The Council insofar as the appointment does not relate to an Executive function.
17.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	The Executive
18.	Any function of the local authority in its capacity as a harbour authority.	The Council

## 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions
Accounts and Audit Committee	7 members of the Authority	<p><b><u>Statement of Purpose</u></b></p> <p>The purpose of the committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Authority's financial and non financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.</p> <p><b><u>Composition</u></b></p> <p>Membership of the Audit and Accounts Committee shall comprise 7 Members, be politically balanced and shall not include any Members of the Executive. A non voting member, with appropriate skills and experience, may be co-opted on to the Committee with the approval of the Council.</p> <p><b><u>Terms of Reference</u></b></p> <p><b><u>Internal and External Audit</u></b></p> <ul style="list-style-type: none"> <li>a) Review and approve (but not direct) the terms of reference for Internal Audit, an Internal Audit strategy and internal audit resourcing.</li> <li>b) Review and approve (but not direct) the annual Internal Audit work programme. Consider the proposed and actual Internal Audit coverage and whether this provides adequate assurance on organisations main business risks, review the performance of Internal Audit.</li> <li>c) Receive summary internal audit reports and seek assurance on the adequacy of management response to internal audit advice, recommendations and action plans.</li> <li>d) Review arrangements made for cooperation between Internal Audit, External Audit and other review bodies and ensure that there are effective relationships which actively promote the value of the audit process.</li> <li>e) Receive the Annual Internal Audit report and opinion.</li> <li>f) Review and consider proposed and actual External Audit coverage and its adequacy and consider the reports of external audit and inspection agencies.</li> <li>g) Receive updates from External Audit on External Audit findings and opinions (including the audit of the annual financial statements and the value for money conclusion)</li> </ul>

Committee	Membership	Functions
Accounts and Audit Committee (continued)		<p>and seek assurance on the adequacy of management response to External Audit advice, recommendations and action plans.</p> <p><b><u>Risk Management</u></b></p> <p>a) Review the adequacy of arrangements for identifying and managing the organisation's business risks, including partnerships with other organisations. This includes review of the Council's risk management policy and strategy and their implementation.</p> <p>b) Review the robustness of the strategic risk register and the adequacy of associated risk management arrangements.</p> <p>c) Receive and consider regular reports on the risk environment and associated management action.</p> <p><b><u>Internal Control Arrangements, Corporate Governance and the Annual Governance Statement</u></b></p> <p>a) Review the effectiveness of corporate governance arrangements and internal control across the organisation and the adequacy of action taken to address any weaknesses or control failures.</p> <p>b) Conduct a critical review of the proposed Annual Governance Statement (AGS), which is a key assurance statement required to be completed each year in accordance with the Accounts and Audit Regulations 2011. The review includes the procedures followed in its completion and the content of the Statement to consider:</p> <ul style="list-style-type: none"> <li>• how meaningful the AGS is;</li> <li>• the robustness of the evidence and assurances on which the AGS is based; and</li> <li>• whether the AGS discloses adequately the organisations actions for addressing any significant internal control weaknesses disclosed within the statement.</li> </ul> <p>c) Make recommendations for amendment of the AGS and the associated procedures.</p> <p><b><u>Anti - Fraud and Corruption Arrangements</u></b></p> <p>a) Review and ensure the adequacy of the organisation's Anti – Fraud &amp; Corruption policy and strategy and the effectiveness of their application throughout the Authority.</p> <p>b) Review and ensure that adequate arrangements are</p>

Committee	Membership	Functions
Accounts and Audit Committee (continued)		<p>established and operating to deal with situations of suspected or actual fraud and corruption.</p> <p><b><u>Accounts</u></b></p> <p>a) Approve the annual Statement of Accounts, including subsequent amendments.</p> <p>b) Consider the External Auditor's report on the audit of the annual financial statements.</p> <p>c) Be responsible for any matters arising from the audit of the Council's accounts, including the auditor's opinion on the accounts, identification of any misstatements, comments on the accounting and internal control systems and qualitative aspects of accounting practices and financial reporting.</p> <p><b><u>Access and Reporting</u></b></p> <p>a) To have the right of access to senior officers and all committees of the Council.</p> <p>b) To report directly to the Executive or Council, as appropriate, on matters within these terms of reference.</p> <p><b><u>Delegation</u></b></p> <p>In exercising the power and duties assigned to the Committee in its terms of reference, the Audit and Accounts Committee shall have delegated power to resolve and to act on behalf of and in the name of the Council.</p>
Appointments and Appeals Panel	All members of the authority - smaller numbers of Members will constitute individual panels.	<p>To act as the Council's appeals body regarding appeals other than those for which specific arrangements have been established.</p> <p>To be responsible for staff appointment and related matters regarding</p> <ul style="list-style-type: none"> <li>• short-listing applicants and appointments of Corporate Directors and Directors</li> <li>• appeals in accordance with the disciplinary and grievance procedures</li> <li>• appeals by employees against grading</li> </ul>
Employment Committee	7 members of the Authority	<p><b><u>Terms of Reference</u></b></p> <ol style="list-style-type: none"> <li>1. To determine collective and corporate terms and conditions of employment.</li> <li>2. To consider any matter referred to the Committee by the Head of Paid Service or Corporate Director Resources.</li> </ol>

Committee	Membership	Functions
Employment Committee (continued)		<p>3. To consider, approve and adopt any new or significant revision to existing corporate human resources strategies and policies in so far as they relate to the appointment, terms and conditions of employment and dismissal of staff.</p> <p>4. To determine any other matters relating to the appointment, terms and conditions of employment and dismissal of staff which are neither covered by policies of the Council nor delegated to Officers under the Scheme of Delegation.</p> <p><u>Delegation</u></p> <p>The Executive Member with responsibility for Strategic HR and the Corporate Director Resources will notify/keep the Committee informed of all other relevant HR related issues, as required.</p> <p>In exercising the above powers and responsibilities, the Committee shall have delegated power (subject to Council Procedure Rule 9 - Call-in of Decisions taken under Delegated Powers) to make decisions on behalf of the Council, except for any matter where:</p> <ul style="list-style-type: none"> <li>• the Head of the Paid Service determines the matter should be considered by full Council, or</li> <li>• the Council has resolved to determine the matter</li> </ul> <p>[Note: The Committee may itself determine not to exercise its delegated powers and instead make recommendations to Council]</p>
Licensing Committee	15 members of the Authority	<p><u>Terms of Reference</u></p> <p>1. To exercise the Council's licensing functions under the Licensing Act 2003 with the exception of any function conferred on the Council under Section 5 of the Act (statement of licensing policy).</p> <p>2. In respect of each 5 year period, in consultation with the Executive, to formulate or prepare for approval by the Council its policy with respect to the exercise of its licensing functions under the Licensing Act 2003.</p> <p>3. To keep the policy with respect to the exercise of its licensing functions under the Licensing Act 2003 under review and recommend any revisions to the policy to the Council.</p> <p>4. To exercise the Council's licensing functions under the Gambling Act 2005 with the exception of any function conferred on the Council under Section 349 of the Act (statement of licensing policy).</p>

Committee	Membership	Functions
Licensing Committee (continued)		<p>5. To exercise powers in relation to the following functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000:</p> <ul style="list-style-type: none"> <li>(i) all licensing and registration functions except those relating to town and country planning and the regulation of the use of the highway;</li> <li>(ii) functions under any 'relevant statutory provision' within the meaning of Part I of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer; and</li> <li>(iii) associated functions under any local Act.</li> </ul> <p>6. To establish one or more Sub-Committees under Section 10(1) of the Licensing Act 2003 and Section 154 of the Gambling Act 2005 consisting of three members of the Licensing Committee for the discharge of functions exercisable by the Committee under the Licensing Act 2003 and the Gambling Act 2005. The functions to be exercised by the Sub-Committees include the functions set out at Appendix 1 and Appendix 2. Licensing Act and Gambling Act Sub-Committees shall be chaired in accordance with the protocol set out at Appendix 3.</p> <p>7. To establish a Safety at Sports' Grounds Sub-Committee consisting of three Members of Council to oversee the exercise of the Council's functions in relation to safety at sports' grounds.</p> <p>8. To establish a Public Protection Sub-Committee for the discharge of all other licensing, registration and regulatory functions within the terms of reference of the Licensing Committee not covered by the sub-committees in paragraphs 6 and 7 above. That in establishing a Public Protection Sub-Committee this is to be a Sub-Committee of 9 Members (5:3:1) with up to 5 substitute Members for the Sub-Committee Members being allowed (3:2:0). The substitute Members for the Sub-Committee can only be nominated from the membership of the Licensing Committee.</p> <p><u>Delegation</u></p> <p>In exercising the power and duties assigned to them in their terms of reference, the Licensing Committee shall have delegated power to resolve and to act on behalf of and in the name of the Council.</p>



Committee	Membership	Functions				
Licensing Committee (continued)		<u>Appendix 1 to the Licensing Committee's Terms of Reference</u>				
		Delegated Functions				
		Matter to be dealt with	Full Committee	Sub Committee	Officers	
		Application for personal licence		If a police objection is made	If no objection is made	
		Application for personal licence with unspent convictions		All Cases		
		Application for premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made	
		Application for provisional statement		If a relevant representation is made	If no relevant representation is made	
		Application to vary premises licence/club premises certificate		If a relevant representation is made	If no relevant representation is made	
		Application to vary designated premises supervisor		If a police objection is made	All other cases	
		Request to be removed as designated premises supervisor			All cases	
		Application for transfer of premises licence		If a police objection is made	All other cases	
		Application for interim authorities		If a police objection is made	All other cases	
		Application to review premises licence/club premises certificate		All cases		
		Decision to Serve Counter Notice to Temporary Event Notice		All cases		

Committee	Membership	Functions				
Licensing Committee (continued)		<u>Appendix 2 to the Licensing Committee's Terms of Reference</u>				
		Delegated Functions				
		Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers	
		Final approval of three year licensing policy	X			
		Policy not to permit casinos	X			
		Fee setting (when appropriate)			X	
		Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
		Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
		Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission	
		Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
		Review of a premises licence		X		
		Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn	
		Cancellation of club gaming/club machine permits		X		
		Application for other permits			X	
		Cancellation of licensed premises gaming machine permits			X	
Consideration of temporary use notice			X			
Decision to give a counter notice to a temporary use notice		X				

Committee	Membership	Functions												
Licensing Committee (continued)		<p data-bbox="603 232 1410 264"><u>Appendix 3 to the Licensing Committee's Terms of Reference</u></p> <p data-bbox="603 297 954 329">List of proposed Chairmen</p> <table border="1" data-bbox="611 353 1465 730"> <thead> <tr> <th data-bbox="611 353 1294 421">Title</th> <th data-bbox="1294 353 1465 421">Order of Priority</th> </tr> </thead> <tbody> <tr> <td data-bbox="611 421 1294 477">Chairman of Licensing Committee</td> <td data-bbox="1294 421 1465 477">1</td> </tr> <tr> <td data-bbox="611 477 1294 544">Vice-Chairman of Licensing Committee</td> <td data-bbox="1294 477 1465 544">2</td> </tr> <tr> <td data-bbox="611 544 1294 611">Opposition Spokesperson for Licensing Committee</td> <td data-bbox="1294 544 1465 611">3</td> </tr> <tr> <td data-bbox="611 611 1294 678">Member of Licensing Committee</td> <td data-bbox="1294 611 1465 678">4</td> </tr> <tr> <td data-bbox="611 678 1294 730">Member of Licensing Committee</td> <td data-bbox="1294 678 1465 730">5</td> </tr> </tbody> </table> <p data-bbox="603 763 1469 824">Note: the order of priority is applicable when more than one chairman is a member of the same Sub-Committee.</p>	Title	Order of Priority	Chairman of Licensing Committee	1	Vice-Chairman of Licensing Committee	2	Opposition Spokesperson for Licensing Committee	3	Member of Licensing Committee	4	Member of Licensing Committee	5
Title	Order of Priority													
Chairman of Licensing Committee	1													
Vice-Chairman of Licensing Committee	2													
Opposition Spokesperson for Licensing Committee	3													
Member of Licensing Committee	4													
Member of Licensing Committee	5													
Planning and Development Management Committee	13 members of the Authority	<p data-bbox="603 853 868 884"><u>Terms of Reference</u></p> <ol data-bbox="603 918 1469 1592" style="list-style-type: none"> <li data-bbox="603 918 1469 1122">1. To exercise powers in relation to planning and development management over development proposals in the Borough in the context of Government and Council policies and guidance in order to maintain and improve the quality of life and the natural and built environment of the Borough.</li> <li data-bbox="603 1155 1469 1592">2. To exercise powers in relation to the following functions as specified in schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended: <ol data-bbox="703 1323 1469 1592" style="list-style-type: none"> <li data-bbox="703 1323 1150 1355">(i) town and country planning;</li> <li data-bbox="703 1388 1469 1491">(ii) the protection and registration of common land or town and village greens and to register the variation of rights of common; and</li> <li data-bbox="703 1525 1469 1592">(iii) the exercise of powers relating to the regulation of the use of highways.</li> </ol> </li> </ol> <p data-bbox="603 1626 746 1657"><u>Delegation</u></p> <p data-bbox="603 1691 1469 1827">In exercising the power and duties assigned to them in their terms of reference, the Planning and Development Management Committee shall have delegated power to resolve and to act on behalf of and in the name of the Council.</p>												
Standards Committee	11 members of the Authority and 5 non-voting	<p data-bbox="603 1906 868 1937"><u>Terms of Reference</u></p> <ol data-bbox="603 1995 1362 2027" style="list-style-type: none"> <li data-bbox="603 1995 1362 2027">1. To promote and maintain high standards of conduct.</li> </ol>												

Committee	Membership	Functions
	co-optees comprised of 2 parish representatives and 3 independent members	<ol style="list-style-type: none"> <li>2. To make recommendations to Council on the council's code of conduct and its register of interests.</li> <li>3. To determine by way of its Hearing Panel whether a breach of the code has occurred; if so, whether to take any action and, if so, what action to take.</li> <li>4. To grant general dispensations and to determine requests for dispensations either referred from the monitoring officer or received from a member or co-opted member.</li> <li>5. To determine appeals from the Monitoring Officer's decision on dispensations.</li> </ol> <p><u>Delegation</u></p> <p>In exercising the power and duties assigned to the Committee in its terms of reference, the Standards Committee shall have delegated power to resolve and to act on behalf of and in the name of the Council.</p>
<b>Health and Well-Being Board</b> <small>(established in accordance with S194 of the Health and Social Care Act 2012).</small>	<p>As set out in Section 5 of the Health and Wellbeing Board's Terms of Reference.</p> <p>The Council Membership is nominated by the Leader of the Council)</p>	<p><u>Terms of Reference</u></p> <ol style="list-style-type: none"> <li>1. <u>Functions of Health and Well Being Board</u></li> </ol> <p>The Health and Social Care Act 2012 gives health and wellbeing boards specific functions. These are a statutory minimum and further functions can be given to the boards in line with local circumstances. The statutory functions are:</p> <ul style="list-style-type: none"> <li>• To prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).</li> <li>• A duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (ie lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.</li> <li>• A power to encourage close working between commissioners of health-related services and the board itself.</li> <li>• A power to encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.</li> <li>• Any other functions that may be delegated by the council under section 196(2) of the Health and Social Care Act</li> </ul>

Committee	Membership	Functions
		<p>2012. For example, this could include certain public health functions and/or functions relating to the joint commissioning of services and the operation of pooled budgets between the NHS and the council. Such delegated functions need not be confined to public health and social care. Where appropriate, they could also, for example, include housing, planning, work on deprivation and poverty, leisure and cultural services, all of which have an impact on health, wellbeing and health inequalities.</p> <p><b>2. <u>Regulations relating to Health &amp; Well Being Boards: Statutory Instrument 2013 No. 218</u></b></p> <p>The regulations relating to health and wellbeing boards have been published as Statutory Instrument 2013 No. 218 entitled, The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 <a href="http://www.legislation.gov.uk/ukSI/2013/218/contents/made">http://www.legislation.gov.uk/ukSI/2013/218/ contents/made</a></p> <p>The regulations modify certain legislation as it applies to health and wellbeing boards and disapply certain legislation in relation to the boards. The provisions which are modified or disapplied are in the Local Government Act 1972 and the Local Government and Housing Act 1989.</p> <p>Under section 194 of the Health and Social Care Act 2012, a health and wellbeing board is a committee of the council which established it and for the purposes of any enactment is to be treated as if appointed under section 102 of the Local Government Act 1972. It is therefore a 'section 102 committee', as it is sometimes called within local government. However, the regulations modify and disapply certain provisions of section 102 and other sections of the Local Government Act 1972 and also provisions of the Local Government and Housing Act 1989 in relation to health and wellbeing boards.</p> <p>This means that it is best not to think of health and wellbeing boards according to the strict model of other section 102 committees, but to think of them as a basic section 102 committee with some differences. The sections below discuss the characteristics shared by health and wellbeing boards with other council committees and where they do or may diverge under the new regulations.</p> <p>The modifications and disapplications which apply to health and wellbeing boards within the regulations generally also apply to subcommittees and joint sub-committees of boards.</p> <p><b>3. <u>Membership of Health &amp; Well Being Boards</u></b></p> <p>The Health and Social Care Act 2012 indicates that health and wellbeing boards are different to other section 102</p>

Committee	Membership	Functions
		<p>committees, in particular in relation to the appointment of members. Specifically, the Act:</p> <ul style="list-style-type: none"> <li>• sets a core membership that health and wellbeing boards must include: <ul style="list-style-type: none"> <li>• at least one councillor from the relevant council</li> <li>• the director of adult social services</li> <li>• the director of children’s services</li> <li>• the director of public health</li> <li>• a representative of the local Healthwatch organisation (which will come into being on a statutory footing on 1 April 2013)</li> <li>• a representative of each relevant clinical commissioning group (CCG)</li> <li>• any other members considered appropriate by the council</li> </ul> </li> <li>• requires that the councillor membership is nominated by the executive leader or elected mayor (in councils operating executive arrangements) or by the council (where executive arrangements are not in operation) with powers for the mayor/ leader to be a member of the board in addition to or instead of nominating another councillor.</li> <li>• under the regulations (Regulation 7) modifies sections 15 to 16 and Schedule 1 of the Local Government and Housing Act 1989 to disapply the political proportionality requirements for section 102 committees in respect of health and wellbeing boards – this means that councils can decide the approach to councillor membership of health and wellbeing boards.</li> <li>• requires that the CCG and local Healthwatch organisation appoint persons to represent them on the board.</li> <li>• enables the council to include other members as it thinks appropriate but requires the authority to consult the health and wellbeing board if doing so any time after a board is established.</li> <li>• the NHS Commissioning Board must appoint a representative for the purpose of participating in the preparation of JSNAs and the development of JHWSs and to join the health and wellbeing board when it is considering a matter relating to the exercise, or proposed exercise, of the NHS Commissioning Board’s commissioning functions in relation to the area and it is requested to do so by the board.</li> </ul>

Committee	Membership	Functions
		<p><b>4. <u>Trafford Health and Well Being Board additional locally agreed functions</u></b></p> <p>In addition to the statutory functions outlined in section 1 above the governance task group, convened in November 2015, agreed the Board would:</p> <ul style="list-style-type: none"> <li>• Provide oversight to the delivery of the Trafford (Locality) Plan (although accountability for the delivery of the Plan will remain with the Trafford Joint Commissioning Board, reporting into the GM Joint Commissioning Board).</li> <li>• Maintain a positive relationship with the Joint Commissioning Board in order to help shape strategic commissioning decisions and those concerning structural reform in Health and Social Care sectors.</li> <li>• Agree annually, a number of key priorities (5-10) based on those in the Trafford (Locality) Plan, the CAMHs strategy and relevant data sets such as the JSNAA, the indices of Multiple Deprivation and Public Health profiles, as well as reflecting GM agendas emerging from the GM Joint Commissioning and GM Early Intervention and Prevention Boards.</li> <li>• Ensure delivery against these priorities either through Task and Finish (service reform) project groups or by delegating the priority to a relevant thematic partnership (e.g. Safer Trafford)</li> <li>• Put in place a Performance dashboard to monitor progress against the agreed priorities and receive exception reports relating to progress as necessary.</li> <li>• Receive written reports at regular agreed intervals from the Safer Trafford, Sport and Physical Activity Partnerships, from the two Safeguarding Boards and from the project groups.</li> </ul> <p><b>5. <u>Trafford Health and Well Being Board Membership</u></b></p> <p>Membership of the Board shall comprise:</p> <ul style="list-style-type: none"> <li>• Executive Member for Adult Social Services and Community Wellbeing</li> <li>• Executive Member for Children and Families</li> <li>• Shadow Executive Member for Adult Social Care and Community Wellbeing (or Deputy)</li> <li>• Corporate Director of Children, Families and Well Being (Director of Children’s Services)</li> <li>• Director of Public Health</li> <li>• NHS Trafford Clinical Commissioning Group (3 representatives: Chair, Chief Operating Officer and Clinical Director/Representative)</li> <li>• Chair of Health Watch</li> <li>• Third Sector representative</li> <li>• Independent Chair Children’s Local Safeguarding Board</li> <li>• Independent Chair Adult Safeguarding Board</li> </ul>

Committee	Membership	Functions
		<ul style="list-style-type: none"> <li>• Chair of the Safer Trafford Partnership - GMP</li> <li>• Chair of the Trafford Sports and Physical Activity Partnership</li> <li>• Executive Officers of health care providers: (Central Manchester University Hospital NHS Foundation Trust University Hospital South Manchester NHS Foundation Trust Pennine Care NHS Foundation Trust Greater Manchester West Mental Health NHS Foundation Trust)</li> <li>• Greater Manchester Fire and Rescue Service Representative</li> <li>• Greater Manchester Health and Social Care Partner Representative (to be confirmed)</li> </ul> <p><b>6. <u>Meeting Arrangements</u></b></p> <p><b>Notice of Meetings</b> Meetings of the Board will be convened by Trafford Council, who will also arrange the clerking and recording of meetings (a member of the Council's Democratic Services Team will act as Clerk).</p> <p><b>Chairmanship</b> The chairmanship for the Health and Well Being Board will rotate on an annual basis between Trafford Council and NHS Trafford Clinical Commissioning Group.</p> <p><b>Quorum</b> The quorum for all meetings of the Board will be a minimum of 5 members with at least two Local Authority and two Clinical Commissioning Group members present.</p> <p><b>Substitutes</b> Nominating groups may appoint a substitute member for each position. These members will receive electronic versions of agendas and minutes for all meetings. Members are asked to nominate a single named substitute who replace them in the event they cannot attend a meeting. Notification of a named substitute member must be made in writing or by email to the Clerk. . Substitute members will have full voting rights when taking the place of the ordinary member for whom they are designated substitute.</p> <p><b>Decision Making</b> It is expected that decisions will be reached by consensus; however, if a vote is required it will be determined by a simple majority of those members present and voting. If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.</p>



Committee	Membership	Functions
		<p><b>Meeting Frequency</b> The Health and Well Being Board will meet quarterly in line with the new schedule of dates agreed within the Trafford Partnership review.</p> <p><b>Status of Reports</b> Meetings of the Board shall be open to the press and public and the agenda, reports and minutes will be available for inspection at Trafford Council's offices and on Trafford Council's website at least five working days in advance of each meeting. This excludes items of business containing confidential information or information that is exempt from publication in accordance with Part 5A and Schedule 12A to the Local Government Act 1972 as amended. The same principals will apply to information from NHS Trafford as a partner organisation on the board. Other participating organisations may make links from their website to the Board's papers on Trafford Council's website.</p> <p><b>7. <u>Members' Conduct</u></b></p> <p>Where appropriate rules and regulations governing the Code of Conduct of Board members will apply. The Code in use will be the Trafford Council Code of Conduct. Board members will be expected to declare appropriate interests where necessary.</p> <p><b>8. <u>Amendment of the Constitution</u></b></p> <p>The Health and Well Being Board may vary its constitution by a simple majority vote by the members provided that prior notice of the nature of the proposed variation is made and included on the agenda for the meeting.</p> <p><b>9. <u>Governance and Accountability</u></b></p> <ul style="list-style-type: none"> <li>• The Health and Well Being Board will be accountable for its actions to its individual member organisations.</li> <li>• There will be sovereignty around decision making processes. Representatives will be accountable through their own organisations for the decisions they take. It is expected that Members of the Board will have delegated authority from their organisations to take decisions within the terms of reference.</li> <li>• Decisions within the terms of reference will be taken at meetings and will not normally be subject to ratification or a formal decision process by partner organisations. However, where decisions are not within the delegated authority of the Board members, these will be subject to ratification by constituent bodies.</li> </ul>

Committee	Membership	Functions
		<ul style="list-style-type: none"> <li>It is expected that decisions will be reached by consensus.</li> </ul>
<u>Joint Arrangements</u>		
Joint Health Scrutiny Committee with Manchester City Council	5 Members from each Authority	<p>Terms of Reference</p> <p>Purpose of the Committee</p> <p>In accordance with the letter sent to the JHOSC by the Secretary of State on 11 July 2013, the purpose of the Committee is:-</p> <ol style="list-style-type: none"> <li>To assess and evaluate the progress made in relation to the implementation of the New Health Deal for Trafford.</li> <li>To take part in the assurance process, as stipulated by the Secretary of State." In exercising these functions, the JHOSC has the power to:               <ol style="list-style-type: none"> <li>Make comments to a relevant NHS body;</li> <li>Require an NHS body to provide information;</li> <li>Require an officer of a local NHS body to attend meetings and to answer questions in connection with the implementation of the proposals.</li> </ol> </li> </ol> <p>Membership/Chairing</p> <p>The JHOSC will consist of ten Members. Five members will be appointed from each participating Local Authority and this will be decided upon at the Annual Meeting of each participating Local Authority.</p> <p>Individual authorities will decide whether or not to apply political proportionality to their own Members in accordance with their own legal requirements and constitutional arrangements of each authority.</p> <p>The Committee's members will elect a Chair and Vice-Chair.</p> <p>Each member of the Committee will have one vote and the Chairman will not exercise a casting vote.</p> <p>Quorum for meetings</p> <p>The quorum for the Joint Health Scrutiny Committee will be a minimum of three members, with at least one member from each authority.</p> <p>Supporting the Joint Health Scrutiny Committee</p> <p>The administrative support for the JHOSC will be shared between</p>

Committee	Membership	Functions
		<p>both Local Authorities.</p> <p>Each participating authority will appoint a link officer to provide support to the members of the Committee as follows:</p> <ul style="list-style-type: none"> <li>• liaise with the Chair and Committee Members;</li> <li>• ensure attendance of witnesses;</li> <li>• Organising and minuting meetings;</li> <li>• Produce any correspondence where appropriate.</li> </ul> <p>Meetings shall be held at venues, dates and times agreed between the participating authorities. The host authority will bear the costs of arranging, supporting and hosting the meetings of the Committee.</p> <p>Constitutional arrangements</p> <p>In all matters other than those specified in this document, the standing orders and constitutional rules of the Members' appointing authority will apply.</p>
<p>Greater Manchester Joint Health Scrutiny Committee</p>	<p>1 Non-Executive Member from each of the 10 Greater Manchester Local Authorities</p>	<p>Terms of Reference</p> <p>These reviewed arrangements take into account the extended role for Health Scrutiny as detailed in the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 ("the Local Health Scrutiny Regulations").</p> <p>Membership</p> <p>The membership of the GM Joint Health Scrutiny Committee will be nominated by the ten Greater Manchester local authorities. Each local authority will nominate one non-Executive/Cabinet member. Where possible, members will be drawn from the individual local Scrutiny Panels/Committees that have responsibility for scrutinising Health and Social Care issues within their area.</p> <p>Officers of Individual District Health Scrutiny Panels/Committees are invited to attend to support and advise Members from their local authority on Health Scrutiny Issues and will have access to all agendas, briefing notes and minutes.</p> <p>Substitutes will be allowed but will need to be non-Executive/Cabinet members of the respective local authority.</p> <p>Role</p>

Committee	Membership	Functions
		<p>The GM Joint Health Scrutiny Committee has the delegated powers from the 10 Authorities of Greater Manchester (Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan) to undertake all the necessary functions of health scrutiny in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (“the Local Health Scrutiny Regulations”), relating to reviewing and scrutinising health services matters where these are at a Greater Manchester level, and to provide a body to which Health Services Providers have a duty to consult under the Local Health Scrutiny Regulations.</p> <p>The Committee will scrutinise:</p> <ol style="list-style-type: none"> <li>1. The strategies, policies, actions and consultations of: <ul style="list-style-type: none"> <li>• NHS England Greater Manchester Local Area Team</li> <li>• The joint work of the Greater Manchester Clinical Commissioning Groups (the Association of GM CCGs)</li> <li>• Public Health England (Greater Manchester)</li> <li>• Local Authorities across Greater Manchester regarding their role as providers and commissioners of social care, and as public health agencies.</li> <li>• All other cross-boundary NHS services i.e. North West Ambulance Service, Christies, Specialist Children’s Services provided by the Royal Manchester Children’s Hospital</li> </ul> </li> <li>2. Services provided to patients living and working across Greater Manchester</li> <li>3. Specific health issues that cut across geographical boundaries</li> <li>4. Individual authorities will reserve the right to undertake scrutiny of any of those authorities listed above with regard to matters relating specifically to their local population</li> </ol> <p>Objectives</p> <ol style="list-style-type: none"> <li>1. To ensure that the needs of local people are considered as an integral part of the delivery and development of health services; and to contribute to the reduction of health inequalities by ensuring that services are accessible to all local people.</li> <li>2. To review proposals for consideration or items relating to proposed substantial developments/substantial variations to services provided across Greater Manchester by NHS organisations, including; <ul style="list-style-type: none"> <li>• Changes in accessibility of services</li> <li>• Impact of proposal on the wider community</li> <li>• Patients affected</li> </ul> </li> <li>3. To engage pro-actively with the GM Health and Social</li> </ol>

Committee	Membership	Functions
		<p>Care Reform Programme as it develops.</p> <ol style="list-style-type: none"> <li>4. To keep abreast of organisational changes and key policy implementation within the NHS.</li> <li>5. To bring together the responsibilities of local authorities to promote health service provision, delivery and accessibility within the remit of the Health Scrutiny function.</li> </ol> <p>Support</p> <p>Officers from the Greater Manchester Integrated Support Team (GMIST) will provide policy and administrative support to the Committee.</p>
<p>Stockport, Trafford and Rochdale (STaR) Joint Committee</p>	<p>1 Member from each Authority</p>	<p>Terms of Reference</p> <ol style="list-style-type: none"> <li>1. To manage the procurement operations of the Councils except for any procurement activity carried on by each Council that is specifically excluded by each Council from being dealt with by the STaR on its behalf.</li> <li>2. To agree any changes to the cost and income sharing arrangements set out in the inter-authority agreement.</li> <li>3. To agree the organisational structure of the STaR to carry out those operations.</li> <li>4. To recommend to Trafford Council the person to be appointed as Director of STaR and the salary for the post.</li> <li>5. To consider the policies and procedures for procurement activities carried out by the STaR recommended to it by its Board including the contract procedure rules under which it will operate for each of the Councils.</li> <li>6. To recommend the business plans and budgets of the STaR for approval by the Councils.</li> <li>7. To monitor the budget and performance of the STaR.</li> <li>8. To approve major changes to standard tender documentation and procedures.</li> <li>9. Such other matters as the Councils (for non-executive matters) and/or the Executive Leaders jointly agree.</li> <li>10. To the extent that the activities of the STaR joint committee are not executive functions the council delegates to the joint committee the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of the procurement functions delegated to it – in particular the power to make staffing appointments and the power to make standing orders as to contracts but not the power to</li> </ol>

Committee	Membership	Functions
		set budgets.

**3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS -  
DELEGATION TO INDIVIDUAL EXECUTIVE MEMBERS**

SEE ITEM 12 A

**4. SCHEME OF DELEGATION TO OFFICERS**

SEE ITEM 12 A

**PART 4**  
**RULES OF PROCEDURE**

# **COUNCIL PROCEDURE RULES (ALSO KNOWN AS STANDING ORDERS)**

## **RULES FOR THE REGULATION OF PROCEEDINGS AND BUSINESS**

### **CONTENTS**

#### **Rule**

1. Annual Meeting of the Council
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4. Appointment of substitute members of committees and sub-committees
5. Time and place of meetings
6. Notice of and summons to meetings
7. Chairman of meeting
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9. Duration of meeting
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15. Previous decisions and motions
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## \* 1. ANNUAL MEETING OF THE COUNCIL

1.1 The Annual Council Meeting will be held, in years when there is an ordinary election of councillors within 21 days of the retirement of the outgoing councillors and, in other years in March, April or May. In either case, the date shall be fixed by the Council and, except where stated otherwise in the summons, shall take place at 6.00 p.m.

The annual meeting will:

- (i) elect a person to preside if the Chairman and Vice-Chairman of the Council are not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice-Chairman of Council;
- (iv) approve the minutes of the previous meeting;
- (v) receive any announcements from the Chairman and/or Head of Paid Service;
- (vi) elect the Leader where this is necessary;
- (vii) note the membership of the Executive;
- (viii) note the membership of the Shadow Executive;
- (ix) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution); decide the size and terms of reference of those Committees and the allocation of seats to political groups in accordance with the political balance rules;
- (x) receive nominations of councillors to serve on each committee and outside body; appoint to those committees and outside bodies (except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive) and if it so determines, appoint from among the voting members appointed as a committee, a person to preside at the meeting of a committee and a person to preside in the absence of the first person;
- (xi) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year; and

- (xiii) consider any business set out in the notice convening the meeting.

## **\*2. ORDINARY MEETINGS OF THE COUNCIL**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Annual Council Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Chairman, Leader, members of the Executive, Chairmen of Scrutiny Committees or the Head of Paid Service;
- (v) deal with any business from the last Council meeting;
- (vi) deal with questions asked under Rule 10.2;
- (vii) receive any reports from the Executive, the Overview and Scrutiny Committees and the Standards Committee and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations; including external and community partnerships;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting.

## **\*3. EXTRAORDINARY MEETINGS OF THE COUNCIL**

### **3.1 Calling extraordinary meetings**

Those listed below may request the Head of Paid Service to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the Monitoring Officer; and
- (iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

No business other than that specified in the summons to the meeting may be considered at an extraordinary meeting. The summons to the meeting may not include the consideration of the minutes of previous meetings.

## **\*4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### **4.1 Allocation**

As well as allocating seats on committees, the Council may, at the same time, or at a subsequent meeting, allocate seats for substitute members for any committees except Standards Committee.

### **4.2 Number**

For each committee, the Council may appoint substitutes in respect of each political group, in proportion to the number of members as that group holds ordinary seats on that committee, up to a maximum of 5.

### **4.3 Powers and duties**

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### **4.4 Health and Wellbeing Board**

Appointing bodies and the Leader of the Council may appoint a substitute member for each appropriate position on the Health and Wellbeing Board.

### **4.5 Substitution**

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after giving notification of the intended substitution to the Head of Paid Service in writing, to be delivered or submitted electronically, by 9.00 a.m. on the day of the meeting.

## **5. TIME AND PLACE OF MEETINGS**

Unless the Head of the Paid Service determines otherwise and notifies a different time in the summons, Council meetings will be held at 7.00 p.m. and other meetings will be held at 6.30 p.m. The place of meetings will be determined by the Head of the Paid Service and notified in the summons.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Head of Paid Service will send a

summons signed by him/her or on his/her behalf to every member of the Council, or Committee either by

- (i) sending it to, or leaving it at the member's usual place of residence; or
- (ii) where the member has specified an address other than their usual place of residence, by sending it to, or leaving it at, that other address; or
- (iii) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn) sending it in electronic form to that address.

The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. CHAIRMAN OF MEETING**

### **7.1 Chairman of the Council**

The Mayor for the time being is the Chairman of the Council and is elected at the Annual Council Meeting.

### **7.2 Chairmen of Committee and Sub-Committees**

- (a) If no persons are appointed under Rule 1(x) then the Committee, at its first meeting after the Annual Council Meeting, will appoint a person from among its voting members to preside at its meetings together with a person to preside in the absence of the first person.
- (b) A committee may appoint from among the voting members a person to preside at the meetings of any sub-committee appointed by them together with a person to preside in the absence of the first person. If a committee does not make any such appointments then the sub-committees will make the appointments at its first meeting.
- (c) If the persons appointed under Rules 1(x), 7.2(a) or 7.2(b) are absent then a meeting of a committee or sub-committee will appoint a person to preside at that meeting from among the voting members present.

7.3 The person presiding at the meeting may exercise any power or duty of the Chairman. The rule of the Chairman as to the application or construction of any of these Rules of Procedure shall not be challenged at any meeting. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

7.4 The order of business shall be as set out in the agenda but (subject to any statutory requirements) may be varied by the Chairman at his or her discretion.

## 8. QUORUM

### (a) Council

The quorum of a meeting of the Council will be one quarter of the whole number of members.

### (b) Committees and Sub-Committees

The quorum of meetings of committees (except Standards Committee and Appointment and Appeals Committees) and sub-committees shall be one quarter of the membership of the committee or sub-committee subject to a minimum of four voting members being present at a committee and two at a sub-committee.

### (c) Standards Committee

- (i) A meeting of the Standards Committee (or any sub-committee) shall not be quorate unless at least three members, including at least one independent member of that committee (or sub-committee) are present.
- (ii) where at least one independent member would have been present for the duration of the meeting but for the fact that (s)he was prevented or restricted from participating in any business of the authority by virtue of the code of conduct, the requirement in (i) for the quorum to include at least one independent member shall not apply.
- (iii) if no Parish Council sub-committee has been appointed then, if matters relating to parish councils or the members of parish councils are being considered at the Standards Committee, one parish member must be present when those matters are considered.

### (d) Appointment and Appeals Committees

For meetings of Appointment and Appeal Committees the quorum shall be as follows:

- (i) for a committee comprising 3 members the quorum shall be 2
- (ii) for a committee comprising 5 members the quorum shall be 3
- (iii) in all other cases the quorum shall be 4

### (e) Health and Wellbeing Board

The quorum of a meeting of the Health and Wellbeing Board will be a minimum of five members with at least two Local Authority members and two Clinical Commissioning Group members present.

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

## **9. DURATION OF MEETING**

### **9.1 Interruption of the meeting**

9.1.1 Except in respect of 9.1.2 below if the business of the meeting has not been concluded by 9.30 p.m., the Chairman must interrupt the meeting and any member speaking must immediately sit down. The Chairman will at his/her discretion either call for the vote immediately on the item under discussion, (the vote will then be taken in the usual way without any further discussion) or adjourn the meeting to a date and time to be agreed by the members present. In the absence of a decision by the Members, the Head of the Paid Service, in consultation with the Chairman, shall fix the date and time of the resumed meeting.

9.1.2 Nothing in paragraph 9.1.1 shall prevent the Chairman of any regulatory committee from allowing that committee to proceed to the determination of a matter already under discussion after 9.30 p.m.

9.1.3 A regulatory committee is a committee which carries out functions set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

## **10. QUESTIONS BY MEMBERS**

### **\*10.1 On reports of the Executive or committees**

A member of the Council may ask the Leader, a Member of the Executive or the Chairman of a committee any question without notice upon an item of the report of the Executive or a committee when that item is being received or is under consideration by the Council.

### **\*10.2 Questions on notice at full Council**

Subject to Rule 10.4, a member of the Council may ask:

- the Chairman;
- a member of the Executive ; or
- the Chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

### **10.3 Questions on notice at committees and sub-committees**

Subject to Rule 10.4, a member of a committee or sub-committee may ask its Chairman a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or sub-committee.

### **10.4 Notice of questions**

A member may only ask a question under Rule 10.2 or 10.3 if:

- (a) the question does not relate to a matter currently under review by an Overview and Scrutiny Committee; and
- (b) notice of the question has been given to the Head of Paid Service in writing not later than 4.00 p.m. one clear working day before the date of the meeting; or
- (c) where the question relates to urgent matters, he/she has the consent of the Member to whom the question is to be put and the content of the question is given to the Head of Paid Service by 12 noon on the day of the meeting.

Every question shall be put and answered without discussion, but the person to whom a question is put may decline to answer.

### **10.5 Response**

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **10.6 Supplementary question**

A member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## **11. MOTIONS ON NOTICE**

### **11.1 Notice**

Except for motions which can be moved without notice under Rule 12, written notice of every motion, signed by at least 3 members, or with electronic consent of at least 3 members must be delivered or submitted electronically to the Head

of Paid Service not later than 4.00 p.m. six clear working days before the date of the meeting. These will be available for public inspection.

### 11.2 **Motion set out in agenda**

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

### 11.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

## 12. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda summons;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee, sub-committee or members thereof arising from an item on the agenda for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (n) to suspend a particular Council procedure rule in accordance with Rule 23.1
- (o) to exclude the public and press in accordance with the Access to Information Rules;



- (p) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

## **13. RULES OF DEBATE**

### **13.1 No speeches until motion or amendment seconded**

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

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

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

### **13.3 Content, length and number of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. The Chairman will have overall control over the length, content and number of speeches where necessary and shall decide when a matter has been discussed enough for the debate to be closed and a vote taken. In limiting the number of members speaking in the debate and the time of speeches, the Chairman shall have regard to the need to complete the business within the time set.

### **13.4 Amendments to motions**

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

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) It is recommended that any amendments put forward to the Executive's recommendations for the Council's budget must be costed and that the Chief Finance Officer should confirm that the proposals in the amendment are robust.

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

### 13.5 **Alteration of motion**

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

### 13.6 **Withdrawal of motion**

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

### 13.7 **Right of reply**

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

### 13.8 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions. With the exception of motions under (g) and (h) below, such motions can only be moved at the end of any speech currently in progress:

- (a) to withdraw the motion;
- (b) to amend the motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn the debate;
- (f) to adjourn the meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

### 13.9 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business;
  - (ii) that the question be now put;
  - (iii) to adjourn the debate; or
  - (iv) to adjourn the meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
- (e) An equivalent procedure will be followed where the closure motion is moved during the debate on an amendment.

### **13.10 Point of order**

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

### **13.11 Personal explanation/Clarification of previous speech**

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

## **\*14. STATE OF THE AREA DEBATE**

### **14.1 Calling of debate**

The Leader may call a state of the area debate to be held once in any municipal year on a date to be agreed with the Chairman.

### **14.2 Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the area debate and may be undertaken in conjunction with the local strategic partnership.

### **14.3 Chairing of debate**

The debate will be chaired by the Chairman of the Council.

### **14.4 Results of debate**

The results of any such debate will be:

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

## **15. PREVIOUS DECISIONS AND MOTIONS**

### **15.1 Motion to rescind a previous decision**

Unless needed to ensure that the Council complies with the law, a motion to rescind a decision made at a Council meeting within the past six months cannot be moved unless the notice of motion is signed by at least 16 members.

## **15.2 Motion similar to one previously rejected**

Unless needed to ensure that the council complies with the law, a motion in similar terms to one that has been rejected at a Council meeting in the past six months cannot be moved unless the notice of motion under Rule 11 is signed by at least 16 members. Once the motion is dealt with, no one can propose a similar motion or amendment for six months.

## **15.3 Changed Circumstances**

A motion which has the effect of negating a decision made at a meeting of Council within the preceding six months cannot be moved unless there is some fresh information or other changed circumstances which justify such a course. The ruling of the Chairman as to what is fresh information or changed circumstances shall be binding on the meeting.

## **16. VOTING**

### **16.1 Majority**

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

### **16.2 Chairman's casting vote**

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

### **16.3 Method of voting**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Chairman will take the vote by show of hands, or by the use of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.

### **16.4 Ballots**

The vote will take place by ballot if a majority of the members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

### **16.5 Recorded vote**

If 3 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and recorded in the minutes. A demand for a recorded vote will override a demand for a ballot. A recorded vote on the annual budget will be taken down and recorded in the minutes.

## **16.6 Right to require individual vote to be recorded**

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

## **16.7 Voting on appointments**

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

## **17. MINUTES**

### **17.1 Signing the minutes**

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

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

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

### **17.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them to the vote.

## **18. RECORD OF ATTENDANCE**

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

## **19. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21(Disturbance by Public).

## **20. MEMBERS' CONDUCT**

### **\*20.1 Standing to speak**

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

### **\*20.2 Chairman standing**

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

### **20.3 Member not to be heard further**

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

### **20.4 Member to leave the meeting**

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

### **20.5 General disturbance**

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

## **21. DISTURBANCE BY THE PUBLIC**

### **21.1 Removal of member of the public**

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

### **21.2 Clearance of part of meeting room**

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

## **22. MEDIA**

22.1 The Council will make reasonable facilities available for the reporting of the proceedings of any meeting. Any reporting of discussions of items covered by Section 10 of the Access to Information procedure rules is prohibited.

(1) While a meeting of the Council, Executive, a Committee or Sub Committee is open to the public, any person attending is permitted to report on the meeting by filming, photographing or making an audio recording of proceedings at the meeting. They may also use any other means for enabling persons not present to see or hear proceedings at such a meeting as it takes place or later and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.

(2) Should a person cause a disturbance at a meeting whilst reporting on the proceedings, for example by:

- moving to areas outside the areas designated for the public without the consent of the Chairman,
- making excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
- intrusive lighting and use of flash photography; or
- asking for people to repeat statements for the purposes of recording

then the provisions of rule 21 (disturbance by the public) shall apply.

(3) Nothing in this rule shall allow any person to report on any part of a meeting, without the consent of the meeting, whilst the public is excluded to allow it to debate confidential or exempt matters.

## **23 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **23.1 Suspension**

All of these Council Rules of Procedure except Rules 9.1.1, 16.6 and 17.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.



## 23.2 **Amendment**

- (a) Unless paragraph (b) applies any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
- (b) If a recommendation to add to, vary or revoke these Rules is made by the Standards Committee or the Monitoring Officer the matter will be considered at the same meeting of the Council.

## 24. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 5–13, 15–23 (but not Rule 20.1) apply to meetings of committees and sub-committees.

## 25. **BOOKS**

All books referred to in these Procedure Rules shall be kept by the Monitoring Officer.

## 26. **INTERPRETATION**

- 26.1 Throughout these Procedure Rules the phrase “working day” shall mean Monday to Friday in any week except public holidays or any other days when the offices at Trafford Town Hall are officially closed.

**N.B. Those Rules marked \* apply to meetings of the full Council only.**

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

These rules apply to all meetings of the Council, overview and scrutiny committees, the Standards Committee, regulatory committees, Health and Wellbeing Board and public meetings of the Executive and its committees (together called meetings).

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

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

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

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

### **4. NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at its main administrative building and on its website.

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

The Council will make copies of the summons or agenda and reports open to the public available for inspection at the designated office and on its website at least five clear days before the meeting. If an item is added to the summons or agenda later (where reports are prepared after the summons has been sent out) the revised summons or agenda will be open to inspection from the time the item was added to the summons or agenda. The designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

### **6. SUPPLY OF COPIES**

The Council will supply copies of:

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

## **7. ACCESS TO MINUTES AND RECORDS OF DECISIONS**

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

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

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

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

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

### **8.2 Public inspection of background papers**

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

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main administrative building.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

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

## 10.2 Exempt information – discretion to exclude public

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

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

## 10.3 Meaning of confidential information

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

## 10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to the public interest test):

1	Information relating to any individual.
2	Information which is likely to reveal the identity of an individual.
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6	Information which reveals that the authority proposes— (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8	<p style="text-align: center;"><u>Qualifications</u></p> Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—

	<ul style="list-style-type: none"> <li>(a) the Companies Act 1985;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 1993.</li> </ul>
9	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10	<p>Information which –</p> <ul style="list-style-type: none"> <li>(a) falls within any of paragraphs 1 to 7 above; and</li> <li>(b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,</li> </ul> <p>is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## 12. APPLICATION OF RULES TO THE EXECUTIVE

In addition to Rules 1-11 the Executive and its committees must also comply with Rules 13 – 21 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

## 13. PROCEDURES PRIOR TO MEETINGS OF THE EXECUTIVE OR ITS COMMITTEES

- 13.1 Subject to Rule 10, a decision-making meeting of the Executive or its committees must be held in public. Notice of the meeting will be given in accordance with Rule 4 (notices of meeting) and also be published on the Council’s website at least five clear days before the meeting or where the meeting is convened at shorter notice, at the time that the meeting is convened. In addition to Rule 5 (access to agenda and reports before the meeting) the Council will make copies of the agenda and reports open to the public available on its website.

13.2 Subject to Rule 16 (special urgency), where a decision-making meeting is to be held in private, a notice of the intention to hold a meeting in private, including a statement of the reasons for the meeting to be held in private, will be made available at the Council offices and published on the website at least 28 clear days before the meeting. A further notice of the intention to hold the meeting in private will be made available at the Council offices and published on the website at least 5 clear days before the meeting and will include:

- (a) a statement of the reasons for the meeting to be held in private;
- (b) details of any representations received about why the meeting should be open to the public; and
- (c) a statement of the Executive's response to any such representations.

This requirement does not apply to meetings whose sole purpose is for officers to brief members.

#### 14. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken until a notice has been made available at the Council offices and published on the website at least 28 clear days before the meeting stating:

- (a) that a key decision is to be made;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name and title if any and where the decision maker is a decision-making body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

Where a key decision is to be taken in private, the above notice must contain particulars of the matter but does not require the disclosure of exempt or confidential information or advice from a political assistant.

A key decision is as defined in Article 13.03 of this Constitution.

#### 15. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the notice referred to in Rule 14 (procedure before taking key decisions), then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the proper officer has informed the Chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (b) the proper officer has made copies of the notice referred to in (a) available to the public at the offices of the Council and on the Council's website; and
- (d) at least 5 clear days have elapsed since the proper officer complied with (b).

As soon as reasonably practical after compliance with the above, a notice setting out the reasons why a key decision has not been included in the notice referred to in Rule 14 (procedure before taking key decisions) will be made available at the Council offices and published on its website.

## 16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed and/or is a matter to be determined in private which has not been included in the notice referred to in Rule 13.2 (procedures prior to meetings of the Executive or its Committees, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant overview and scrutiny committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of a relevant overview and scrutiny committee, or if the Chairman of a relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman of the Council will suffice.

As soon as reasonably practical after compliance with the above, a notice setting out the reasons why the making of a key decision is urgent and cannot reasonably be deferred will be made available at the Council offices and published on its website.

## 17. **REPORT TO COUNCIL**

### 17.1 **When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the Notice of Intention to Take Key Decisions or in a notice to the relevant Chairman of Scrutiny Committee where this was impractical
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee Chairman, or Chairman/Vice-Chairman of the Council under Rule 16;

the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by the Chairman. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

## **17.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **17.3 Reports on special urgency decisions**

In any event the Leader will submit at least one report annually to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) during the period since the last report was submitted. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

### **19.1 Executive Members**

- a) All members of the Executive will be served notice of all private meetings of committees of the Executive, whether or not they are members of that committee.
- b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive.

### **19.2 Other Members**

- a) Members other than executive members will be able to attend and/or speak at private meetings of the Executive and its committees if invited to do so by the Leader but only Members of the Executive may vote.



### 19.3 Officers

- a) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any public meeting of the Executive and its committees. The Executive may not meet in public or private unless the proper officer has been given reasonable notice that a meeting is to take place.
- b) A private executive meeting will usually take place in the presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

There is no requirement for the Executive to meet in the presence of an officer.

The provisions of Rule 18 (recording and publicising decisions) will apply in respect of private meetings of the Executive.

## 20. **DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE AND OFFICERS**

### 20.1 **Reports intended to be taken into account**

Where an individual member of the Executive receives a report which (s)he intends to take into account in making any key decision, then (s)he will not make the decision until at least 5 clear days after receipt of that report.

### 20.2 **Provision of copies of reports to overview and scrutiny committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

### 20.3 **Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive and officers. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **21. ACCESS TO INFORMATION FOR NON-EXECUTIVE MEMBERS**

### **21.1 Rights to Copies**

All Members and co-opted Members will be entitled to inspect and have copies of any document which is in the possession of or under the control of the Executive or its committees and which contains material relating to:-

- a) any business transacted at a decision-making meeting
- b) any decision made by an individual Member of the Executive
- c) any decision made by an officer in accordance with executive arrangements

The Executive will provide such documents as soon as reasonably practicable and in any case no later than 10 clear days after it receives the request.

In addition, all Members will be entitled to receive a copy of the agenda and reports for public meetings of the Executive and its committees and Rule 21.2(b) will not as such apply to such reports.

### **21.2 Limit on Rights**

Members and co-opted Members will not be entitled to inspect or take copies of:-

- a) any document that is in draft form
- b) any document or part of a document that contains exempt information falling within paragraphs 1 to 6, 9,11,12 and 14 of the categories of exempt information unless that document is relevant to an executive decision that is subject to the call in procedure.
- c) any document that contains the advice of a political adviser

### **21.3 Additional Rights for Members of Overview and Scrutiny Committees**

Members of Overview and Scrutiny Committees are also entitled to documents containing exempt or confidential information if that information is relevant to an action or decision (s)he is reviewing or scrutinising or is relevant to any reviews contained in that Committee's work programme.

### **21.4 Executive Statement in Respect of No Right of Access**

Where the Executive determines that a Member or co-opted Member is not entitled to a copy of a document or part of any such document for a reason set out in 21.1 – 21.3, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

### 21.5 **Definition of ‘document’**

‘Document’ as referred to above means any report or background papers, other than that in draft form, taken into consideration in relation to an executive decision which has been or is to be made.

### 21.6 **Nature of rights**

These rights are additional to any other rights a Member may have.

### 21.7 **Proper Officer**

For the purpose of these rules the Proper Officer is the Monitoring Officer.

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

### **1. The framework for executive decisions**

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

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

The process by which the policy and budgetary framework shall be developed is:

- (1) The Executive will publicise by setting out a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy framework, and any arrangements for consultation after publication of initial proposals. The Chairmen of overview and scrutiny committees will also be notified.
- (2) If a relevant overview and scrutiny committee wishes to respond to the Executive in any consultation process then it may do so. As the overview and scrutiny committees have responsibility for fixing their own work programme, it is open to the overview and scrutiny committee to investigate, research or report in detail with policy recommendations before the end of any consultation period. The Executive will take any response from an overview and scrutiny committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (3) Once the Executive has approved the firm proposals for any plan, strategy or budget, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (4) In reaching a decision the Council may, subject to rule 8, adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration or substitute its own proposals in their place.
- (5) The Capital Strategy will be considered as part of the budget process and the capital budget will be considered as a rolling programme by the Executive at various stages throughout the year.
- (6) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with rules 5 and 6. Any other changes to the budget and policy framework are reserved to the Council.

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

- (1) Subject to the provisions of rules 4 to 6 the Executive, committees of the Executive, individual members of the Executive and any officers, or joint arrangements discharging executive functions may only take decisions

which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council.

- (2) If the Executive, committees of the Executive, members of the Executive and any officers, or joint arrangements discharging executive functions want to make a decision as set out in (1) above, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in rule 4 shall apply.

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

- (1) The Executive, a committee of the Executive, an individual member of the Executive or officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the full Council;

**and**

  - ii) if the Chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency. In the absence of the Chairman of a relevant overview and scrutiny committee the consent of the Chairman of the Council and, in the absence of both the Vice-Chairman of the Council, will be sufficient.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision.

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

#### **5. Virement**

- (1) The Council's budget heads will be established by the Council from time to time and set out in the Council's Revenue Budget.

- (2) Steps taken by the Executive, an individual member of the Executive or officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, subject to statutory constraints such bodies or individuals shall be entitled to vire across budget heads up to a maximum of 10% of the gross budget of the budget head from which the virement is taken. Beyond that limit, approval to any virement across budget heads shall require the approval of the full Council.

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

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

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

## **7. Call-in of decisions outside the budget or policy framework**

- (1) Where an overview and scrutiny committee or the Chairman of such a committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer, who may prepare a report.
- (2) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of such a report and prepare a report to:
  - i) Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and
  - ii) to the relevant overview and scrutiny committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

- (3) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee or Chairman should refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the overview and scrutiny committee unless the next ordinary meeting of council will take place within 14 days in which case the request will be considered at that meeting. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
- i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - ii) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;
  - iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

## **8. Dispute Resolution**

- (1) Where, following consideration of the Executive's proposals for any plan or strategy, the Council has any objections to them, the Council must take the action set out in 8 (2).
- (2) Before the Council —
- (a) amends a proposed plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) a proposed plan or strategy,

it must inform the Executive Leader of any objections which it has to the proposals and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, the proposals submitted to it.

- (3) Where the Council gives instructions in accordance with 8(2), it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may –
  - (a) submit a revision of the proposals as amended by the Executive (the “revised proposed plan or strategy”) with the Executive’s reasons for any amendments made to the proposals, to the Council for the Council’s consideration; or
  - (b) inform the council of any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for any such disagreement.
- (4) When the period specified by the Council, referred to in 8(3) has expired, the Council must meet within a reasonable time, the date being agreed by the Chairman of the Council and the Head of Paid Service. When –
  - (a) amending the proposed plan or strategy or, if there are any revisions, the revised proposed plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - (c) adopting (with or without modification) the proposed plan or strategy,

the Council must take into account any amendments made to the proposals that are included in any revised proposed plan or strategy, the Executive’s reasons for those amendments, any disagreement that the Executive has with any of the Council’s objections and the Executive’s reasons for that disagreement, which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.
- (5) Subject to 8(9) below where, in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year
  - (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;



- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992.

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in 8 (6).

- (6) Before the Council makes a calculation (whether originally or by way of a substitute) in accordance with any of the sections referred to in 8(5)(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive Leader of any objections which it has to the Executive's estimates or amounts and must give to him/her instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (7) Where the Council gives instructions in accordance with (6), it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may —
  - (a) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (b) inform the Council of any disagreement that the Executive has with any of the council's objections and the Executive's reasons for any such disagreement.
- (8) When the period specified by the Council, referred to in 8(7) has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 8(5)(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:-
  - (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (b) the Executive's reasons for those amendments
  - (c) any disagreement that the Executive has with any of the authority's objections; and
  - (d) the Executive's reasons for that disagreement,

which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.

(9) Paragraphs (5) to (8) shall not apply in relation to —

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

# EXECUTIVE PROCEDURE RULES

## 1. How the Executive operates

### 1.1 Who may make executive decisions

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

- i) the Executive as a whole;
- ii) a committee of the Executive;
- iii) an individual member of the Executive;
- iv) an officer;
- v) joint arrangements; or
- vi) another local authority.

### 1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. If this is not practicable the Leader will present such a record to the first ordinary meeting of the Council after the Annual Meeting. The documents presented by the Leader will contain the following information about executive functions in relation to the coming year:

- i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- ii) the terms of reference and constitution of such executive committees as the Leader appoints and the names of executive members appointed to them;
- iii) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an officer.

- (c) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made that delegation.

#### **1.4 The Council's scheme of delegation and executive functions**

- (a) Subject to (b) and (c) below, the Council's scheme of delegation of executive functions will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) If the Leader is able to decide whether to delegate executive functions, (s)he may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must either make the amendment at a meeting of the Executive attended by the proper officer or the proper officer's representative or give written notice to the proper officer. The person, body or committee to whom the delegation is given must be informed by the Proper Officer. Any written notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

1.5 The delegations referred to in paragraphs 1.2 and 1.4 need only be set out in Part 3 of this Constitution or reported to the Council if they will exceed, or are capable of exceeding, 6 months in duration.

#### **1.6 Conflicts of Interest**

If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

#### **1.7 Place and time of Executive Meetings**

The Executive will meet at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader.

#### **1.8 Quorum**

The quorum for a meeting of the Executive shall be 3. The quorum for a meeting of a committee of the Executive shall be 2.

## 1.9 **Decision Making**

- (a) Executive decisions shall be taken in accordance with the principles set out in Article 13 of the Constitution.
- (b) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (c) Where executive decisions are delegated to a committee of the Executive the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## 2. **The conduct of Executive meetings**

### 2.1 **Chairman of meeting**

If the Leader is present (s)he will chair the meeting. In his/her absence, then the Deputy Leader will chair the meeting. In the absence of both, a person appointed to do so by those present shall chair the meeting.

### 2.2 **Attendance**

Attendance shall be as set out in the Access to Information Rules in this part of the Constitution.

### 2.3 **Business to be conducted**

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

- ii) consideration of the minutes of the last meeting;
- iii) matters referred to the Executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this part of this Constitution;
- iii) consideration of reports from overview and scrutiny committees; and
- iv) matters set out in the agenda for the meeting; and
- v) if the meeting is held in public the agenda shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### 2.4 **Consultation**

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the

nature and extent of any consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Rights to place items on the Executive agenda**

- (a) The Leader will decide upon the timetable for the meetings of the Executive and may call extraordinary meetings if (s)he believes it necessary. (S)he may put on the agenda of any executive meeting any matter which (s)he wishes, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.
- (b) Any member of the Executive may, after discussion with the Leader require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda of each meeting of the Executive for matters referred by the full Council or by overview and scrutiny committees for reconsideration. However there may only be up to 3 such items per executive meeting.
- (d) There will be a standing item on the agenda of each meeting of the Executive for matters referred by the full Council or by overview and scrutiny committees for consideration. However there may only be up to 3 such items per executive meeting.
- (e) The number of items which can be placed on an agenda under (c) and (d) above may, at the discretion of the Leader, be increased in respect of any Executive agenda.
- (f) Any member of the Council through the Leader of their political group (or, if not in a political group, direct to the Leader of the Council) may ask the Leader of the Council to put an item on the agenda of an executive meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Executive.
- (g) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s)

entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

- (h) Notwithstanding the above the Chief Executive, in the circumstances set out at Rule 12(a) of the Overview and Scrutiny Procedure Rules, can place an item on the agenda.

## **2.6 Time and Duration of the Meeting**

Meetings of the Executive that take place in public will begin at 6.30 p.m. unless the Leader determines otherwise and will finish no later than 9.30 p.m. If any business remains outstanding the Leader will fix a date and time for a resumed meeting.

## **3. The Conduct of Executive Committee meetings**

### **3.1 Chairman of the meeting**

The person appointed by the Executive to be the Chairman of the committee shall chair the committee. In his/her absence, or if no such person has been appointed, a person appointed to do so by those present shall chair the meeting.

### **3.2 Attendance and speaking at meetings**

- i) Attendance shall be as set out in the Access to Information Rules in this part of the Constitution.
- ii) Members of the public, including councillors who are not members of the committee of the Executive, may speak at meetings of the Executive held in public if invited to do so by the Leader, or other Executive Member chairing the meeting. In addition, councillors who are not members of the Executive may remain in such a meeting of the Executive when exempt information is discussed if invited to do so by the Leader, or other Executive Member chairing the meeting.

### **3.3 Business to be conducted**

- i) consideration of the minutes of the last meeting (if any);
- ii) matters referred to the Executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this part of this Constitution;
- iii) consideration of reports from overview and scrutiny committees;
- iv) matters set out in the agenda for the meeting, and

- v) if the meeting is held in public the agenda shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

#### 3.4 Rights to place items on Executive Committee agendas

- (a) The Chairman of the committee, or the Leader if there is no Chairman, will decide the dates upon which the committee will meet. The Chairman or the Leader may put on the agenda of the committee any matter which (s)he wishes provided it is within the delegated authority of that committee. The proper officer will comply with the requests of the Leader and the Chairman in this matter.

#### 4. Arrangements for the absence of the Leader

- 4.1 In the absence of the Leader the Deputy Leader will exercise responsibility as if all references to the Leader in this Constitution were references to the Deputy Leader with the exception of those responsibilities which by law can only be exercised by the Leader.

#### 5. **Proper Officer**

The Proper Officer for the purposes of these Procedure Rules is the Monitoring Officer.



## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. Number and arrangements for overview and scrutiny committees**

- (a) The Council will have the overview and scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time.
- (b) Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist. Joint Committees may also be appointed by Council for specific purposes and shall cease to exist when that purpose has been fulfilled.
- (c) A set of Overview and Scrutiny Protocols are included in this Constitution under Part 5 (Codes and Protocols).

### **2. Membership of overview and scrutiny committees**

All Councillors, except Members of the Executive and Deputy Executive Members, are eligible to be appointed to the Scrutiny Committee and the Health Scrutiny Committee and any Groups that either Committee may establish. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

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

Each overview and scrutiny committee shall be entitled to appoint up to 3 people as non-voting co-optees.

### **4. Education representatives**

The Scrutiny Committee when dealing with education matters shall include in its membership the following voting representatives:

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

When the Scrutiny Committee deals with matters that do not relate to the authority's education functions, the above-mentioned representatives shall not vote on those matters, though they may stay in the meeting and speak.

### **5. Meetings of the overview and scrutiny committees**

Ordinary meetings of the Scrutiny Committee and the Health Scrutiny Committee shall be as agreed by the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. A meeting may be called by the Chairman of the relevant Committee or by the Director of Legal and Democratic Services. A meeting of the Scrutiny Committee or the

Health Scrutiny Committee may be called by any three Members of the Committee of which they hold membership.

6. **Quorum**

The quorum for an overview and scrutiny committee shall be as set in the Council Procedure Rules in this part of this Constitution.

7. **Chairmen and Vice-Chairmen of overview and scrutiny committee meetings**

The Chairman of the Scrutiny Committee will be drawn from the ruling group on the Council. The Vice-Chairman of the Scrutiny Committee will be a Member of the main opposition group on the Council.

The Chairman of the Health Scrutiny Committee will be drawn from the largest opposition group on the Council. The Vice-Chairman of the Health Scrutiny Committee will be a Member of the ruling group on the Council.

The Chairmen of both the Scrutiny Committee and the Health Scrutiny Committee are appointed as ex-officio Members of the opposite scrutiny committee.

The Chairman of the Scrutiny Committee will be consulted by the Health Scrutiny Committee and will hold the power of veto in respect of any proposed referral of a substantial variation as defined in the Health and Social Care Act 2012 to the Secretary of State.

8. **Work programme**

The work programme for the Overview and Scrutiny function will be approved, amended as appropriate and kept under review by the appropriate Scrutiny Committee in accordance with the arrangements described in Section 3 of Part 3 of this Constitution. In developing any such programme, the Scrutiny Committee will have regard to the wishes of the Members of the Scrutiny Committee (including those who are not Members of the ruling group on the Council) and other non Executive Members who do not serve on that Committee.

The Scrutiny Committee and Health Scrutiny Committee as soon as work programmes permit, will consider requests from the Council or the Executive to undertake review work.

9. **Agenda items**

- (a) (i) Any member of an overview and scrutiny committee shall be entitled to give notice to the proper officer that (s)he wishes an item relevant to the functions of that committee to be included on the agenda for the next available meeting of the committee.

Before making such a request members are encouraged to discuss any such item with the Chairman of the committee to determine the best way of dealing with the item.

- (ii) On receipt of such a request the proper officer shall inform the Chairman of the relevant scrutiny committee of the request and make arrangements for the matter to be included on the agenda at the next available meeting of that committee. It will then be for the committee to determine how that item shall be dealt with.
- (b) (i) Any other members of the Council (i.e. those who are not members of the relevant committee shall, after having had regard to any relevant guidance issued by the Secretary of State, be entitled to give notice to the proper officer that (s)he wishes a local government matter (as defined in S21A of the Local Government Act 2000 as amended) relevant to the functions of that committee to be included on the agenda for the next available meeting of the committee.
  - (ii) On receipt of such a request the proper officer shall inform the Chairman of the relevant committee of the request and make arrangements for the matter to be included on the agenda at the next available meeting of that committee. It will then be for the committee to determine how that matter shall be dealt with.
- (c) Any 3 members of the Council who are not members of the overview and scrutiny committees may make a written request to the Chairman of the relevant overview and scrutiny committee that they wish an item to be included on the agenda of that committee. If the Chairman accepts the request (s)he shall give the proper officer notification of the request and the proper officer will include the item on the first available agenda of that overview and scrutiny committee for consideration.
  - (d) As soon as their work programme permits, the committees shall also respond to requests from the Council and, if it considers it appropriate, the Executive, to review particular areas of Council activity. Where they do so, the committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the committee at its next available meeting.

## 10. Policy review and development

- (a) The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.

- (c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **11. Reports from overview and scrutiny committee**

- (a) Once it has formed recommendations on proposals for development, an overview and scrutiny committee will prepare a formal report and submit it to the Chief Executive for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.

#### **12. Consideration of overview and scrutiny reports by the Executive**

- (a) Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework.
  - (i) If the Chief Executive refers the matter to Council, (s)he will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Executive will have 6 weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an overview and scrutiny committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Executive to the overview and scrutiny proposals. The Council shall meet to consider any referral from an overview and scrutiny committee within 8 weeks of the report being submitted to the Chief Executive.
  - (ii) If the Chief Executive refers the matter to the Executive, the Executive shall consider the report at its next available meeting. Where the Executive does not consider the matter within 8 weeks after referral by the Chief Executive, the Chief Executive will place the item on the agenda of the next meeting of the Executive.

- (b) Where an overview and scrutiny committee prepares a report for consideration by the Executive in relation to a matter where the Leader or Council has delegated decision-making power to another individual member of the Executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision-making power and responding to the report in writing to the overview and scrutiny committee. The Executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within 6 weeks of receiving the report. A copy of his/her written response to it shall be sent to the proper officer and the Executive member will attend the future meeting of the relevant Overview and Scrutiny committee at which their response is considered.
- (c) Overview and scrutiny committees will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Executive's consultation process in relation to any key decision. Any report of an Overview and Scrutiny Committee in relation to an item on the forward plan shall be taken into account by the Executive, or other decision maker, in making the decision.

### **13. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in Rule 12 prevents more detailed liaison between the Executive committee and overview and scrutiny committees as appropriate depending on the particular matter under consideration.

### **14. Members and officers giving account**

- (a) Any overview and scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within its terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service, any Director, Head of Service and/or any other appropriate senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision, future decision as set out in the Forward Plan or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the Chairman of that committee will inform Statutory Scrutiny Officer. The Statutory Scrutiny Officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

## 15. **Attendance by others**

An overview and scrutiny committee may invite people other than those people referred to in Rule 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

## 16. **Call-in**

- (a) Subject to Rule 16(k) when a decision is made by the Executive (including by the Executive meeting in public) an individual member of the Executive, a committee of the Executive, or under joint arrangements, or a key decision is made by an officer with delegated authority from the Executive, the decision notice shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. Copies of all such decision notices will be sent to all members of the relevant Overview and Scrutiny Committee within the same timescale, by the person responsible for publishing the decision.
- (b) Decision notices will bear the date on which they are published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless called in accordance with the following procedure.

## Call-in Procedure

- (c) During the period of 5 working days from the publication of a decision notice, a request to call in the decision may be initiated in writing by the Chairman or, in his/her absence, the Vice Chairman of the Scrutiny Committee. The Chairman, or where appropriate, the Vice-Chairman of the Scrutiny Committee can be requested to exercise the right to call in a decision by any 3 Overview and Scrutiny Members.

Call-in should only be used in exceptional circumstances where Members have evidence which suggests that a decision was taken where:

- (a) inaccurate information of a substantial nature was given to the decision taker;
- (b) inadequate consultation was carried out;
- (c) alternative options were not given sufficient consideration or were inadequately appraised; or
- (d) insufficient information was available

and

a decision may only be called in if the Chairman, or Vice-Chairman as appropriate, of the Scrutiny Committee accepts that any of the above criteria are met in relation to a decision.

During that 5 working day period, the Chief Executive shall call-in a decision for scrutiny by the committee if so requested by the Chairman or, where appropriate, the Vice-Chairman of the Scrutiny Committee, and shall then notify the decision-taker of the call-in. (S)he shall call a meeting of the scrutiny committee to meet on such date as (s)he may determine, where possible after consultation with the Chairman of the committee, and in any case within 7 working days of the request to call-in being agreed.

- (d) If, having considered the decision, the scrutiny committee is still concerned about it, then it may refer it back to the decision maker for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. Matters should only be referred to full Council if the overview and scrutiny committee consider the decision to be contrary to the policy framework or contrary or not wholly in accordance with the budget.

If the matter is referred to full Council the Chief Executive shall call a meeting of full Council to meet on such date as (s)he may determine, where possible after consultation with the Chairman of Council, and in any case within 7 working days of the referral by the scrutiny committee. If an ordinary meeting of the Council is due to take place within a reasonable period after the date of the referral of the scrutiny committee, the 7 day period can be varied with the agreement of the Leader of the

Council, the Chairman of the relevant overview and scrutiny committee and the Chairman of the Council.

- (e) If referred to the decision maker they shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision. If the decision maker is an individual and is unavailable during this period the decision shall be reconsidered by the Executive.
- (g) If, following the call-in of a decision, the scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to full Council, the decision will become effective on the date of the scrutiny committee meeting, or on the expiry of the period in which the overview and scrutiny committee meeting should have been held, whichever is the earlier.
- (h) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it cannot make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker together with the Council's views on the decision. The decision maker shall then reconsider the decision as set out in paragraph (f) above.
- (i) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **EXCEPTIONS**

### **CALL-IN AND URGENCY**

- (k) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent or if the decision is a recommendation of the Executive to be referred to full Council for approval. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. Examples of circumstances which would be deemed urgent include:

- the likelihood of material financial loss
- the risk of incurring legal liability or delay in taking legal action
- the need to comply with statutory or other legal requirements
- to prevent or reduce the risk of damage to person or property

(Please note that the above are by way of illustration only and are not a definitive list)



The decision notice shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. Any written report considered by the decision making person or body shall specify the nature of any urgency.

- (l) Prior to a decision being published which is deemed to be urgent by the decision maker, the Chairman and Vice-Chairman of the Scrutiny Committee shall be notified that an urgent decision has been taken.

This paragraph does not apply to an urgent decision taken under the procedure referred to in paragraph (m) below.

- (m) The call-in procedure shall also not apply to decisions which have been made following the special urgency procedure set out in Regulation 16 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.
- (n) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary. However, if at any time, the Scrutiny Committee determine that these provisions are not being used appropriately it may after discussing the matter with the Leader and the Monitoring Officer, make a report to the next ordinary meeting with recommendations.

## **17. The party whip**

- (a) The “party whip” means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.
- (b) When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip, the member must declare the existence of the whip, and its nature before the commencement of the committee’s deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **18. Procedure at overview and scrutiny committee meetings**

- (a) Overview and scrutiny committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to the call-in of a decision;

- (iv) responses of the Executive to reports of the overview and scrutiny committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the overview and scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee shall prepare or approve a report, for submission to the Executive and/or Council as appropriate.

**19. Matters within the remit of more than one overview and scrutiny committee**

Where a matter for consideration by an overview and scrutiny committee falls within the remit of one or more other overview and scrutiny committee, the decision as to which overview and scrutiny committee will consider it will be resolved by discussion by the Chairs of the Scrutiny Committee and the Health Scrutiny Committee.

**20. Proper Officer**

The Proper Officer for the purpose of this Rule is the Director of Legal and Democratic Services.

## TABLE 1:

### MEMBERSHIP AND TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY COMMITTEES

#### 1. SCRUTINY COMMITTEE

##### Terms of Reference

1. To act as the Council's Overview and Scrutiny Committee and Crime and Disorder Committee for the purposes of all relevant legislation including, but not limited to, the Local Government Act 2000 (as amended), and Police and Justice Act 2006.
2. The Committee will also be responsible for the review and scrutiny of decisions made or actions taken in connection with the provision, planning and management of education in the borough of Trafford and, in particular, all of the functions of the Council as an education authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time. Co-opted Members will be appointed to discuss education matters and will attend the Scrutiny Committee when they consider education matters.

##### General Role

3. Subject to statutory provision, to review and scrutinise decisions made or actions taken in connection with the discharge by the Council of its functions and by relevant partner authorities.
4. In relation to the above functions:
  - a) to make reports and/or recommendations to the full Council, Executive of the Council, any joint committee or any relevant partner authority as appropriate
  - b) to consider any matter affecting the area or its inhabitants
5. In relation to any function within the remit of this Committee:-
  - a) as set out in (b) below to exercise the power to call in, for reconsideration, executive decisions made but not yet implemented set out in Section 21(3) of the Local Government Act 2000.
  - b) The call-in of an executive decision is to be exercised as follows:-
    - i) the decision must not have been designated as urgent by the decision taker
    - ii) the request to call in a decision must be made within 5 working days of the decision being published

- iii) any 3 members of an overview and scrutiny committee or select committee can ask the Chairman of this Committee or, in his/her absence, the Vice-Chairman to call in an executive decision
  - iv) in deciding whether or not to approve the request to call in a decision, the Chairman or Vice-chairman may consult the Vice-Chairman and the chairmen of the Select Committees as appropriate
  - v) if the Chairman, or Vice-Chairman as appropriate, approve the call in of a decision the request to call in the decision must be made to the Chief Executive within the timescale set out in (ii) above
  - vi) the Chairman may decide, after consulting as appropriate, to call in a decision whether or not a request under (iii) has been received.
6. To put in place and maintain a system to ensure that referrals from overview and scrutiny to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in the Constitution.
  7. At the request of the Executive, to make decisions about the priority of referrals made in the event of reports to the Executive exceeding limits in the Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
  8. To report annually to full Council on its workings, set out their plans for future work programmes and amended working methods if appropriate.

### **Specific functions**

9. Maintain a strategic overview of progress towards the achievement of the ambitions and priorities within Trafford's Sustainable Community Strategy and the Council's Annual Delivery Plan (ADP).
10. Identify the Committee's strategic priorities and determine the Overview and Scrutiny work programme to facilitate constructive evidence based critical-friend challenge to policy makers and service providers within the resources available.
11. Assist and advise the Council in the continued development of the Overview and Scrutiny function within Trafford.
12. Receive, consider and action as appropriate requests:
  - a) from the Executive in relation to particular issues; and
  - b) on any matters properly referred to the Committee
13. Identify areas requiring in-depth review. The Committee will set the terms of reference, scope and time frame for the review.
14. In relation to the terms of reference of the Committee it may:

- a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- b) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
- c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
- e) conduct research, community and other consultation as it deems appropriate in the analysis of policy issues and possible options;
- f) question and gather evidence from any other person with their consent.
- g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- h) question members of the Executive and/or committees, senior officers of the Council and representatives of relevant partner authorities on relevant issues and proposals affecting the area and about decisions and performance;
- i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- j) undertake any other activity that assists the Committee in carrying out its functions.

### **Delegation**

15. The Scrutiny Committee shall have all delegated power to exercise the power and duties assigned to them in their terms of reference.

## **2. HEALTH SCRUTINY COMMITTEE**

### **Terms of Reference**

1. To act as the Council's Overview and Scrutiny Committee for the purposes of all relevant legislation including, but not limited to the Health and Social Care Act 2012.
2. All health scrutiny powers provided under the Health and Social Care Act 2012 are delegated to the Health Scrutiny Committee.
3. The Health Scrutiny Committee will have the power to refer a proposed substantial variation in service delivery to the Secretary of State. If the Committee wish to exercise this power, then this must also be agreed by the Chairman of the Scrutiny Committee who will be an ex-officio member of the Health Committee and will hold the power of veto in respect of any proposed referral of a substantial variation to the Secretary of State.

### **General Role**

4. Subject to statutory provision, to review and scrutinise decisions made or actions taken in connection with the discharge by the Council of its functions and by relevant partner authorities in relation to health and well-being issues.
5. In relation to the above functions:
  - a) to make reports and/or recommendations to the full Council, Executive of the Council, any joint committee or any relevant partner authority as appropriate
  - b) to consider any matter affecting the area or its inhabitants
6. To put in place and maintain a system to ensure that referrals from the Health Scrutiny Committee to the Executive, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in the Constitution.
7. At the request of the Executive, to make decisions about the priority of referrals made in the event of reports to the Executive exceeding limits in the Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
8. To report annually to full Council on its workings, set out their plans for future work programmes and amended working methods if appropriate.

### **Specific functions**

9. Maintain a strategic overview of progress towards the achievement of the ambitions and priorities within Trafford's Sustainable Community Strategy and the Annual Delivery Plan (ADP) in relation to health and well-being matters.

10. Identify the Committee's strategic priorities and determine the Overview and Scrutiny work programme to facilitate constructive evidence based critical-friend challenge to policy makers and service providers within the resources available.
11. Assist and advise the Council in the continued development of the Overview and Scrutiny function within Trafford.
12. Receive, consider and action as appropriate requests:
  - a) from the Executive in relation to particular issues; and
  - b) on any matters properly referred to the Committee
13. Identify areas requiring in-depth review. The Committee will set the terms of reference, scope and time frame for the review.
14. In relation to the terms of reference of the Committee it may:
  - a) assist the Council, Executive and shadow Health and Well-being Board in the development of its budget and policy framework by in-depth analysis of policy issues;
  - b) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;
  - c) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance;
  - e) conduct research, community and other consultation as it deems appropriate in the analysis of policy issues and possible options;
  - f) question and gather evidence from any other person with their consent.
  - g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - h) question members of the Executive and/or committees, senior officers of the Council and representatives of relevant partner authorities on relevant issues and proposals affecting the area and about decisions and performance;
  - i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and

- j) undertake any other activity that assists the Committee in carrying out its functions.

### **Delegation**

15. The Health Scrutiny Committee shall have all delegated power to exercise the power and duties assigned to them in their terms of reference subject to the conditions relating to the power of referral as set out above.



## **FINANCIAL PROCEDURE RULES - SEE SEPARATE DOCUMENT**

**The Council's Financial Procedure Rules should be read in conjunction with other regulations and guidance published by the council, including, but not limited to, the Constitution. Specific reference is made to the Scheme of Delegation to Officers which specifies the relative roles and responsibilities of key officers.**

**The Corporate Directors of each Directorate are responsible for ensuring that all staff are aware of the existence and content of such documents and for compliance with them.**

# **CONTRACT PROCEDURE RULES**

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## **SCHEDULE 1**

## **1. Introduction**

- 1.1 Stockport Council, Trafford Council and Rochdale Council have agreed, through an Inter Authority Agreement (“IAA”) to facilitate the joint delivery of Procurement Functions with a view to the attainment of a more economical, efficient and effective discharge of its Procurement Functions via a shared procurement service to be identified as “STAR”. Each of the STAR members have agreed to establish and participate in a joint committee (the “Joint Committee”) and have agreed to delegate their Executive and Non-Executive functions relating to the operation of STAR to the Joint Committee. Other authorities may, from time to time, join the IAA.
- 1.2 These Rules are standing orders made pursuant to Section 135 of the Local Government Act 1972. Compliance with the Rules and observance of European and domestic law from which they emanate (in particular the principles relating to non-discrimination, equal treatment and transparency) is mandatory for all Officers and Members. The Rules ensure that procurement activity is undertaken in a legally compliant, transparent, fair and competitive manner.
- 1.3 Decisions relating to procurement are among the most important decisions that can be made by the Council its Members and Officers because the money involved is public money and the Council is concerned to ensure that high quality Supplies, Services and the execution of Works are procured. Efficient use of resources in order to achieve Best Value is therefore an imperative.
- 1.4 These Rules shall apply to all procurement activity where the Council is to procure any Supplies, Services or the execution of Works, or enters into a Concessions Contract as either a contracting authority or commissioner of such, regardless of the origin of funding (such as external grants, partnership funding, pooled or joint budgets for example).
- 1.5 For the avoidance of doubt, these Rules shall apply to Framework Agreements, DPS and to any arrangement made by, or on behalf of the Council (including Schools) for the carrying out of Works or for the supply of Supplies or Services.
- 1.6 Where relevant, the Council shall have regard to the Public Services (Social Value) Act 2012 (“the Act”). This requires commissioners and procurers at the pre-procurement stage to consider how what is to be procured may improve social, environmental and economic well-

being of the Council's relevant area, how it might secure any such improvement and to consider the need to consult. The Council and Officers should refer to the Procurement Handbook for further guidance.

- 1.7 The Joint Committee shall monitor compliance with the Rules and undertake an annual review of the Rules. The Joint Committee may present recommendations for amendments to the Rules to the Council from time to time and any such amendments shall be subject to the Council's own ratification procedures. Any failure to comply with any of the provisions of these Rules must be reported immediately to the SRO for Legal. Failure by any Officer or Member to comply with the provisions of these Rules may lead to disciplinary action being taken against them.
- 1.8 These Rules must be read in conjunction with the Council's Constitution and in particular the Financial Procedure Rules/Regulations, , Procurement Handbook, any relevant guidance documents endorsed by the Council and the Council's local Rules as identified in section 1.9 below.
- 1.9 A number of local Rules can be found in the attached Schedule 1 and which form part of these Rules.

#### **Further Information**

Further advice can be sought from STAR:

General Enquiries - email: [procurement@STAR-procurement.gov.uk](mailto:procurement@STAR-procurement.gov.uk)  
tel: 0161 9121616

Legal Enquiries - email: [STARlegal@trafford.gov.uk](mailto:STARlegal@trafford.gov.uk)  
tel: 0161 9124229

## 2. Interpretations and Definitions

- 2.1 In the event of any conflict between EU law, English law and these Rules and Council Policy, the requirements of EU law shall prevail over English law and the requirements of English law shall prevail over these Rules and Council Policy.
- 2.2 Any reference to legislation, primary or secondary, shall include any amendments/replacements made from time to time.
- 2.3 All figures specified in these Rules are exclusive of VAT.
- 2.4 In the event of any doubt as to the interpretation of these Rules, or as to proper procedure to be followed, advice should be sought from STAR in the first instance.
- 2.5 In these Rules the words and phrases below have the following meanings:

“APO”	means Authorised Procurement Officer and is the relevant STAR Officer who is responsible for the Supplies, Services, execution of Works or Concessions Contract for which the Specification relates.
“ASO”	means Authorised Service Officer and is any Officer, within a directorate of the Council, who has delegated authority to undertake Procurement Functions.
“Best Value”	has the same meaning as that defined in the Local Government Act 1999 as amended from time to time.
“Bidder”	means any Economic Operator that submits a Quote.
“Call-off”	means an order made/call-off Contract entered into under a Framework Agreement or DPS and are subject to the application of <a href="#">Rule 5.1</a> .
“CM”	means the Category Manager or similar role with equivalent experience and seniority within STAR
“Concessions”	means the granting of a right (exclusive or otherwise) to an economic operator to exploit works or services provided for their own gain with or without payment. Further guidance on Concession Contracts can be found in the Procurement Handbook
“Contract”	means a legally binding agreement between the Council and the Contractor for the procurement

	by the Council of all Supplies, Services, the execution of Works and which incorporates the terms and conditions under which the Supplies, Services, execution of Works and Concessions will be provided.
“Contractor”	shall mean the Bidder or Tenderer who the Council enters into a Contract with following the submission of a Quote or Tender and who is appointed by the Council to provide the Supplies, Services, execution of Works or Concessions Contract. They may also be referred to as ‘suppliers’, ‘providers’ or ‘service providers’ within certain Council departments.
“Contracts Finder”	means the web-based portal provided for the purposes of Part 4 of the Regulations by or on behalf of the Cabinet Office.
“DPS”	Means <b>Dynamic Purchasing System</b> which is an electronic system procured using the restricted procedure for the purchase of commonly used Supplies Services or Works which are generally available on the market and objectively defined to which all bidders who meet the requirements of the selection criteria must be admitted during the entire period of the validity of the system
“Economic Operator”	means any natural or legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings, which offers the execution of Works and/or a work, the supply of Supplies or the provision of Services on the market
“EIR”	means the Environmental Information Regulations 2004
“Electronic Purchasing System”	means purchases made online or via a telephone system
“EU Procurement Directives”	means the Public Contracts Directive 2014/24/EU, the Concessions Directive 2014/23/EU and other relevant Directives in force from time to time
“Exemption”	means the release of the obligation to comply with these Rules
“Financial Procedure Rules/Regulations”	means the written code of procedures forming part of the Council’s constitution which provide a framework for proper financial management and which set out the rules on accounting, audit,

	administrative procedures and budgeting systems.
	means the Freedom of Information Act 2000
“FOIA”	means an agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Call-off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
“Framework Agreement”	
	means an invitation issued by the Council to Tenderers to submit a Tender or a quote for the provision of Supplies, Services, the execution of Works or a Concessions Contract in accordance with the Specification or request for those Supplies, Services, execution of Works or Concessions Contract.
“Invitation to Tender”	has the same meaning as set out in the Council’s constitution
“Key Decision”	means any variation to a Contract, DPS or Framework Agreement, including an extension.
“Modification”	means the form supplied by STAR for the purpose of recording the authorisation of a Modification.
“Modification Form”	means any employee of the Council which shall include any person engaged by the Council to act as an agent or consultant on its behalf
“Officer”	means the Official Journal of the European Union
“OJEU”	means a Procurement Initiation Document providing details of the procurement activity and the authority to commence it as required in accordance with <u>Rule 5.1</u> .
“PID”	means a summary of the outcomes delivered by the procurement activity
“Post Tender Report”	means “pre-procurement questionnaire” and is the document used by the Council to screen potential Tenderers in accordance with the Regulations.
“PQQ”	means the Delegated Functions as defined by



	the IAA
“Procurement Functions”	means the document which STAR Procurement may issue after having obtained the consent of the SRO Legal of each authority from time to time to set out the procedure to achieve the Council’s procurement objectives
“Procurement Handbook”	means the document which the Council may issue from time to time to set out how it will achieve its procurement objectives
“Procurement Policy”	means charge cards which work in a similar way to credit cards and can be used by and ASO to purchase Supplies and/or Services.
“Purchasing Cards”	means a formal offer submitted by a Bidder to supply Supplies, Services, execute Works or operate a Concessions Contract at a defined price
“Quote”	means the Public Contracts Regulations 2006 SI2006/5, as amended or replaced from time to time, which implement the EU public procurement directives.
“Regulations”	means the financial threshold identified by the EU Procurement Directives, as amended from time to time, and where applicable, requires the procurement activity to be subject to the Regulations.
“Regulations Threshold”	means these Contract Procedure Rules
“Rules”	means the scheme identified within the Council’s constitution which delegates powers and duties of the Council to Officers under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation necessary for the discharge of the Council’s functions.
“Scheme of Delegation”	means the Senior Category Manager or similar role with equivalent experience and seniority within STAR
“SCM”	means the time, effort and expertise required by the Council, from time to time, and supplied by a Contractor.
“Services”	means the outputs, outcomes and the scope and nature of Supplies, Services, execution of Works or Concessions Contract required by the Council from a procurement activity.
“Specification”	

“SRO”	means “Senior Responsible Officer” and is the Officer delegated in the Council’s Scheme of Delegation for the relevant service with the responsibility for the award of the Contract.
“SRO for Legal”	means the “Senior Responsible Officer for Legal” and is the most senior Officer delegated in the Council’s Scheme of Delegation for Legal Services or in default of such delegation, the Council’s Monitoring Officer.
“SRO for Finance”	means the “Senior Responsible Officer for Finance” and is the most senior Officer delegated in the Council’s Scheme of Delegation for the Finance Services or in default of such delegation, the Officer appointed by the Council pursuant to s151 of the Local Government Act 1972.
“STAR Legal Officer”	means a member of the legal team jointly funded by all participating Council’s in accordance with the IAA, whose role is to provide legal support to STAR.
“STAR”	means the shared procurement service hosted by Trafford Borough Council on behalf of Trafford Borough Council, Rochdale Metropolitan Borough Council and Stockport Metropolitan Borough Council and other public authorities as determined from time to time whose function and remit is described in these Rules, the IAA and the Councils’ constitutions
“STAR Councils”	means those local authorities who have resolved to delegated their Procurement Functions to the STAR Joint Committee.
Supplies	means an inherently useful tangible item required by the Council, from time to time.
“Tender”	means a formal offer submitted by a Tenderer to the Council at a stated price in response to a Specification to supply Goods, Supplies, execute Works or operate a Concessions Contract.
“Tenderer”	means any Economic Operator that submits a Tender.
	means the Council’s eProcurement system.
	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended

“The Chest”	from time to time together with any EU Directives including but not limited to the
“TUPE”	Acquired Rights Directive 2001/23/EC, as amended from time to time.
“Value for Money”	means the optimum combination of whole-life costs, price, quality and benefits to meet the Council’s requirement. Such a term equates to the EU procurement requirement of most economically advantageous offer as well as the duty of Best Value as defined by the Local Government Act 1999 as amended from time to time.
“Works”	means the provision of physical activity which is directed toward the production or accomplishment of something by the Contractor, from time to time.
“Writing”	the requirement that any document should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it is created and transmitted by electronic means, in legible form, and capable of being used for subsequent reference.

### 3. Basic Principles and Responsibilities

#### 3.1 Basic Principles

3.1.1 All procurement activity must comply with all of the following principles of European Union (EU) Law:

- a. free movement of Supplies and Services;
- b. non-discrimination;
- c. openness/transparency;
- d. equal treatment for all; and
- e. proportionality

3.1.2 All procurement activity must be compliant with the latest EU laws, national legislation, the Council Constitution and the local policies in Schedule 1, and have regard to:

- a. **The need to achieve accountability** through effective mechanisms which enable Officers and Members of the Council to maintain the highest standards of integrity and honesty

and to enable them to discharge their responsibility on issues of procurement risk and expenditure of public money;

- b. **The need to provide consistent procurement policy to suppliers and achieve competitive supply;**
- c. **The need to meet commercial, regulatory and Corporate Priorities of the Council;**
- d. **The need to achieve efficiencies** by administering procurement processes which are cost effective;
- e. **The need to ensure Value for Money**
- f. **The need to ensure fair-dealing** by ensuring that suppliers are treated fairly and without unfair discrimination, including protection of commercial confidentiality where compatible with the Council's obligations under FOIA and EIR;
- g. **The need to maintain integrity** by excluding corruption or collusion with suppliers or others from procurement processes;
- h. **The need to ensure informed decision-making** based on accurate information;
- i. **The need to ensure legality** in the administration of procurement processes and award of contracts;
- j. **The need to promote responsiveness** by endeavouring to meet the aspirations, expectations and needs of the community served by the procurement processes;
- k. **The need to provide transparency** by ensuring that there is openness and clarity on the Council's procurement policy and its delivery.
- l. **The need to create and retain an audit trail in relation to each procurement activity**

## 3.2 **The Responsibilities of Officers and Members**

3.2.1 Officers and Members involved in procurement activity must comply with these Rules, the Council's Financial Procedure Rules/Regulations, the Council's Employees Code of Conduct/Members Code of Conduct. They must also have due regard to any guidance provided by STAR.

3.2.2 Officers must ensure that any agents, consultants and contractual partners acting on their behalf, also comply with these Rules.

#### **4. Contracts to which these Rules do not apply**

4.1 Where there is any doubt regarding the application of these Rules, Officers must seek guidance from STAR.

4.2 These Rules **do not** apply to the following:

- a. employment contracts for Officers engaged on a PAYE basis;
- b. Contracts relating solely to the disposal or acquisition of securities;
- c. Contracts for the acquisition of an interest in land and property;
- d. Contracts for the appointment of Counsel or the appointment of experts for the purpose of legal, or potential legal proceedings by the SRO for Legal Services;
- e. qualifying Contracts between entities within the public sector.

#### **5. Pre-Procurement Process**

##### **5.1 Authority to carry out procurement activity**

5.1.1 The ASO must ensure that all necessary decisions have been made and that the correct authorisation to procure has been properly obtained prior to the initiation of any procurement activity. Any procurement activity carried out on behalf of the Council must be carried out by an ASO with the appropriate delegated authority as set out in the Scheme of Delegation. . The ASO may be required to provide evidence of any decisions made, any reports concerning and all authorisations granted in respect of the relevant procurement activity. The ASO must submit a PID to STaR prior to starting the relevant procurement activity. By submitting the PID the ASO confirms that they have the authority to carry out the procurement activity.

##### **5.2 Appraisal of the procurement activity**

5.2.1 The ASO, together with the APO, must conduct an options appraisal of the route to market and consider the following:

- a. Value for Money;

- b. The need for the expenditure and its priority;
- c. The objectives of the purchase;
- d. Whether it is a Key Decision
- e. Any risks associated with the purchase and how to manage them;
- f. The market;
- g. TUPE and pensions;
- h. Which procurement method is most likely to achieve the purchasing objectives;
- i. Existing and compliant Framework Agreements, DPS or other arrangements; and
- j. The economic, social and environmental wellbeing of the borough and the benefit which the procurement process can bring to the community and have regard to the duty to secure continuous improvement in accordance with Best Value.

5.2.2 Where award for a Contract for services may result in employees of the Council or its Contractor transferring to a new employer, the advice of the SRO for Human Resources and the SRO for Legal must be obtained before the commencement of the procurement activity to ensure compliance with TUPE, and other related legislation, and to assess the implications in respect of pension arrangements.

5.2.3 The APO must ensure that an appropriate Specification or request for a Quote commensurate to the scope of the Supplies, Services, execution of Works or Concessions Contract required is written prior to the commencement of any procurement activity. Advice from STAR must be sought where it is proposed that a Specification or request for a Quote is not used.

5.2.4 For procurement under the Regulations Thresholds, the use of PQQs is no longer permitted by the Regulations. However, the Regulations do permit the use of suitability assessment questions where they are relevant to the subject matter of the procurement and are proportionate. Further guidance on suitability assessment questions may be sought from

STAR but in any event, advice must be sought from STAR where it is proposed that such questions are to be used.

### **5.3 Framework Agreements and DPS**

5.3.1 Where, following an options appraisal as required by Rule 5.2, a suitable Framework Agreement or DPS is identified, the requirements of Rule 6 (Quotes) and Rule 7 (Tenders) will not be applicable and the ASO must ensure that:

- a. Any Call-off Contract is entered into in accordance with the terms of the relevant Framework Agreement or DPS; and
- b. Where applicable, a mini-competition (the tender process required by the Framework Agreement) is held in accordance with rules of the Framework Agreement or DPS.

5.3.2 For the avoidance of doubt, a Framework Agreement or DPS is considered suitable where it has either been entered into by:

- a. the Council in compliance with these Rules; or
- b. another local authority, a local authority purchasing consortium or central government where the Framework Agreement or DPS has been tendered and awarded in accordance with EU public procurement legislation, and the Council is identified as a contracting authority.

5.3.3 Where a Framework Agreement or DPS has been set up following an EU Tender, there must be full compliance with EU rules when awarding Call-off Contracts under it.

### **5.4 Pre-Procurement Market Research and Consultation**

5.4.1 The ASO and APO responsible for the procurement activity:

- a. may consult potential Bidders or Tenderers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, prior to a request for a Quote or an Invitation to Tender provided this does not prejudice any potential Bidders or Tenderers; and
- b. must not seek or accept technical advice on the preparation of a request for a Quote or an Invitation to Tender from anyone who may have a commercial interest in the tender,

as this may prejudice the equal treatment of all potential Bidders and Tenderers or distort competition.

Advice must be sought from STAR in all instances.

## 5.5 **Estimating the Total Value of a Contract, Framework Agreement or DPS**

5.5.1 Officers must calculate the total value of the Contract, DPS or Framework Agreement in order to determine which procurement activities should be commenced in accordance with these Rules. The procurement activity that must be followed is prescribed in Table 1 below.

5.5.2 The Council must not split Contracts, DPS or Framework Agreements in order to avoid public procurement rules or calculate the value of the Contract, DPS or Framework Agreement in such a way as to deliberately avoid exceeding the Regulation Thresholds or any threshold identified in these Rules. Therefore, unless otherwise agreed by the SRO Legal all Contracts, DPS or Framework Agreements should be dealt with according to their total value and all Officers must calculate the total value (excluding VAT) of any Contract. The value of a Contract, DPS or Framework Agreement should be calculated as follows and applies to the aggregate value of the Contract, DPS or Framework Agreement:

***Yearly contract value X Contract Period in years (including any option to extend) = Total value.***

5.5.3 The value of a Framework Agreement and DPS means the maximum estimated amount payable by the users of the Framework Agreement or DPS for the Supplies, Services or



execution of Works (excluding VAT) under Call-off Contracts entered into over the entire possible duration of the Framework Agreement or DPS.

5.5.4 Framework Agreements must not be for more than four years (including options to extend) unless otherwise authorised by the SRO for Legal.

5.5.5 The value of the Contract, DPS or Framework Agreement will determine which procurement activity to follow in accordance with Table 1 below subject to Rules 5.5.6 and 5.5.7:

**Table 1: Procurement Activities**

Supplies, Services and Concessions

Value Band	Value	Procurement Activity	Minimum Requirement for advertising the opportunity
A	£0 - £4,999.99	Minimum one Quote in accordance with <u>Rule 6</u> - Quotes	N/A*
B	£5,000 - £49,999.99	Minimum three Quotes in accordance with <u>Rule 6</u> - Quotes	N/A*
		In accordance with <u>Rule 7</u> – Tenders	The Chest (and Contracts Finder over £25k)
C	£50,000 and up to the Regulation Thresholds	In accordance with <u>Rule 7</u> - Tenders	The Chest and Contracts Finder
D	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU Notice and Contracts Finder

Works and Public Works Concessions

Value Band	Value	Procurement Activity	Minimum Requirement for advertising the opportunity
A	£0 - £4,999.99	Minimum one Quote in accordance with <u>Rule 6</u> - Quotes	N/A*
B	£5,000 - £74,999.99	Minimum three Quotes in accordance with <u>Rule 6</u> - Quotes	N/A*
C	£75,000 - £249,999.99	Minimum six Quotes in accordance with <u>Rule 6</u> – Quotes	N/A*
		In accordance with <u>Rule 7</u> – Tenders	The Chest and Contracts Finder
D	£250,000 up to the Regulation Thresholds	In accordance with <u>Rule 7</u> - Tenders	The Chest and Contracts Finder
E	Above the Regulation Thresholds	Most appropriate procedure permitted by the Regulations	OJEU notice and Contracts Finder

**\*WHERE ANY OPPORTUNITY OVER £25K IS OPENLY ADVERTISED, IT MUST BE PLACED ON CONTRACTS FINDER**

5.5.6 Where the Contract value falls within Value B or D for Supplies, Services and Concession Contracts or Value Band C or E for Works and Public Works Concession Contracts, the ASO shall determine which procurement activities should be undertaken by reference to the Procurement Handbook.

5.5.7 Where the value of the Contract is above the Regulation Thresholds, the ASO and the APO will determine which procurement activity to follow in accordance with the Regulations.

5.5.8 Irrespective of the value in Rule 5.5.5 Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF-GN-1-004) as amended from time to time.

5.5.9 The ASO and APO shall ensure that, where proposed Contracts or Framework Agreements, irrespective of their value, might be of interest to potential Economic Operators located in other member states of the European Union, a sufficiently accessible advertisement is published.

## 5.6 **Standards and Award Criteria**

5.6.1 Before inviting Quotes or Tenders, the ASO, with support from the APO, must ascertain any relevant British, European or international standards which apply to the subject matter of the Contract. The ASO must include those standards or equivalent where they are necessary to describe the required quality. In any instances of uncertainty, STAR can be consulted if it is proposed to use standards other than European standards.

5.6.2 The ASO must define award criteria that is appropriate to the procurement activity and designed to secure an outcome giving Value for Money for the Council. The basic award criteria shall include one of the following:

- a. Most economically advantageous tender (“MEAT”) - where considerations other than price also apply;
- b. Lowest price - where payment is to be made by the Council;
- c. Highest price - if payment is to be received.

If MEAT is the chosen award criteria, advice must be obtained from STAR to ensure that it is compatible with the EU Directives and the Regulations.

5.6.3 The ASO must seek advice from STAR to ensure any award criteria are compliant with relevant legislation and best practice.

## **6. Quotes**

### **6.1 Requests for Quotes**

6.1.1 All Quotes, including those in mini-competitions under Framework Agreements, must be confirmed in writing before a decision to award can be made and all Quotes must be stored on The Chest.

6.1.2 When requesting a Quote, an appropriate description of the Supplies, Services, execution of Works or Concessions (commensurate with the value of the Contract) setting out the Council's requirements in sufficient detail must be provided to prospective Bidders to enable the submission of competitive Quotes.

6.1.3 The request for a Quote shall also make reference to or include the following as a minimum:

- a. the terms and conditions of Contract that will apply; and
- b. notification that Quotes are submitted to the Council on the basis that they are compiled at the Bidder's expense; and
- c. a description of the award criteria as appropriate and in accordance with Rule 5.6; and
- d. the date and time by which a Quote is to be submitted by; and
- e. that the Council is not bound to accept any Quotes submitted.

6.1.4 The proposed form of Contract must comply with Rule 8 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from a STAR Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

6.1.5 Where requests for a Quote are sought from more than one prospective Bidder, where possible, the request must be sent to each Bidder at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

## 6.2 **Submission and Receipt of Quotes**

6.2.1 Bidders must be given a reasonable period in which to prepare and submit a proper Quote, consistent with the complexity of the Contract requirement.

6.2.2 In the event that an abnormally low Quote is received, the ASO must take advice from STAR on how to proceed.

6.2.3 Any Quote (including all associated documents) submitted after the specified date and time for submission of Quotes shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.

6.2.4 If fewer than the minimum number of Quotes is received as stipulated in Table 1 in Rule 5.5, then advice must be sought from the Director of Procurement (STAR) as to whether to proceed. Any decision must be recorded in writing and stored on The Chest.

## 6.3 **Amendments to Quotes**

6.3.1 The Council may accept amendments to Quotes, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions. In such circumstances, any alterations must be made by resubmitting a new Quote and clearly highlighting which Quote (and associated documents) is correct and which should be considered as part of the procurement activity.

6.3.2 A Quote may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement (STAR).

## 6.4 Evaluation of Quotes

6.4.1 All compliant Quotes, including those in mini-competitions under Framework Agreements, must be checked by the ASO to ensure they are arithmetically correct. The ASO may seek advice from STAR if there is any doubt. If arithmetical errors are found they should be notified to the Bidder, who should be requested to confirm or withdraw their Quote. Alternatively, if the rates in the Quote prevail over the overall price, an amended Quote may be requested to accord with the rates given by the Tenderer.

6.4.2 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to STAR that the Contract can be awarded in accordance with Rule 6.5 by updating the PID.

6.4.3 Officers must ensure transparency and fairness during the evaluation process.

## 6.5 Contract Award – through a Quotation Process

6.5.1 The Contract will be awarded in accordance with the award criteria used.

6.5.2 Where the Quote is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Quote ensuring compliance with the Financial Procedure Rules/Regulations.

6.5.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.

6.5.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.

6.5.5 Once the decision has been made and the approval given to award the Contract, the ASO must send a Contract award letter to the winning Bidder(s).

6.5.6 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 8.2 unless Rule 82.5 applies.

6.5.7 STAR will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

## **7. Tenders**

### **7.1 Invitations to Tender**

7.1.1 All Tender opportunities must be placed on The Chest and, where appropriate, Contracts Finder in accordance with Table 1 at Rule 5.5.

7.1.2 The Invitation to Tender, shall include the following where appropriate:

- a. A form upon which the Tenderer can provide details of its bid (“Form of Tender”);
- b. A reference to the Council’s ability to award in whole, in part or not at all;
- c. A Specification that describes the Council’s requirements in sufficient detail to enable the submission of competitive offers;
- d. the terms and conditions of Contract that will apply;
- e. A requirement for Tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the Tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- f. A requirement for Tenderers to fully complete and sign all Tender documents including the Form of Tender and certificates relating to canvassing and non-collusion;
- g. Notification that Tenders are submitted to the Council on the basis that they are compiled at the Tenderer’s expense;
- h. A description of the award procedure and the evaluation criteria to be used to assess Tenders including any weightings as considered appropriate and in accordance with Rule 5.6. The evaluation criteria must be clear, concise and unambiguous and must be

approved by the APO in consultation with the ASO. The evaluation criteria cannot be amended once published in the Invitation to Tender;

- i. The method by which any arithmetical errors discovered in the submitted Tenders are to be dealt with and in particular, whether the overall price prevails over the rates in the Tender or vice versa;
- j. Whether the Council is of the view that TUPE will be applicable in relation to the procurement activities;
- k. Whether additional arrangements will be required in relation to pension provision;
- l. Provisions relating to the Council's termination rights in the event that corruption is discovered;
- m. The relevance and application of any parent company guarantees and/or bonds;
- n. That the Council is not bound to accept Tenders; and
- o. Any matters required by local polices in Schedule 1.

7.1.3 The proposed form of Contract must comply with Rule 8 and where possible the Council's standard terms and conditions of Contract must be used. Advice must be sought from the STAR Legal Officer and approval given by the SRO for Legal where alternative terms and conditions are used.

7.1.4 All Tenderers invited to Tender must be issued with the same information at the same time and contain the same conditions. Any supplementary information must be given on the same basis.

7.1.5 All communications relating to Tenders must be recorded on The Chest.



## **7.2 Pre and Post Tender Clarification Procedures**

7.2.1 Providing pre-Tender clarification to potential or actual Tenderers, or seeking clarification of a Tender, is permitted subject to Rule 7.2.3.

7.2.2 Post-tender clarification may be undertaken with Tenderers only where it is essential in order to be completely clear about any fundamental aspect of the Tender submission before the completion of the Tender evaluation process and subject to Rule 7.2.3.

7.2.3 All pre- and post- tender communication must be conducted either in writing or in a meeting recorded by the ASO or APO. All correspondence or meetings must be documented and retained on The Chest. Where a meeting is required, there must always be more than one Officer present.

7.2.4 At all times during the clarification process, the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.

7.2.5 Unless otherwise permitted by the Regulations, in no circumstances are post-award negotiations permitted.

## **7.3 Submission and Receipt of Tenders**

7.3.1 Tenderers must be given a reasonable period in which to prepare and submit a proper Tender, consistent with the complexity of the Contract requirement and in accordance with the Regulations.

7.3.2 Any Tender (including all associated documents) submitted after the specified date and time for submission of Tenders shall only be accepted or considered by the Council in exceptional circumstances and only with agreement from the SRO for Legal Services.

7.3.3 All Tenders received, including those in mini-competitions under Framework Agreements, must remain unopened until the specified closing date and time has passed.

7.3.4 If less than the minimum number of Tenders is received as stipulated in Table 1 in Rule 5.5, then advice must be sought from the Director of Procurement (STAR) on how to proceed. Any decision must be recorded in writing and stored on The Chest.

## 7.4 Verifying and Opening Tenders

7.4.1 Tenders are to be verified by an APO who is independent of the procurement activity to which the Tender relates.

7.4.2 Once verified, Tenders are to be opened in accordance with the following Table 2:

**Table 2**

<b>Value of Contract</b>	<b>Officers required to be present:</b>	<b>Expected Duration</b>
£0 - £49,999.99	APO	Within 2 working days of the deadline for submission
£50,000 and above	CM or SCM	Within 2 working days of the deadline for submission

## 7.5 Amendments to Tenders

7.5.1 The Council may accept amendments to Tender submissions, including those in mini-competitions under Framework Agreements, providing they are received prior to the closing date for submissions.

7.5.2 A Tender may be amended after the closing date for submission if the amendment is made only in order to correct an arithmetical error. Such amendments may only be made with the prior approval of the Director of Procurement (STAR).

## 7.6 Evaluation of Tenders

7.6.1 If a PQQ or an expression of interest prior to PQQ was used, all those Tenderers must be given feedback at the relevant stage.

7.6.2 In the event that an abnormally low Tender is received, the ASO must take advice from STAR on how to proceed.

7.6.3 All compliant Tenders, including those in mini-competitions under Framework Agreements, must be checked by the ASO and the APO to ensure they are arithmetically correct. If arithmetical errors are found they should be notified to the Tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender prevail over the overall price, an amended Tender price may be requested to accord with the rates given by the Tenderer.

7.6.4 Where MEAT is used as the award criteria, all evaluations including an explanation of the reasons for the scores should be recorded on The Chest. The ASO must then confirm to STAR that the Contract can be awarded by updating the PID.

7.6.5 Officers must ensure transparency and fairness during the evaluation process.

## 7.7 Contract Award – through a Tender process

7.7.1 The winning Tender shall be awarded the Contract in accordance with the award criteria used.

- 7.7.2 Where the Tender is not within the relevant approved budget but additional budgetary provision is available, the relevant ASO, with the approval of the SRO for Finance, may accept the Tender ensuring compliance with the Financial Procedure Rules/Regulations.
- 7.7.3 The approval to award the Contract must be given in accordance with the Council's Scheme of Delegation.
- 7.7.4 All award decisions must be recorded in the PID, signed and dated by the ASO, the APO and the SRO for the relevant service.
- 7.7.5 A Contract which has a contract value above the Regulation Thresholds, can only be awarded after a notice of the proposed award has been given to all unsuccessful Tenderers and the 10 day standstill period has elapsed from the date the notice was given. If the 10 days expire on a non-working day, then the notice period will be deemed to have lapsed on the next working day.
- 7.7.6 Once the decision to award a Contract is made, each Tenderer must be notified by either the ASO or the APO in writing of the outcome. All Tenderers must be notified simultaneously and as soon as possible of the intention to award the Contract to the successful Tenderer(s) and this should be done via The Chest. The letters must include a description of the relative advantages of the successful Tenderer.
- 7.7.7 Prior to commencement of the Contract, the Contract must be completed in accordance with Rule 8.2 unless Rule 8.2.5 applies.
- 7.7.8 A STAR Legal Officer will, where necessary, advise on the formalities for completion of the contract by parties other than the Council and how to ensure that the Contract is legally binding.

7.7.9 The APO must publish a contract award notice in the OJEU and on the Council's website no later than 48 days after the date of award of the Contract where a Contract value exceeds the Regulation Threshold and has been tendered pursuant to the Regulations or is subject to the relevant provision of the Regulations relating to Contract award.

7.7.10 Contract award letters, feedback to Tenderers and the contract Terms and Conditions, including any incidental documentation must be approved by the APO prior to sending where the value of the Contract is over the Regulation Thresholds.

## 7.8 Enquiries about the Tender process

7.8.1 The confidentiality of Tenders and the identity of Tenderers must be preserved at all times insofar as this is compatible with the Councils' obligations under FOIA and EIR.

7.8.2 If the Council receives a request for information under the FOIA as a result of the de-briefing process, the request must be referred to both the Director of Procurement (STAR) and the relevant Officer of the Council who deals with such requests. The Council will be responsible for responding to the request.

7.8.3 Any challenges, complaints or requests for feedback, clarification or further information must be referred to the Director of Procurement (STAR) who will advise on how to respond and notify the SRO for Legal.

## 8. Contract Provisions and Contract Formalities

### 8.1 Contract Provisions

8.1.1 All Contracts must be in writing and must set out the parties' obligations, rights and risk allocations. Advice must be sought from STAR as to the appropriate form of Contract to be used and where possible, be on the Council's standard terms and conditions.

8.1.2 All Contracts, irrespective of value, shall, where appropriate, clearly specify as a minimum:

- a. What is to be supplied (i.e. the Works, materials, services, matters or things to be furnished, had or done)
- b. The provisions for payment (i.e. the price to be paid and when)
- c. The time, or times, within which the contract is to be performed
- d. The provisions for the Council to terminate the Contract and break clauses.
- e. The provision for collateral warranties from sub-contractors.

8.1.3 STAR can provide advice on Contract specific terms and conditions.

## 8.2 **Contract Formalities**

8.2.1 Once a decision to award has been made in accordance with Rule 6.5.3 or 7.7.3, the Contract must either be signed by the Officer authorised to award the Contract under the Council's Scheme of Delegation, or signed by the SRO for Legal, or sealed in accordance with Rule 8.3.2.

8.2.2 Where the Contract is to be in writing, the ASO or APO must arrange for the Contract including all schedules and appendices to be signed by all parties. This can be done in two ways:

- a) Sending bound hard copies of the Contract to the winning Bidder(s) or Tenderer(s) for signing; or
- b) Sending electronic copies of the Contract to the winning Bidder(s) or Tenderer(s) for printing, binding and signing.

8.2.3 Before arranging for the Contract to be signed or sealed on behalf of the Council, the ASO must check that the returned signed Contract has not been amended or altered by the winning Bidder(s) or Tenderer(s) without prior written agreement by the Council.

8.2.4 Rules 8.2.1 to 8.2.3 do not apply to purchases made through an Electronic Purchasing System (EPS).

8.2.5 All Contracts which are to be formally completed in writing must be completed before the Supplies are supplied, or the Service, execution of Works or Concessions Contract begins, except in exceptional circumstances, and then only with the prior approval from the SRO for Legal.

8.2.6 A purchase order must be raised in the appropriate eProcurement system for all Supplies, Services and Works requirements to be acquired through an EPS and for all Contracts. The purchase order must attach the terms and conditions of Contract between the Council and the Contractor.

8.2.7 The ASO must ensure that the person signing on behalf of the Contractor has requisite legal authority to bind the Contractor. Where there is any doubt, the ASO must seek advice from the STAR Legal Officer.

### 8.3 **Contracts under Seal**

8.3.1 A Contract must be sealed where:

- a. The Council wishes to extend the liability period under the Contract and enforce its terms for up to 12 years; or
- b. The price to be paid or received under the Contract is a nominal price and does not reflect the value of the Supplies or Services; or

- c. There is any doubt about the authority of the person signing for the other contracting party; or
- d. The Contract value is £250,000 or above.

8.3.2 The seal must be affixed in accordance with the provisions of the Council’s Constitution.

## 8.4 Transfer of Contracts

8.4.1 No Contract should be transferred from one Contractor to another without first consulting STAR. Contracts can only be transferred if approved in accordance with the table below:

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council’s Scheme of Delegation and consultation in with the Director of Procurement (STAR)

## 9. Exemptions and Modifications

### 9.1 Exemptions

9.1.1 In limited circumstances, it may be necessary to seek an Exemption from the Rules and guidance from STAR must be sought before any procurement activity commences.

9.1.2 An Exemption cannot be given where this would contravene the Regulations.

9.1.3 Exemptions will only be considered in exceptional circumstances. Examples of circumstances which may be considered exceptional could include the following:



- a. The arrangement is a permitted exemption from the requirement for competition contained in European or domestic legislation;
- b. To comply with legal requirements;
- c. The Contract is for Supplies, Services or the execution of Works which are required in circumstances of extreme urgency or unforeseeable emergency involving risks to persons, property or serious disruption to Council services;
- d. Repairs or parts — if the only option is to repair or buy new parts for existing equipment or buildings, and there is only one supplier;
- e. Where a Service review includes the intention to co-terminate relevant Contracts;
- f. Proprietary or patented Supplies or Services are proposed to be purchased which, in the opinion of the ASO, are only obtainable from one person, and it can be demonstrated that no reasonably satisfactory alternative to those proprietary or patented Supplies is available; or
- g. The ASO can demonstrate that no genuine competition can be obtained in respect of the purchase of particular Supplies, Services or execution of Works; or
- h. The ASO is satisfied that the Services or execution of Works are of such a specialist nature that they can only be carried out by one person (e.g. statutory undertakers); or
- i. Supplies are proposed to be purchased by or on behalf of the Council at a public auction; or
- j. Supplies or Services are proposed to be purchased which are of a specialist or unique nature (such as antiquities for museums or a particular performance artist); or
- k. Any other exceptional circumstances.

## 9.2 Procedure for Exemptions

- 9.2.1 To apply for an Exemption the ASO must fill in the Exemption Form and submit it to the STAR for consideration and recommendation. This Exemption Form must then be signed (electronically or by hand) in accordance with the table below (unless Rule 9.2.2 applies).

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement (STAR)

- 9.2.2 If an Exemption requires a Key Decision, then that Key Decision must be made in accordance with the Council's Constitution. Guidance from STAR must be sought if there is any doubt as to whether a decision is a Key Decision.
- 9.2.3 The ASO must ensure that the Exemption Form provides full details of the request and any supplementary documentation to support the request.
- 9.2.4 No commitment should be made to a potential Contractor prior to authorisation.
- 9.2.5 The Director of Procurement (STAR) is responsible for ensuring a complete record of all Exemptions. A record of the decision approving an Exemption and the reasons for it must be stored electronically on The Chest.
- 9.2.6 In circumstances of extreme urgency, the relevant decision maker in 9.2.1 above may authorise an Exemption in writing without the need to complete an Exemption Form. The written authorisation provided in accordance with this Rule 9.2.6 must be submitted to STAR to be stored electronically on The Chest.
- 9.2.7 The ASO, in conjunction with STAR and a STAR Legal Officer, shall ensure that the Contract terms and conditions are appropriate taking into account all relevant factors (such as benefit and risk to the Council) and ensure that the Contract complies with Rule 8

## 9.3 Modifications to a Contract or Framework Agreement

**9.3.1** Contracts and Framework Agreements may be modified during their term without a new procurement procedure in accordance with this Rule 9.3 in any of the following cases:

- (a) where the Modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses
  - (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
  - (ii) do not provide for modifications or options that would alter the overall nature of the Contract or the Framework agreement;
- (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:
  - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
  - (ii) would cause significant inconvenience or substantial duplication of costs for the Council,provided that any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement;
- (c) where all of the following conditions are fulfilled:
  - (i) the need for Modification has been brought about by circumstances which a diligent Council could not have foreseen;
  - (ii) the modification does not alter the overall nature of the Contract or Framework Agreement;
  - (iii) any increase in price does not exceed 50% of the value of the original Contract or Framework Agreement.
- (d) where a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement as a consequence of:
  - (i) an unequivocal review clause or option in conformity with sub-paragraph (a), or
  - (ii) universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or

insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the Regulations;

- (e) where the Modifications, irrespective of their value, are not substantial within the meaning of Rule 9.3.5; or
- (f) where Rule 9.3.3 applies.

9.3.2 Where several successive Modifications are made:—

- (a) the limitations imposed by the proviso at the end of Rule 9.3.1 (b) and by Rule 9.3.1 (c)(iii) shall apply to the value of each Modification; and
- (b) such successive Modifications shall not be aimed at circumventing the Regulations.

9.3.3 This Rule 9.3.3 applies where the value of the Modification is below both of the following values:

- (a) the relevant OJEU Threshold and
- (b) 10% of the initial Contract or Framework Agreement value for service and supply Contract or Framework Agreement and 15% of the initial Contract or Framework Agreement value for works contracts,

provided that the Modification does not alter the overall nature of the Contract or Framework Agreement

9.3.4 For the purposes of Rule 9.3.3 where several successive Modifications are made, the value shall be the net cumulative value of the successive modifications.

9.3.5 A Modification of a Contract or a Framework agreement during its term shall be considered substantial for the purposes of Rule 9.3.1(e) where one or more of the following conditions is met:

- (a) the Modification renders the Contract or Framework Agreement materially different in character from the one initially concluded;
- (b) the Modification introduces conditions which, had they been part of the initial procurement procedure, would have:
  - (i) allowed for the admission of other Tenderer than those initially selected,

- (ii) allowed for the acceptance of a Tender other than that originally accepted, or
- (iii) attracted additional participants in the procurement procedure;
- (c) the Modification changes the economic balance of the Contract or Framework Agreement in favour of the Contractor in a manner which was not provided for in the initial Contract or Framework Agreement; or
- (d) the Modification extends the scope of the Contract or Framework Agreement considerably;
- (e) a new Contractor replaces the one to which the Council had initially awarded the Contract or Framework Agreement in cases other than those provided for in paragraph Rule 9.3.1(d).

9.3.6 For the avoidance of any doubt, an extension of the term of a Contract or Framework Agreement should be treated as a Modification where the original Contract or Framework Agreement make provisions for such an extension of term;

- (a) a Contract or Framework Agreement term should not be automatically extended where the Contract or Framework Agreement contains provisions to extend the term, Further guidance on extensions of terms should be sought by reference to the Procurement Handbook and STAR.

## 9.4 Procedure for Modifications

9.4.1 To apply for a Modification the ASO must fill in the Modification Form and submit it to the STAR for consideration and recommendation. This Modification Form must then be signed (electronically or by hand) in accordance with the table below.

Value of Contract/Quote	Decision Maker
All values	SRO for Finance and SRO for Legal or their nominees in accordance with the Council's Scheme of Delegation and in consultation with the Director of Procurement (STAR)

9.4.2 The ASO must ensure that the Modification Form provides full details of the request and any supplementary documentation to support the request.

9.4.3 No commitment should be made to a potential Contractor prior to authorisation.

9.4.4 The Director of Procurement (STAR) is responsible for ensuring a complete record of all Modifications is kept and a record of the decision approving a Modification and the reasons for it must be submitted to STAR to be stored electronically on The Chest.

## **10. Declarations of Interest and Anti-Bribery and Corruption**

10.1 The Council's reputation with regards to procurement activity is important and should be safeguarded from any imputation of dishonesty or corruption. All elected Members of the Council and Officers are reminded of their responsibilities in relation to gifts, hospitality and any conflicts of interest and should ensure they comply with the obligations set out in the Council's Members' Code of Conduct and the Officers' Code of Conduct respectively and any other relevant policies, guidance or strategies relating to bribery, fraud and corruption issued or endorsed by the Council from time to time

10.2 Any Officer or Member must declare any interest which could influence their judgement in relation to procurement activity in accordance with the Council's Codes of Conduct.

10.3 No gifts or hospitality should be accepted from any Bidders or Tenderers involved in procurement activity except in accordance with the Council's Codes of Conduct.

## **11. Contract Management**

11.1 All Contracts must have a Council Contract Manager ("Contract Manager") for the entirety of the Contract. In the event that there is no named Contract Manager the ASO will fulfil the role of Contract Manager.

- 11.2 The Contract Manager will be responsible for reviewing monitoring and evaluating the contract to ensure that its provisions and the services within it are being followed and performed as they should be.
- 11.3 During the life of the Contract, the Contract Manager should monitor the Contract in respect to the following:
- a. Performance (against agreed KPIs where relevant);
  - b. Compliance with specification and contract;
  - c. Cost;
  - d. Any Best Value duties ;
  - e. Continuous Improvement;
  - f. User satisfaction; and
  - g. Risk management.
- 11.4 Where the Contract is to be re-let, this information should be available early enough to inform the approach to re-letting the next contract.
- 11.5 STAR can provide advice and support on good practice in performance management of Contracts.
- 11.6 All Contracts must be included and published on the Contracts Register maintained by STAR in line with the Local Government Transparency Code 2014. This is a mandatory requirement and it is the responsibility of the SRO for each Service to ensure that they have informed STAR of the Contracts they are responsible for and provided them with the information necessary to update the Contracts Register accordingly.

## **12. Retaining Relevant Documents**

- 12.1 All records in relation to the award of Contracts and the associated procurement process, including supporting documentation, shall be stored by STAR in an electronic filing system to be available for inspection by the Council's internal and external auditors, or Officer, immediately upon request. Records will be retained in accordance with relevant regulations applicable to electronic record retention.
- 12.2 Hard copies of all written contracts shall be retained as follows:

Contracts with a value between £5,000 and £249,999.99	for six years after the end of the Contract
all sealed Contracts and Contracts with a value of £250,000 and above	for twelve years after the end of the Contract
Contracts that are grant funded regardless of value	Must comply with retention period above or the terms and conditions of the grant, whichever is the longer

- 12.3 If legislation related to any individual Contract stipulates a longer retention period than this, then the legislation requirements takes precedence over the Council's minimum periods.
- 12.4 Once executed, the Council shall retain one original of the complete Contract documents in line with the timescales in the table above and one copy of the complete Contract documents shall be provided to the Contractor.

## **SCHEDULE 1**

### **Local arrangements for Trafford Council**

There are no local arrangements.



# OFFICER EMPLOYMENT PROCEDURE RULES

## 1. Recruitment and appointment - General

### (1) Declarations

- i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### (2) Seeking support for appointment.

- i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) No councillor will seek support for any person for any appointment with the Council.

### (3) Definition of Head of Paid Service

Throughout these Officer Employment Procedure Rules the term “Head of Service” shall include all officers employed on JNC for Chief Officers Conditions of Service.

## 2. Recruitment of Head of Paid Service, Directors and Heads of Service

- (1) Where the Council proposes to appoint a Head of Paid Service, Director or Head of Service and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - (a) draw up a statement specifying:
    - (i) the duties of the officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph 1(a) to be sent to any person on request.

- (2) Where a post has been advertised as provided in (1) (b), the Council's Appointments Committee shall –
  - (a) interview all qualified applicants for the post, or
  - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
- (3) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with (1)(b).

### **3. Appointment of Head of Paid Service**

- (1) The full Council must approve the appointment of the Head of Paid Service before an offer of appointment is made following the recommendation of such an appointment by an Appointment Committee. An Appointment Committee must include at least one member of the Executive.
- (2) An offer of appointment must not be made by or on behalf of the Appointment Committee ("the Committee") until
  - (a) the Proper Officer has been notified of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
  - (b) the Proper Officer has notified every member of the Executive of
    - (i) the name of the person to whom the offer is to be made and any other relevant particulars notified to the Proper Officer; and
    - (ii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the Proper Officer; and
  - (c) either –
    - (i) the Executive Leader has, within the period specified under (2)(b)(ii), notified the Committee that neither (s)he nor any other member of the Executive has any objection to the making of the offer;
    - (ii) the Proper Officer has notified the Committee that no objection was received by him/her within that period from the Executive Leader; or
    - (iii) the Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

#### **4. Appointment of Corporate Directors and Directors**

- (1) A Member Appointment Committee will appoint Statutory and Non-Statutory Chief Officers and Deputy Chief Officers, as defined in the Local Government and Housing Act 1989, (definitions set out below). That Appointment Committee must include at least one member of the Executive.

Definitions:

Statutory Chief Officer – director of children’s services, director of adult social services and officer with responsibility for the administration of the Council’s financial affairs

Non-Statutory Chief Officer – a person for whom the Head of Paid Service is directly responsible; a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the Head of Paid Service or the Authority itself

Deputy Chief Officer – a person who, as respects all or most of their duties (excluding secretarial/clerical duties), is required to report directly to or is directly accountable to the one or more of the chief officers

- (2) An offer of appointment must not be made by or on behalf of the Committee until the procedure set out in 3(2) (a), (b) and (c) above has been followed.

#### **5. Other appointments**

##### **(1) Officers below Deputy Chief Officer**

Officers below the level of Deputy Chief Officer can only be appointed by the Chief Executive or officers nominated by him/her, and shall not be made by councillors.

##### **(2) Assistants to political groups**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### **6. Disciplinary action**

##### **(1) Suspension**

The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

(2) **Disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer**

No other disciplinary action may be taken in respect of any of the officers described in (1) above except in accordance with a recommendation in a report made by a disciplinary panel under the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer is set out as an appendix to these Officer Employment Procedure Rules.

(3) **Disciplinary action against officers below deputy chief officer**

Councillors will not be involved in the disciplinary action against any officer below Head of Service level except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

## **7. Dismissal**

(1) **Head of Paid Service**

(a) Subject to 8(2) the full Council must approve the dismissal of the Head of Paid Service before notice of dismissal is given following the recommendation of dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

(b) Notice of the dismissal of the Head of Paid Service must not be given by or on behalf of the committee or sub-committee (“the Committee”) until –

(i) the Committee has notified the Proper Officer that they wish to dismiss the Head of Paid Service and of any particulars which the Committee considers are relevant to the dismissal;

(ii) the Proper Officer has notified every member of the Executive

(a) that the Committee wishes to dismiss the Head of Paid Service and of any other particulars relevant to the dismissal which the Committee has notified to the Proper Officer; and

(b) of the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Proper Officer; and

(iii) either –

(a) the Executive Leader has, within the period specified in the notice under (1)(b)(ii) above, notified the

Committee that neither (s)he nor any other member of the Executive has any objection to the dismissal;

- (b) the Proper Officer has notified the Committee that no objection was received by him/her within that period from the Executive Leader; or
- (c) the Committee is satisfied that any objection from the Executive Leader within that period is not material or well founded.

**(2) Directors and Heads of Service**

- (a) A Committee, sub-committee or another officer may discharge the function of the dismissal of a director or head of service. If a committee or sub-committee is discharging the function that committee or sub-committee must include at least one member of the Executive.
- (b) Notice of the dismissal of a director or head of service must not be given by a committee, sub-committee or officer (“the Committee”) until the procedure set out in 7(1)(b)(i), (ii) and (iii) above has been followed.

**(3) Officers below Head of Service**

Dismissal of officers below head of service (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and shall not be made by Councillors.

**8. Appeals**

- (1) Nothing set out above shall prevent a councillor from serving as a member of any committee or sub-committee established by the Council to consider an appeal by —
  - (a) another person against any decision relating to the appointment of that person as an officer of the Council; or
  - (b) an officer of the Council other than the Head of Paid Service against any decision relating to the dismissal or, or taking disciplinary action against, that officer.
- (2) Prior to a meeting of full Council to approve the dismissal of the Head of Paid Service a committee to consider any appeal by the Head of Paid Service must be established. The Members appointed to that appeal committee must not attend or participate in that part of the Council meeting which considers the dismissal of the Head of Paid Service.

9. **Proper Officer**

For the purposes of these rules the Proper Officer shall be the Head of Paid Service except where the dismissal relates to the Head of Paid Service when the Proper Officer shall be the Monitoring Officer.

**Disciplinary and Dismissal Procedure for Head of Paid Service, Monitoring Officer and Section 151 Chief Finance Officer**

Employment Committee on 10 August 2015 adopted the procedure, as provided for in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, as follows:

1. Where an allegation of potential misconduct is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (the 'protected officers'), then the Leader of the Council, in conjunction with the Director of HR (and Head of Paid Service, where the allegation is not related to them) will consider whether the issues require investigation and, where this is the case, determine the most appropriate person to conduct the investigatory process.
2. This will ordinarily be an external, independent investigator, with the relevant background, skill set and experience to conduct investigations of this nature. The independent investigator will undertake their investigation in accordance with the ACAS Code of Practice.
3. The Leader of the Council, Head of Paid Service (where appropriate) and the Director of HR, will consider whether suspension is appropriate or whether there are any other suitable alternative ways of managing the situation. Where suspension is deemed appropriate, the Director of HR will ensure that agreed suspension protocols are followed.
4. The findings from the investigation will be presented to a Panel; this Panel must consist of a least 2 independent persons, who must be drawn from those appointed under section 28(7) of the Localism Act 2011. In addition, the Panel will comprise of Elected Members who will ordinarily be members of the Employment Committee and will be politically balanced in line with the rules of proportionality. The Panel will be advised by the Director of HR (or their representative).
5. The 'protected officers' are entitled to make personal representations to the Panel and have the right to be accompanied by their Trade Union representative or a work colleague if they so wish.
6. The Panel will consider the conclusions of the investigation and any representations from the protected officer concerned.
7. Where it is considered by the Panel that no action or action short of dismissal should take place, then the Panel can progress in confirming the outcome of the Panel meeting and there is no requirement to put the matter forward for an authority vote.

8. Where the Panel determines that action short of dismissal is the appropriate sanction, the protected officer has the right of appeal to a politically-balanced Appeals Committee ordinarily made up of members of the Employment Committee, who were not involved in the Panel meeting. The appeal hearing will take the form of a review of the case and the decision that was taken by the Panel. The protected officer will be invited to make their verbal/written representations to the Appeals Committee for consideration. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. The Appeals Committee will be advised by the Director of HR (or their representative). All relevant parties will be provided with the relevant documentation in advance of the Appeals Committee.
9. Where the proposal is to dismiss, the Executive Objections Procedure will be followed prior to the matter going forward to full Council.
10. On receipt of any objections, it is for the Panel to decide whether they are material and well-founded. If they are, then the Panel will need to consider the effect of the objection and act accordingly. For example, this may require further investigation.
11. Where there are no objections or any objection is deemed as not material or well-founded, the matter will then be considered at full Council, who will vote at a meeting on whether to approve the proposal to dismiss. There must be an interlude of at least 20 working days between the full Council meeting and the date of the original Panel meeting.
12. At their meeting, full Council will consider the original investigation report and the recommendations of the Panel, along with any verbal/written representation from the protected officer. Where the protected officer chooses to present verbally, representatives from the Panel will also be in attendance. All relevant parties will be provided with the relevant documentation in advance of full Council.
13. The decision of Council will be by way of a majority vote and will be final.
14. Where a decision to dismiss is approved by Council, then the protected officer has no further right of appeal.
15. It is in the interests of all parties that the process should be conducted expeditiously, but fairly and that any delays in the procedure are avoided, wherever possible.
16. This process will also be adopted in cases where there are issues in relation to capability, which are not resolved through the provision of additional guidance, training, development and support.



### **‘Protected Officers’ Disciplinary and Dismissal Procedure Flowchart**

The following flowchart provides a summary of the procedure:

**Initial Action**  
The Leader of the Council, Head of Paid Service (where appropriate) and the Director of HR appoints an independent investigator



The independent investigator undertakes an investigation in line with ACAS Code of Practice and produces a report with detailed findings



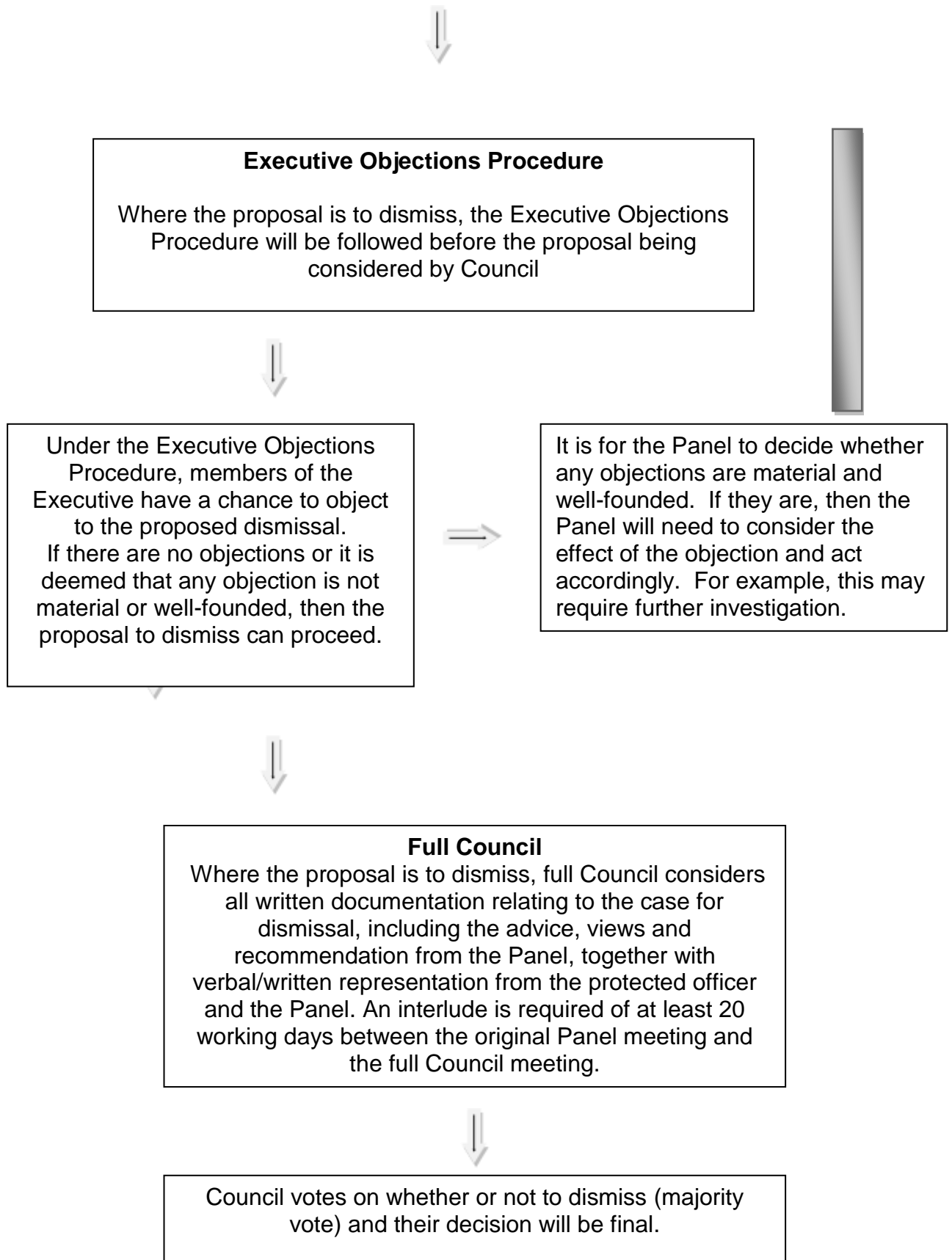
**Panel Hearing**  
A Panel, comprising of 2 independent persons, together with Elected Members who will ordinarily be members of the Employment Committee and the Director of HR (or their representative in an advisory capacity), hears the case, including representations from the protected officer



Any recommendation on no action or action short of dismissal can be confirmed by the Panel without any referral to full Council.



**Appeals Committee**  
The protected officer has a right of appeal against a sanction of action short of dismissal to an Appeals Committee ordinarily made up of Employment Committee members who were not involved in the Panel meeting. The Appeals Committee will review the case and the decision made, together with verbal/written representation from the protected officer and the Panel.



# Trafford Council Petition Scheme

The petitions process allows members of the public to have direct influence on the political process and to raise concerns that are important to them.

Members of the public can submit petitions on the following

- Issues relating to the Council's responsibilities.
- Issues which affect the borough of Trafford or its communities, as long as the Council is in a position to exercise some degree of influence.
- Anything relating to an improvement in the economic, social or environmental well-being of the borough to which any of the Council's partners could contribute.

The Council will respond to all the petitions it receives. We will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Essentially there are three types of petitions:

- **“Ordinary” petitions**

These must be signed by at least 50 people but the Council will use its discretion where there are fewer than 50 signatories in cases where there is clear local support for action (e.g. where the residents of a small community have petitioned for traffic calming measures)

- **Petitions requiring debate**

Petitions which contain 3000 signatures or more will be debated by the full council

- **Petitions to hold council employees to account**

Petitions which call for evidence from a senior council employee and have at least 1,500 signatures will trigger that response.

## 1. How do I submit a petition?

Petitions can be sent or presented to the council. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

A petition is defined as a communication in writing which is signed by the appropriate number of qualifying persons or has been created via an e-petition using the Council's website or other petition website. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:

Democratic Services  
Trafford Council  
Talbot road  
Stretford  
Manchester  
M32 0TH

Or by email [democratic.services@trafford.gov.uk](mailto:democratic.services@trafford.gov.uk)

Or via the Council's petition website at [www.trafford.gov.uk](http://www.trafford.gov.uk)

Digital petitions created on other petition websites will be accepted so long as Democratic Services are informed about the petition via email or post. The petition must be sent by the petition organiser. Democratic Services must be able to verify that the signatories are in accordance with the requirements of the petition scheme.

If you would like to present your petition to the council, or would like your councillor or someone else to present it on your behalf, please contact Democratic Services on 0161 912 1387 at least 10 working days before the meeting and they will talk you through the process.

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 (the address can be an address where a signatory lives, works or studies)

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. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact the first signatories to the petition to agree who should act as the petition organiser.

Petitions must include a signature and the signatory's name and address. This can be an address where the signatory lives, works or studies.

Before submitting a petition you should first check with your local councillor or with the Council to see if the Council is already acting on your concerns and that the Council is the most appropriate body to receive your petition as sometimes your petition may be more appropriate for another public body.

Once a petition has been submitted to Democratic Services, the Council will not accept any updates or additional signatories.

## **2. Who can submit a petition?**

Anyone who lives, works or studies in Trafford, including under 18s, can sign or organise a petition.

## **3. Are there any petitions which the Council cannot accept?**

We believe that the vast majority of petitions we receive will be accepted but in certain circumstances petitions will not be accepted, including:-

- If the petition applies to a planning application, certain licensing matters, 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 or a separate complaints process.
- Any petition which we consider to be vexatious, abusive or otherwise inappropriate. We will explain the reasons for this in our acknowledgement of the petition.
- Where a person or organisation (or someone on their behalf) has submitted a petition which is the same or substantially the same as one submitted within the previous 12 months

If we decide that a petition is not acceptable then we will let the petition organiser know our reasons.

If a petition relates to the responsibilities of one of our partners then, within 10 working days of its receipt, the petition will be forwarded to that authority for them to deal with, unless the petition relates to an improvement in the economic, social or environmental well-being of the borough. In those cases the petitions will be considered under the Council's scheme.

It may be inappropriate for the council to deal with certain petitions during periods when it is subject to restrictions immediately before elections or referendums. In these circumstances, the petition organiser will be informed of the date when the petition will be considered, or when material relating to it will be published on the council's website.

## **4. What will the council do when it receives my petition?**

We will acknowledge the petition within 10 working days of receiving it and let the petition organiser know what we plan to do with the petition and when they can expect to hear from us again. To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

If the petition needs more investigation, we will tell you the steps we plan to take.

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting

- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- carrying out consultation
- holding a meeting with the petitioners
- referring the petition for consideration by the council's overview and scrutiny committee
- writing to the petition organiser setting out our views about the request in the petition

In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

Your petition may be submitted to one of the Council's formal member meetings where elected councillors will decide how to respond to the petition. These meetings will be held in public and petitioners are welcome to attend the meeting to observe the proceedings. The petition organiser will be entitled briefly to address the meeting. Depending on the subject matter your petition may be submitted to the Council, the Executive, one of the Neighbourhood Forums or one of the Council's Overview and Scrutiny Committees\*. There are two exceptions to this

- If your petition contains more than 3000 signatures then it must be debated by the Council.
- If your petition is asking for a senior council employee to give evidence at a public meeting then it will be considered by one of the Council's Overview and Scrutiny Committees, provided it contains at least 1,500 signatures.

*\*Overview and scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.*

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. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

## **5. Full council debates**

If a petition contains more than 3,000 signatures it will be debated by the full council unless it is a petition asking for a senior council employee to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.

The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, refer the issue to the Executive or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive written confirmation of this decision which will also be published on our website.

## **6. Evidence from senior council employees**

Your petition may ask for a senior council employee to give evidence at a public meeting about something for which they are responsible as part of their job. For example, your petition may ask a senior council employee to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. The petition must relate to the employee's job, it cannot relate to their personal circumstances or character.

If your petition contains at least 1,500 signatures, the relevant employee will give evidence at a public meeting of one of the council's overview and scrutiny committee. This will happen within 30 days of the petition being accepted.

Only the following senior employees of the Council can be called to give evidence

- Chief Executive
- Corporate Director Economic Growth, Environment And Infrastructure
- Corporate Director Resources
- Corporate Director Children, Families and Wellbeing

The Overview and Scrutiny Committee may decide that it would be more appropriate for another member of staff to give evidence instead of any person named in the petition – for instance if the person has changed jobs. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Director of Legal and Democratic Services up to three working days before the meeting.

After the meeting, the Committee will submit a report to the Executive which will be considered at the next available meeting of the Executive. The petition organiser will receive a copy of this report.

## **7. What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Scrutiny Committee (one of the council's overview and scrutiny committee) review the steps that the council has taken in response to your petition.

The Scrutiny Committee will consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee feel the Council has not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Executive or arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

#### **8. Is there anything else I can do to have my say?**

As a Council we try to identify and solve problems at an early stage. We are committed to receiving feedback as this helps us to develop and review services. We recognise that petitions are just one way in which people can let us know about their concerns. There are a number of other ways in which you can have your say including

- Writing to the appropriate Head of Service or Director
- • Contacting your local councillor
- Making a complaint through the Council's complaints system



**PART 5**  
**CODES AND PROTOCOLS**

# CODE OF CONDUCT FOR MEMBERS

## Preamble to Code of Conduct for Members

Trafford Council's current Code of Conduct for Members was adopted by the Council on **19<sup>th</sup> September 2012**. The Code sets out the conduct expected of Members of the Council, both elected and co-opted.

Underpinning the Code of Conduct are the seven principles set out in section 28(1) of the Localism Act 2011. These principles define the standards that members should uphold and serve as a reminder of the purpose of the Code of Conduct.

### The General Principles

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership**

# THE CODE OF CONDUCT

## Part 1 General provisions

### 1. Introduction and interpretation

1.1 This Code applies to you as a member of the Council.

1.2 It is your responsibility to comply with this Code. If you fail to do so it may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a disclosable pecuniary interest may result in a criminal conviction and a fine not exceeding level 5 on the standard scale and /or disqualification from office for a period of up to 5 years.

1.3 In this Code - “meeting” means any meeting of:

(a) the Council;

(b) any of the Council’s committees or sub-committees, joint committees or joint sub-committees;

(c) the Executive or any committee of the Executive.

1.4 “Member” includes a co-opted member and an appointed member.

### 2. Scope

2.1 Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you are acting as a member or co-opted member of the Council or an appointed member of a joint committee, and, references to your official capacity are construed accordingly.

2.2 This Code does not have effect in relation to your conduct other than where it is in your official capacity.

2.3 Where you act as a representative of the Council—

(a) on another relevant authority, including the Greater Manchester Combined Authority, the Greater Manchester Fire & Rescue Authority and the Greater Manchester Waste Disposal Authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with this Code, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### 3. General obligations

3.1 You must not:

(a) do anything which may knowingly cause the Council to breach the Equality Act 2010;

(b) bully or be abusive to any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:

(i) a complainant,

(ii) a witness, or

iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

#### **4. You must not:**

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is:

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the Council; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.**

#### **6. You:**

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority:

(i) act in accordance with the Council's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by**

(a) The Council's chief finance officer; or

(b) The Council's monitoring officer,

where that officer is acting pursuant to his or her personal statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**Part 2 - Disclosable pecuniary interests**

**8. Notification of disclosable pecuniary interests**

8.1 Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

*[Note: Standing orders require existing members and co-opted members of the Council to notify the Monitoring Officer of disclosable pecuniary interests within 28 days of the adoption of the Code]*

8.2 A 'disclosable pecuniary interest' is an interest of yourself or of your partner if you are aware of your partner's interest, within the descriptions set out in the table below.

8.3 "Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

<b>Subject</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
	Any payment or provision of any other

Sponsorship	financial benefit (other than from the Council) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992 (a).
Contracts	Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Council - (a) under which goods or services are to be provided or works are to be executed: and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of Trafford Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of Trafford Council for a month or longer.
Corporate Tenancies	Any tenancy where (to your knowledge) - (a) the landlord is the Council: and  (b) the tenant is a body in which you or your partner has a beneficial interest.
Securities	Any beneficial interest in securities of a body where - (a) that body (to your knowledge) has a place of business or land in the area of Trafford Council; and

	<p>(b) either -</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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8.4 For the purposes of the above

- (a) " a body in which you or your partner has a beneficial interest" means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest.
- (b) "director" includes a member of the committee of management of an industrial and provident society.
- (c) "land" excludes an easement, interest or right in or over land which does not carry with it a right for you or your partner (alone or jointly) to occupy the land or receive income, and
- (d) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**9 Non participation in case of disclosable pecuniary interest**

9.1 If you are present at a meeting [of the authority, or any committee, sub-committee, joint committee or joint sub-committee of the authority, or the executive or committee of the executive] and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting,

- You must not participate in any discussion of the matter at the meeting.
- You must not participate in any vote taken on the matter at the meeting.
- If the interest is not registered, you must disclose the interest to the meeting.
- If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

*[Note: In addition, Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place, and in the case of a registered (as well as unregistered interest) to disclose it to the meeting].*

9.2 Where an executive member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the executive member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **10 Offences**

10.1 It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest
- As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in a matter, taking any steps in relation to such a matter.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

10.2 The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **Part 3 - Other interests**

### **11 Notification of personal interests**

11.1 In addition to the disclosable pecuniary interests notifiable under the Localism Act 2011, you must, within 28 days of -

- (a) this Code being adopted by or applied to the Council; or
- (b) your election or appointment to office (where that is later),



notify the Monitoring Officer in writing of the details of your other personal interests, where they fall within the categories set out in paragraph 11(2) below for inclusion in the register of interests.

- 11.2 You have a personal interest in any business of your authority where it relates to or is likely to affect –
- (a) any body of which you are in a position of general control or management and to which you are appointed or nominated by your authority;
  - (b) any body -
    - (i) exercising functions of a public nature;
    - (ii) directed to charitable purposes; or
    - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are in a position of general control or management;
  - (c) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £100.

## **12 Disclosure of interests**

- 12.1 Subject to paragraphs 12.4 to 12.7, where you have a personal interest described in paragraph 11.2 above or in paragraph 12.2 below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of the personal interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- 12.2 You also have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral ward, affected by the decision;
- 12.3 In paragraph 12.2, a relevant person is –
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in paragraph 11.2(a) or (b).

- 12.4 Where you have a personal interest in any business of the Council which relates to or is likely to affect a body described in paragraph 11.2(a) or 11.2(b)(i), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 12.5 Where you have a personal interest in any business of the Council of the type mentioned in paragraph 11.2(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- 12.6 Where you have a personal interest but, by virtue of paragraph 16, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 12.7 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### **13 Non participation in case of prejudicial interest**

- 13.1 Where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business –
- (a) affects your financial position or the financial position of a person or body described in paragraph 12.3 ;or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 12.3.
- 13.2 Subject to paragraphs 13.3 and 13.4, where you have a prejudicial interest in any business of your authority—
- a) You must not participate in any discussion of the matter at the meeting.
  - b) You must not participate in any vote taken on the matter at the meeting.
  - c) If the interest is not registered, you must disclose the interest to the meeting.
  - d) If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

*[Note: In addition Standing Orders require you to leave the room where the meeting is held while any discussion or voting takes place].*

- 13.3 Where you have a prejudicial interest in any business of the Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise and you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- 13.4 Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your authority in respect of—
- (a) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (b) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay; and
  - (c) any ceremonial honour given to members.
  - (d) housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
  - (e) an allowance, payment or indemnity given to members;
  - (f) setting council tax or a precept under the Local Government Finance Act 1992.
- 13.5 Where, as an executive member, you may discharge a function alone, and you become aware of a prejudicial interest in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

#### **14 Interests arising in relation to overview and scrutiny committees**

In any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of the authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken, you may attend the meeting of the overview and scrutiny committee for the purpose of explaining the reasons for the decision, or answering questions or giving evidence relating to the business, but you cannot participate otherwise in the discussion or in any vote on the matter.

## **Part 4 - General Matters relating to Parts 2 and 3**

### **15 Register of interests**

Subject to paragraph 16 any disclosable pecuniary interests or personal interests notified to the Monitoring Officer will be included in the register of interests. A copy of the register will be available for public inspection and will be published on the authority's website.

### **16 Sensitive interests**

This paragraph applies where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees. In these circumstances, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

### **17 Dispensations**

The Council may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest or a prejudicial interest.

## **Arrangements for dealing with complaints about the Code of Conduct for members**

### **1. Introduction**

1.1 This procedure applies when a complaint is received that a member, co-opted member or Parish Council Member has or may have failed to comply with the Code of Conduct for Members.

1.2 The person making the complaint will be referred to as “the complainant” and the person against whom the complaint is made will be referred to as the “subject member”.

1.3 No member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

### **2. Making a complaint**

2.1 A complaint must be made in writing either by post or e-mail to the Monitoring Officer.

2.2 The Monitoring Officer will acknowledge receipt of the complaint within five working days of receiving it and, at the same time, write to the subject member (and in the case of a complaint about a parish or town councillor to the Clerk of the council also) with details of the allegations (subject to any representations from the complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The subject member may, within five working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint should be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued the initial assessment of the complaint.

### **3. Initial Assessment of Complaint**

3.1 The Monitoring Officer will review the complaint and, following consultation with the Independent Person take a decision (initial assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

The complaint will be rejected if;

- The complaint is not against one or more named members or co-opted members of the council or a parish or town council within its district;
- The subject member was not in office at the time of the alleged conduct.
- The complaint, if proven, would not be a breach of the Code of Conduct under which the subject member was operating at the time of the alleged misconduct.

3.2 If the complaint has not been rejected on any of these grounds the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected;

- Whether a substantially similar allegation has previously been made by the complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and
  - i. The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations and
  - ii. Whether in all the circumstances there is no overriding public benefit in carrying out an investigation.
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit for tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a member or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response.

The Monitoring Officer will consult with the Independent Person and then give his/her decision on how the complaint will be dealt with. The Monitoring Officer may in exceptional circumstances refer the question of how to proceed to a sub-committee of the Standards Committee.

#### **4. Additional Information**

4.1 The Monitoring Officer may require additional information to come to a decision and may request information from the subject member. Where the complaint relates to a parish or town councillor, the Monitoring Officer may also inform the Clerk of the council of the complaint and seek the views of the Clerk before deciding whether the complaint merits formal investigation or other action. In

appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation.

4.2 Such informal resolution may involve the subject member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the subject member or the authority (in appropriate cases) makes a reasonable offer of local resolution, but it is rejected by the complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

4.3 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the police or other prosecuting or regulatory authority, in addition to any action taken pursuant to the Code.

## **5. Confidentiality**

5.1 If a complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the initial assessment stage.

5.2 As a matter of fairness and natural justice the subject member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the complainant's identity if on request from the complainant, or otherwise, they are satisfied that the complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the complainant's identity being disclosed.

5.3 If the Monitoring Officer decides to refuse a request by a complainant for confidentiality, they will offer the complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the complainant's wish to have his or her identity withheld from the subject member.

## **6. Investigation**

6.1 The Monitoring Officer will appoint an investigating officer where a complaint merits formal investigation. The investigating officer may be a council officer, an officer from another council, or an external investigator.

6.2 The investigating officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost effective use of council resources and shall be interpreted in line with these principles.

6.3 The Investigating Officer will ensure that the subject member receives a copy of the complaint – subject to the Monitoring Officer decision on confidentiality.

6.4 At the end of their investigation, the investigating officer will produce a report and will send a copy of that report to the Monitoring Officer. The investigating officer may, before that, produce a draft report and send copies to the complainant and to the subject member, for comments. The investigating officer will take such comments into account before issuing their final report to the Monitoring Officer.

## **7. Investigating officer finding of no failure to comply with the Code of Conduct**

7.1 Where the investigating officer's report finds that the subject member has not failed to comply with the Code of Conduct, the Monitoring Officer (in consultation with the Independent Person) will review the investigating officer's report and if satisfied, will confirm the finding of no failure to comply with the Code of Conduct.

7.2 The Monitoring Officer will write to the complainant and the subject member (and to the Clerk of the council, where the complaint relates to a parish or town councillor), with a copy of the decision and the investigating officer's report.

7.3 If the Monitoring Officer is not satisfied that the investigation has been conducted thoroughly, the investigating officer may be asked to reconsider the report and the conclusions.

## **8. Investigating officer finding of sufficient evidence of failure to comply with the Code of Conduct.**

Where the investigating officer's report finds sufficient evidence that the subject member has failed to comply with the Code of Conduct, the Monitoring Officer will review the investigating officer's report and will then having consulted the Independent Person either send the matter for local hearing before the hearings panel or seek local resolution.

### **8.1 Local Resolution**

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the complainant and seek to agree a fair resolution. Such resolution may include the subject member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. If the member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee (and the Clerk to the council if appropriate) for information, but will take no further action. If the complainant or the subject member refuses local resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a local hearing without further reference to the complainant or the subject member.

### **8.2 Local Hearing**

Where, in the opinion of the Monitoring Officer, local resolution is not appropriate or the complainant and/or subject member refuses to co-operate, then the Monitoring Officer will report the investigating officer's findings to the hearing panel which will conduct a local hearing before deciding whether the subject member has failed to



comply with a Code of Conduct and, if so, what action (if any) to take in respect of the subject member.

The Council has agreed a procedure for local hearings which is attached as Annex 1 below.

## **9. Constitution of the Hearing Panel**

The Hearing Panel is a sub-committee of the council's Standards Committee. The Council has decided that it will comprise of at least one of the independent Members co-opted to the Standards Committee and three members of the council drawn from at least two different political parties. Where the complaint is about a parish or town council member, the hearing panel will endeavour to include at least one of the parish or town council members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearing Panel and their views must be sought and taken into consideration before it takes any decision on whether the subject member's conduct constitutes a failure to comply with the code of conduct and as to any action to be taken following a finding of failure to comply with the code.

The quorum for the Hearing Panel will be two voting members.

## **10. The Independent Person**

The Independent Person must be a person who is eligible under the Localism Act 2011 to be appointed, has applied for the post following advertisements of a vacancy for the post, and has been appointed by a positive vote from a majority of all the members of the council at a meeting of the full Council.

## **11. Action**

Where a Hearing Panel find that a subject member has failed to comply with the code of conduct, the Council has delegated to the Standards Committee and the Standards Committee has delegated to the Hearing Panel such of its powers to take action in respect of subject members as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearing Panel may –

- Publish its findings in respect of the subject member's conduct;
- Report its findings to Council (or to the parish or town council) for information;
- Recommend to Council that the subject member be censured;
- Recommend to the subject member's group leader (or in the case of ungrouped members) recommend to Council) that he/she be removed from any or all committees or sub committees of the council;
- Recommend to the Leader of the Council that the subject member be removed from the Executive, or removed from their portfolio responsibilities;

- Instruct the Monitoring Officer to (or recommend that the parish or town council) arrange training for the subject member;
- Recommend to Council (or recommend to the parish or town council) that the subject member be removed from all outside bodies, appointments to which they have been appointed or nominated by their council;
- Withdraw (or recommend to the parish or town council that it withdraws) facilities provided to the subject member by the council such as a computer, website and/or e-mail and internet access); or
- Placing such restrictions on the subject members access to staff which may be reasonable in the circumstances

## **12. Withdrawal of a Complaint**

In the event that a complainant withdraws a complaint at any time prior to a decision having been made by a Hearings Panel, the Monitoring Officer may, following consultation with the Independent Person, decide that no further steps be taken in respect of that complaint but shall, in taking such a decision take into account any issues which may arise under Paragraph 3.1(c) of the Code of Conduct.

## **13. Revision of these Arrangements**

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearing Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the efficient, effective and fair consideration of any matters.

## **14. Appeals**

Subject to judicial review or a decision of a Local Government Ombudsman, there is no right of appeal against the decision of a Monitoring Officer or of the hearing panel.

## **ANNEX 1**

### **HEARING PROCEDURES**

#### **Interpretation**

- 1 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member's nominated representative.
- 2 'Investigating officer' means the Monitoring Officer or other investigating officer, and his or her nominated representative.
- 3 Hearing Panel means the sub-committee of the Standards Committee dealing with a hearing under this procedure.
- 4 'Legal advisor' means the officer responsible for providing legal advice to the Hearing Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

#### **Representation**

- 5 The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Hearing Panel, another person.

#### **Legal advice**

- 6 The Hearing Panel may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Hearing Panel should be shared with the Member and the Investigating officer if they are present.

#### **Setting the scene**

- 7 After all the members and everyone involved have been formally introduced, the Chairman should explain how the Hearing Panel is going to run the hearing.

#### **Preliminary procedural issues**

- 8 The Hearing Panel should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

#### **Making findings of fact**

- 9 After dealing with any preliminary issues, the Hearing Panel should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigating officer's report.

- 10 If there is no disagreement about the facts, the Hearing Panel can move on to the next stage of the hearing.
- 11 If there is a disagreement, the Investigating officer, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Hearing Panel's permission, the Investigating officer may call any necessary supporting witnesses to give evidence. The Hearing Panel may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating officer. The Hearing Panel may also arrange for the attendance at the hearing of such witnesses as it considers appropriate.
- 12 The Member should then have the opportunity to make representations orally or in writing to support his or her version of the facts and to call any necessary witnesses to give evidence (subject to any limit placed on the number of witnesses by the Hearing Panel) .
- 13 At any time, the Hearing Panel may question any of the people involved or any of the witnesses, and may allow the Investigating officer to challenge any evidence put forward by witnesses called by the Member.
- 14 If the Member disagrees with most of the facts, it may make sense for the Investigating officer to start by making representations on all the relevant facts, instead of discussing each fact individually.
- 15 If the Member disagrees with any relevant fact in the Investigating officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating officer is not present, the Hearing Panel will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Hearing Panel may then:
  - a continue with the hearing, relying on the information in the Investigating officer's report;
  - b allow the Member to make representations about the issue, and invite the Investigating officer to respond and call any witnesses, as necessary; or
  - c postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating officer to be present if he or she is not already.

All questions asked of the Investigating officer, Member and any witnesses shall be directed through the Chairman of the Hearing Panel.

- 16 The Hearing Panel will usually move to another room to consider the representations and evidence in private.
- 17 On their return, the Chairman will announce the Hearing Panel's findings of fact.

### **Did the Member fail to follow the Code?**

- 18 The Hearing Panel then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
- 19 The Member should be invited to give relevant reasons why the Hearing Panel should not decide that he or she has failed to follow the Code.
- 20 The Hearing Panel should then consider any verbal or written representations from the Investigating officer.
- 21 The Hearing Panel may, at any time, question anyone involved on any point they raise in their representations.
- 22 The Member should be invited to make any final relevant points.
- 23 The Hearing Panel will then move to another room to consider the representations.
- 24 On their return, the Chairman will announce the Hearing Panel's decision as to whether or not the Member has failed to follow the Code of Conduct.

### **If the Member has not failed to comply with the Code of Conduct**

- 25 If the Hearing Panel decides that the Member has not failed to comply with the Code of Conduct, the Hearing Panel will consider whether it should make any recommendations to the authority.

### **If the Member has failed to comply with the Code**

- 26 If the Hearing Panel decides that the Member has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigating officer and the Member as to:
  - a whether or not the Hearing Panel should impose a sanction; and, if so
  - b what form any sanction should take.
- 27 The Hearing Panel may question the Investigating officer and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 28 The Hearing Panel will then move to another room to consider whether or not to impose a sanction on the Member and, if so, what the sanction should be.
- 29 On their return, the Chairman will announce the Hearing Panel's decision.

### **Recommendations to the authority**

- 30 After considering any verbal or written representations from the Investigating officer, the Hearing Panel will consider whether or not it should make any

recommendations to the authority, with a view to promoting high standards of conduct among members.

### **The written decision**

- 31 The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

### **Standards Committee hearing panel - The pre-hearing process**

The pre-hearing administrative processes will normally be carried out in writing by an officer from Democratic Services under the guidance of the legal adviser appointed for the hearing.

The officer providing administrative support to the panel, in consultation with the chair of it, will:

1. provide a copy of the hearing panel's procedures to the subject member
2. outline the subject member's rights and responsibilities
3. propose a date for the hearing
4. ask for a written response from the subject member by a set time to find out whether they:
  - i) disagree with any of the findings of fact in the investigation report, including the reasons for disagreement
  - ii) want to be represented at the hearing by a solicitor, barrister or any other person.

*[The panel will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined]*

- iii) want to give evidence to the panel, either verbally or in writing
  - iv) want to call relevant witnesses to give evidence to the panel
  - v) can attend the hearing on the proposed date
  - vi) want any part of the hearing to be held in private
  - vii) want any part of the investigation report or other relevant documents to be withheld from the public
5. send a copy of the subject member's response to the monitoring officer and invite the monitoring officer to say by a set time whether they want:
- i) to be represented at the hearing
  - ii) to call relevant witnesses to give evidence to the panel
  - iii) any part of the hearing to be held in private
  - iv) any part of the investigation report or other relevant documents to be withheld from the public
  - v) to invite any other witnesses the panel considers are appropriate

The chair of the panel, in consultation with the legal adviser to the panel should then:

- confirm a date, time and place for the hearing
- confirm the main facts of the case that are agreed
- confirm the main facts which are not agreed
- confirm which witnesses will give evidence
- outline the proposed procedure for the hearing
- provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing unless the parties agree otherwise

Members are responsible for meeting the cost of any representation at a panel hearing.

# EMPLOYEES' CODE OF CONDUCT

## Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist the Council and its employees in their day to day work.

## Status of the Code

The aim of the code is to lay down guidelines for employees which will help maintain conduct of the highest standard such that public confidence in their integrity is maintained.

## Who the Code is Aimed At

The Code applies to all Council employees.

Inevitably some of the issues covered by the code will affect senior, managerial and professional employees more than it will others.

## 1. Standards

- 1.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their role, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure. The Council, acting in accordance with the provisions of the Public Interest (Disclosure) Act 1998 has approved its own "Whistleblowing" Policy (available from the Director of Legal and Democratic Services).

## 2. Disclosure of information

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to elected members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.
- 2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.



- 2.3 Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of the councillor, except where such disclosure is required or sanctioned by the law.
- 2.4 Information concerning any employee's private affairs shall not be supplied to any person outside the employment of the Council unless the consent of the employee concerned is obtained first.
- 2.5 Information concerning any service user's private affairs shall not be supplied to any person outside the employment of the Council unless the consent of the service user concerned is obtained first.
- 2.6 No employee shall communicate to the public/media the proceedings of any Council or Executive meeting nor the content of any private document relating to the Council unless required by law or expressly authorised to do so.

### **3. Political neutrality**

- 3.1 Employees serve the Council as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.
- 3.5 Under the provisions of the Local Government and Housing Act 1989 certain post holders are prevented from engaging in public political activity.
- 3.5.1 The Act specifies three categories of posts to which the political restrictions apply:-
- (i) Specified posts:-
- Head of the Authority's paid service (i.e. Chief Executive)
  - Statutory Chief Officers
  - Non-Statutory Chief Officers
  - Monitoring Officer
  - Deputy Chief Officers

- Political Assistants
- Officers designated under S100G(2) of the Local Government Act 1972.

(ii) Posts where the remuneration is or exceeds scp 44

(iii) Posts where the duties include:-

- advising the Council, the Executive Committees or Sub-Committees on a regular basis;
- speaking on behalf of the Authority to journalists or broadcasters.

3.5.2 Employees whose posts are listed under paragraph (ii) or (iii) above have the right to apply to be exempted from the political restrictions. Details of the procedure for claiming exemption can be obtained from the Director of Human Resources.

3.5.3 The restrictions to be applied to holders of politically restricted posts are as follows:-

- (i) The post holder is disqualified from membership of the House of Commons, European Parliament and Local Authorities (excluding Parish and Community Councils).
- (ii) The post holder may not announce that (s)he is, or intends to be a candidate for election to the House of Commons.
- (iii) The post holder shall not act as an election agent or sub-agent for a candidate for election.
- (iv) The post holder shall not be an officer of a political party or member of any Committee, if such membership requires participation in the general management of the party or acting on behalf of the party in dealings with persons other than members of the party.
- (v) The post holder shall not canvass on behalf of a political party or candidate for election.
- (vi) The post holder shall not speak in public with the intention of affecting public support for a political party.
- (vii) The post holder shall not publish any written or artistic work intended to affect public support for a political party (excluding the display of a poster in his/her dwelling or on his/her vehicle).

## **4. Relationships**

### **4.1 Councillors**

Employees are responsible to the authority through its senior managers. For some, their role is to give advice to councillors and senior managers. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

### **4.2 The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

### **4.3 Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to any businesses including those run by, for example, friends, partners or relatives.

4.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors should declare that relationship to their Head of Service/Corporate Director.

4.5 If an employee becomes aware that a contract in which (s)he has a pecuniary interest, whether direct or indirect has been, or is proposed to be entered into by the Local Authority they must notify the Director of Legal and Democratic Services in writing of their interest as soon as possible.

## **5. Appointment and other employment matters**

5.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

- 5.2 Similarly, employees should not be involved in decisions relating to discipline, grievance, promotion or pay adjustments for any other employee who is a relative, partner, etc.
- 5.3 (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the director/head of service or an officer nominated by him/her.

## **6. Outside Commitment/Off duty Conduct**

- 6.1 Employees graded SO1 and above must obtain written consent from their Head of Service to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.
- 6.2 An officer's "off duty" hours are his/her personal concern. Employees should not place themselves in a position where their public duties and private interests conflict or where their private interests take precedence.

## **7. Personal interests**

- 7.1 Employees must notify their Director/Head of Service of interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must notify their Director/Head of Service of any financial interests which could conflict with the authority's interests.
- 7.3 Employees must notify their Director/Head of Service or the Monitoring Officer (as appropriate) of their membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct e.g. Masonic lodges.

## **8. Equality issues**

- 8.1 All employees should ensure that policies relating to equality of opportunity as agreed by the council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated fairly.

## **9. Separation of Roles During Tendering**

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in “contractor” or “client” roles must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 9.4 Employees should ensure that no favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **10. Gifts and Hospitality**

The area of gifts and hospitality can be a particularly difficult area and specific guidance on this issue is attached as an Appendix to this Code.

## **11. Corruption**

- 11.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

## **12. Use of Financial Resources**

- 12.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

## **13. Sponsorship – Giving and Receiving**

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

- 13.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without their being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **APPENDIX TO EMPLOYEES' CODE OF CONDUCT**

### **GUIDANCE FOR OFFICERS ON GIFTS AND HOSPITALITY**

#### **1. INTRODUCTION**

1.1 These Guidelines supplement the law, the Council's Code of Conduct for Employees (Constitution, Part 5) and the guidance set out by the National Joint Council for Local Government Services.

1.2 Officers should be aware of, and observe, the provisions of the National Agreement on Pay and Conditions of Service, which state:

“Employees will maintain conduct of the highest standard, such that public confidence in their integrity is sustained. Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.”

The area of gifts and/or hospitality is one where adverse perceptions can easily arise, even when unjustified. So as to maintain public confidence, and for the protection of officers themselves, it is particularly important that the following guidelines are observed.

1.3 The reputation of local government depends greatly not only on the conduct of its officers, but also on what the public believes about their conduct. Officers are expected to use common sense in assessing any situation where improper influence could be construed. Accordingly they should not do anything in their capacity as an officer which could give rise to accusations of improper influence, or which might not seem to the public to be justified.

1.4 These guidelines are intended to assist officers to reach the right decision in any particular case. If officers find themselves in any doubt about the right course of action to take, they can, and should, seek advice from more senior colleagues.

#### **2. GIFTS**

2.1 In almost every case, the acceptance by an officer of a gift from a person who has, or may seek to have, dealings with their Authority could be viewed by the public with understandable suspicion. It would leave both the officer and the Council extremely vulnerable to criticism. An officer should, therefore, actually decline any gift offered to them or to a member of their family, either directly by, or in a manner indirectly attributable to, the following categories of person:

- Any person who has dealings with the Authority;
- Any person seeking to have dealings with the Authority;
- Any person who has applied, or may apply, to the Council for planning permission or any other kind of decision.

In cases where refusal might cause embarrassment, these guidelines can be cited as a reason.

2.2 There are a number of limited exceptions to the above rule, as follows:

- Small gifts of only token value, (i.e. no more than £5) often given to a wide range of people by way of trade advertisements, e.g. calendars, diaries, tape measures and similar small office items;
- Small gifts of only token value, given on the conclusion of a courtesy visit e.g. to a factory or other premises.
- Small gifts where the officer concerned (and perhaps their partner) is a personal friend of the donor and where refusal would be regarded as churlish. In such cases, however, whilst the gift may be accepted, a letter should be sent by the officer concerned, explaining the problems of accepting such gifts.

2.3 **If there is any doubt about whether a gift should be accepted, it should be politely and tactfully refused.**

2.4 Where gifts and / or hospitality have been offered, but declined by the intended recipient, for their own protection the intended recipient may wish to record the offer and their response in the book referred to in Para 2.7 below.

2.5 All officers should be aware that Section 117 of the Local Government Act 1972 expressly forbids the acceptance by an officer/employee of any fee or reward other than their proper remuneration. Any person contravening this provision would be liable, if convicted, to a fine not exceeding Level 4.

2.6 In the event of an officer receiving, without warning, a gift which does not fall within the exceptions listed in Para. 2.2 above, this should immediately be reported to the appropriate Head of Service/Director. That officer should then decide whether the gift should be returned, or whether it could be forwarded to some charitable or other deserving cause. In the latter case, the Head of Service/Director should inform the donor what has happened and why, and request that such gifts not be sent in future.

2.7 A central record is maintained in the Democratic Services Section of all gifts received. In cases falling within Para 2.6 above, action should be taken to ensure that notification is given to the Director of Legal and Democratic Services or one of the Democratic Services Officers so that the gift can be recorded in the book provided.

### **3. GIVING AND RECEIVING HOSPITALITY**

3.1 A number of general principles should be borne in mind when the question of offering hospitality arises.

- The hospitality must be justifiable as being in the public interest.
- The hospitality should be on a scale appropriate to the occasion



- Parsimoniousness and extravagance should both be avoided.
- 3.2 In the case of offers of hospitality, there should generally be no cause for concern if the offer is made by another non-commercial public body and, in some cases with key partners with whom the Council are engaged in an established relationship (and subject to 3.3 below).. In all other cases, offers of hospitality must be treated with caution.
  - 3.3 Officers must refuse offers of hospitality where any suggestion of improper influence is possible. Special caution is necessary where hospitality is offered by a person or body having or seeking business with, or a decision from, the Authority, and most especially where the offer is made to an individual officer.
  - 3.4 Hospitality should only be accepted where a number of criteria are satisfied: it is on a scale appropriate to the circumstances; it is reasonably incidental to the occasion and not extravagant; and it is apparent that no cause could reasonably arise for adverse criticism about acceptance. As indicated above, adverse public perception is as important as the facts of the case in deciding whether or not it is appropriate to accept hospitality.
  - 3.5 Whenever hospitality is provided to an officer, the circumstances and the type of hospitality should be notified to the Director of Legal and Democratic Services Officer so that it can be recorded in the book held by Democratic Services.
  - 3.6 A number of examples of acceptable and unacceptable hospitality respectively are given below.

#### Acceptable

- (a) An offer of modest light refreshments following a site inspection.
- (b) Invitations to attend functions where the officer represents the Council (e.g. events where the Officer is officially representing the Council, dinners involving invitations to speak, opening ceremonies, trade shows, etc.) or where they attend by virtue of their professional position.
- (c) Hospitality offered by other non-commercial public bodies or partner organisations (subject to the conditions outlined in paragraph 3.3 above) .
- (d) A working lunch of modest standard provided to enable the parties to continue to discuss business.

#### Unacceptable

- (a) Entertainments unconnected with Council business or holidays
- (b) Personal invitations to have evenings out with representatives from a company or firm which has dealings with the Council.
- (a) Offers of hotel accommodation or use of a company flat.

## OVERVIEW AND SCRUTINY PROTOCOLS

Overview and Scrutiny is a statutory function of all Local Authorities who operate an Executive-led model of governance. It is independent from the Council's decision making process.

Overview and Scrutiny is an essential part of ensuring that local government remains effective and accountable. At Trafford, this is undertaken by a group of Councillors who sit on Scrutiny Committees.

The aims of Overview and Scrutiny are -

- To review activity with the aim of improving the quality of public services
- Ensure that public money is spent wisely
- To hold Executive Councillors to account
- To influence future policy changes locally.

The Overview and Scrutiny protocols are designed to ensure good practice and the effective functioning and continuity of the Scrutiny function. By agreeing such protocols Overview and Scrutiny, the Executive and the Corporate Management Team, as well as colleagues from partner organisations, undertake to work efficiently and effectively in order to enhance democratic decision making process at Trafford Council.

There are two designated Overview and Scrutiny Committees. These are named the Scrutiny Committee and the Health Scrutiny Committee.

In general terms, the way that the Scrutiny Committees will operate is based on the following principles.

Both Scrutiny Committees are responsible for:

1. Developing the work programme
2. Commissioning work to be undertaken
3. Considering reports and recommendations prior to their referral to the Executive
4. Holding Executive Members to account
5. Monitoring the implementation of recommendations

### **How Overview and Scrutiny will work with the Council's Executive, Corporate Management Team and Partners**

In order to discharge their functions effectively, both the Scrutiny Committee and the Health Scrutiny Committee are able to review areas of service provision, as they see fit, in line legal powers such as the Local Government Act 2000, Health and Social

Care Act 2001, Crime and Disorder Act 2006, NHS Act 2004, Flood and Water Management Act 2010, Localism Act 2011 and the Health and Social Care Act 2012.

## **Developing the Work Programme**

Each Overview and Scrutiny Committee is responsible for determining its own Work Programme and the final decision to place an item on the work programme will be exercised by the Committee's Chairman. The Work Programme will be informed by the Council's and the Local Strategic Partnership's Priorities to ensure that Overview and Scrutiny input complements the work of the Executive and the Trafford Partnership. Health Scrutiny work programmes will be developed taking into account the plans and programmes of health commissioners and providers.

All elected Members, Corporate Leadership Team, the Executive and Partners are able to request that a review be undertaken. However, the suggestion of a review does not mean that it will be undertaken. All requests must be made via Democratic Services. Once received, these requests will be considered by the Chairmen and Vice Chairmen and a series of tests will be applied to ensure that it is suitable or otherwise to progress. If the Chairmen and Vice Chairmen deem it appropriate, the review will be suggested to the relevant Scrutiny Committee to agree. Scrutiny Members are free to conduct a review in a way they see fit taking into consideration the resources they have at their disposal and other items of importance on the work programme.

If the suggested review is not appropriate, communication will be made to those that suggested the review stating why it is not to be progressed and, in some cases, may be referred to ward Members or the Executive to consider further.

It is the responsibility of Scrutiny Members to develop a clear work programme for the coming municipal year and these will be agreed by the relevant committee and kept under review throughout the year.

## **Review Work**

The Committee undertaking a scrutiny review will involve the relevant Executive Member and member of the Corporate Leadership Team or a nominated deputy, if appropriate, within the scoping of Overview and Scrutiny reviews. However, the final decision for determining the scope and method of undertaking a review lies with the relevant Overview and Scrutiny Committee. This requires officers supporting the project to have regard to the status of Overview and Scrutiny as independent from the corporate decision making process.

In the event that a review crosses two or more Executive portfolios it is the responsibility of the Executive Members involved and their Corporate Directors to agree a Lead Executive Member and Lead Corporate Director.

Whilst evidence is being gathered, either through background research and/or talking to relevant stakeholders, Overview and Scrutiny undertake to keep the Lead

Executive Member and Lead Corporate Director or their deputy informed at reasonable intervals by agreement.

The Executive undertakes to provide Overview and Scrutiny with any information which is reasonably requested in a format which is accessible for Members and non-specialist officers within an agreed time-scale. Furthermore, Overview and Scrutiny's right of access to information is set out in the Access to Information Procedure within the Council's Constitution and the Overview and Scrutiny Committee undertakes only to request that information which is crucial to the work of the Committee.

In order to aid the efficient sourcing of information at the project scoping stage the Lead Corporate Director or their Deputy will be asked to agree a key contact officer from whom relevant information can be sourced from.

The responsibility for drafting the report and its recommendations lies with the Scrutiny Committee that commissioned the review or project. When the draft report and recommendations have been produced, the opportunity will be given to all stakeholders and relevant Executive Member/s and relevant Member/s of the Corporate Leadership Team to comment upon the draft report and recommendations within an agreed timescale. This may also include, depending on the review undertaken, an opportunity to comment on an interim report and again, comments must be provided within the given timescale. It is important that deadlines for comments are met if Scrutiny reports are to have impact and be delivered in a timely way.

If the Committee receives comments from any stakeholder which necessitate the amendment of the report, it is the responsibility of the Chairman to agree necessary changes which commissioned the review.

Once a Scrutiny review has concluded and the report has been finalised following comments from stakeholders, it must be agreed at a formal meeting of the Scrutiny Committee which commissioned it or via an appropriate delegated arrangement. The report will then be presented to the next available meeting of the Executive for noting.

### **Reporting to the Council's Executive**

All Overview and Scrutiny reports will be considered by the Executive except the Annual Report which is to be considered by Council.

When a scrutiny report is presented to the Council's Executive, the Chairman of the relevant Committee will normally attend the meeting to present the report and answer any questions relating to it.

### **The Executive's Response**

It is the responsibility of the Lead Executive Member with the Lead Corporate Director to coordinate its formal response to the report in a manner which the Executive sees fit. This may include liaison with partners either individually or through the Local Strategic Partnership.

The relevant Scrutiny Committee has the responsibility to receive the Executive's response and will normally invite the relevant Executive Members/s and Corporate Director/s to a meeting of the Committee to provide a response in respect of the planned actions to the recommendations made.

The Executive undertake to provide Overview and Scrutiny Committees with their final response to the recommendations within 28 days of receiving the report, unless otherwise with the Committee's agreement.

### **Monitoring of Recommendations**

It is the responsibility of the Scrutiny Committee which commissioned the review to establish that the Executive has implemented the agreed recommendations within Council policy and practice. The timing of the review should be agreed with the Executive. To this end, the Committee is able to call an Executive Member/s and Corporate Director/s to Committee in order to provide Scrutiny Members with relevant updates at the request of the Committee's Chairman.

It is the role of the Lead Executive Member and the Lead Corporate Director to coordinate any updates to planned actions which are to be presented to the relevant Scrutiny Committee.

### **Confidentiality**

All members of Overview and Scrutiny Committees, including Co-opted Members have a responsibility to keep information on policy development under consideration by the Executive confidential until any final recommendations have been formally presented to the Executive.

Members and co-opted Members are bound by the Council's Code of Conduct. Although there is no sanction over the conduct of a non-voting co-opted member they will be requested to sign up to an agreement on confidentiality and conduct.

The Chairman of a Committee shall indicate that confidentiality is required of any co-opted member on a particular piece of work. It should be formally recorded that they have understood this is a requirement. The option shall be available for a co-opted member to inform the Committee that they cannot be bound by confidentiality. In this instance the co-opted member will be requested to withdraw and not be included within any correspondence relating to that matter.

### **Roles and Responsibilities**

#### **Statutory Scrutiny Officer**

The role of the Statutory Scrutiny Officer, as defined by the Local Democracy, Economic Development and Construction Act 2009 is:-

- To promote the role of the authority's overview and scrutiny committee or committees;

- To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees
- To provide support and guidance to
  - members of the authority,
  - members of the Executive of the authority, and
  - officers of the authority.

The role of the Statutory Scrutiny Officer is currently held by the Democratic and Performance Services Manager.

### **Chairmen and Vice Chairmen of the Scrutiny and Health Scrutiny Committees**

The following key attributes are important to ensure that Lead Scrutiny Members support Overview and Scrutiny to discharge its functions effectively and efficiently. Their role is to :-

- Retain an overview of the Scrutiny Work Programme
- Uphold and promote the general principles of Overview and Scrutiny.
- Agree the draft scope of a review or project
- Keep members of the Committee informed on the progress of reviews;
- Be responsible for the content of the draft review report;
- Be responsible for the outcomes of scrutiny reviews
- Be a key contact in relation to the progress of a review
- Uphold and promote the general principles of Overview and Scrutiny.

### **Members of Overview and Scrutiny Committees**

The following key attributes are important to ensure that Overview and Scrutiny is able to discharge its functions effectively and efficiently:-

- To identify possible overview and scrutiny reviews;
- To support the progress of scrutiny reviews;
- To make formal recommendations based upon the evidence found during the course of reviews;
- To be responsible for the outcomes of scrutiny reviews;
- To uphold and promote the principles of Overview and Scrutiny.

### **Non Executive Members Participating in Overview and Scrutiny Work**

At certain times within the municipal year, Non Executive Members may be afforded the opportunity to participate in Scrutiny work subject to the agreement of Committee Chairmen. To this end, those Members will be required to fulfil the same role and responsibilities as all Members of Scrutiny Committees.

### **Co-opted Members of Overview and Scrutiny Committees and Working Groups**

Overview and Scrutiny values its co-opted members and they will be afforded the same status as Members of the Scrutiny Committees.

### **Members of the Executive**

The following key attributes are important to ensure that Executive Members support Overview and Scrutiny to discharge its functions effectively and efficiently. Their role is to :-

- Attend Overview and Scrutiny Committees and other meetings as requested
- Provide Overview and Scrutiny Committees with the information they require to enable them to undertake their reviews – this includes information on how current policy is being implemented and future policy development
- Respond to the recommendations within Overview and Scrutiny Review reports within the given time-scale;
- Be held to account for Executive decisions;
- Uphold and promote the principles of Overview and Scrutiny.

### **Corporate Leadership Team and Their Deputies**

The following key attributes are important to ensure that Corporate Leadership Team and their deputies support Overview and Scrutiny to discharge its functions effectively and efficiently. Their role is to :-

- Facilitate the sharing of information with Members of Overview and Scrutiny Committees;
- Attend Overview and Scrutiny Committees or other meetings as requested or if unable to attend to ensure that another officer attends in their place – the substitute officer must be able to answer questions relating to the policy area under review.
- Uphold and promote the principles of Overview and Scrutiny.

### **Democratic Services Officers**

The following key attributes are important to ensure that Democratic Services Officers who explicitly support Overview and Scrutiny to discharge its functions effectively and efficiently. Their role is to:-

- Support Scrutiny Members in their roles
- Provide overall project and programme management of the Overview and Scrutiny process
- Provide independent impartial advice to all Overview and Scrutiny councillors, Executive Members, officers of the Council and partner organisations
- Uphold and promote the general principles of Overview and Scrutiny
- Seek the advice of the Statutory Scrutiny Officer where appropriate.

## **Other Officers of the Council participating in Overview and Scrutiny Work**

The following key behaviours are important to ensure that officers who support Overview and Scrutiny to discharge its functions effectively and efficiently. Their role is to :-

- Attend Overview and Scrutiny Committee meetings as requested by their senior officers
- Provide Overview and Scrutiny members with the information they have requested to complete their reviews and projects – this may be written or verbal information
- Ensure feedback to their senior officers following Overview and Scrutiny Committee meetings
- Uphold and promote the general principles of Overview and Scrutiny.

## **Members of the Public**

The following key attributes are important to ensure that members of the public who support Overview and Scrutiny to discharge its functions effectively and efficiently:-

- To provide Overview and Scrutiny with the information/evidence it needs in relation to a review or project.

## **Representatives from Partner Organisations**

In determining its work programme Overview and Scrutiny will aim to make a significant contribution to the delivery of the Council and the Local Strategic Partnership's priorities and as such, this may involve working with a range of public, private and voluntary sector partners to include the health and criminal justice service.

Representatives from partner organisations undertake to provide Overview and Scrutiny with any information which is reasonably requested in a format which is accessible for Members and non-specialist officers within an agreed time-scale.

The following key attributes are important to ensure that partner organisations who support Overview and Scrutiny to discharge its functions effectively and efficiently:-

- To work closely with Overview and Scrutiny and provide them with the information/evidence it needs in relation to a review or project in a timely fashion
- Recognise the unique role of Overview and Scrutiny and value its independence
- Provide comments on the report and its recommendations within an agreed timescale
- Attend informal and formal meetings to provide evidence
- Respond to the draft report and its recommendations within the agreed timescale
- Uphold and promote the general principles of Overview and Scrutiny.

## **Role and Responsibilities of Health Partners**



Due to the existence of specific legislation in relation to the scrutiny of local health and social care providers a separate Health Scrutiny Protocol is contained within **Appendix 1**.

### **Role and Scope of a Scrutiny Working Group**

Where the Overview and Scrutiny Committee has agreed to commission work to a working group, the Chairman and Vice Chairman of that Committee retains the overall responsibility for agreeing the final scope of the review and the final report to be presented to the Executive. However, they will discuss the management of the review with the Chairman of the Working Group.

### **Membership of Working Groups**

In establishing a Working Group it should normally be the intention that the membership of the group seeks to provide balance in terms of political affiliation. However, it is recognised that this may not be possible or practical for all reviews. The commissioning Scrutiny Committee will determine this before the work begins

Working Groups do not have to be made up solely of members of Overview and Scrutiny Committees – additional members can be co-opted onto the group who could include:

- Experts within a relevant field;
- Non Executive Councillors with an interest in or knowledge about a subject matter subject to the Chairman's agreement;
- Representatives from public, voluntary and private sector partners;
- Members of the public who can bring their views and perspectives to the working group

### **Undertaking a Scrutiny Project**

In determining the scope of the review, the Chairman of the Working Group will establish how to conduct the review in consultation with the Democratic Services Officer and Working Group members.

### **Reporting By Working Groups**

Once the work of a Working Group has concluded the report will be presented to the relevant Scrutiny Committee which commissioned it.

The Chairman and Vice Chairman of the Working Group will normally present the report to the relevant Committee and seek agreement of it prior to its presentation to the Executive.

## **HEALTH SCRUTINY PROTOCOL**

The aim of the Health Scrutiny Protocol is to agree and set out working arrangements between the Health Scrutiny Committee (HSC), key NHS partners and Healthwatch Trafford and the Older Person's Champion on how to best deliver the duties placed on them by legislation and to deliver the best services for constituents of the borough.

It is important to ensure that such protocols are reviewed, in consultation with our health partners, every two years to ensure that they are fit for purpose. The protocol reflect the guidance issued by the Department for Health in June 2014.

This broad protocol includes:

- Working with Local Health Bodies including the Health and Wellbeing Board (HWB)
- Working with HealthWatch Trafford
- Working with the Older Persons Champion
- Service Redesign/Change

### **Working with Local Health Bodies**

The commissioning and delivery of local health services is important in order to improve and maintain the health of the Borough's residents in addition to reducing health inequalities.

As such, there is value in these bodies cooperating in accordance with the following principles:

- Develop a shared understanding of each other's roles, responsibilities and priorities;
- Exchange information gathered to avoid duplication, to share learning and to inform each other's programme of work and undertake joint work, where appropriate;
  - Work in a climate of mutual respect and courtesy;
  - Respect each other's independence and autonomy.

This protocol has been designed to guide the relationship between Trafford's Health Scrutiny Committee, local NHS bodies, Health and Wellbeing Board (HWB) and Healthwatch Trafford to aid communication, co-operation and understanding.

## **Requests for Information**

The provision of timely and accurate information is essential in order to allow Health Scrutiny Members to discharge their functions effectively. All requests for information will be made by those officers providing support to Health Scrutiny Members. This is to provide assurance to partners that the request is to enable Scrutiny Members to undertake a piece of effective and targeted scrutiny. In order to provide information relating to the planning, provision and operation of local health commissioners and providers that the HSC requires so that it can carry out its functions. This may include commenting on NHS Plans, proposals and consultations, and carrying out health scrutiny reviews (excluding patient and NHS employee identifiable personal information or information that is non disclosable by law)

**That HWB, Trafford Clinical Commissioning Group, University Hospitals South Manchester, Central Manchester University Hospitals, Greater Manchester West Mental Health and Pennine Care FT will -**

- Provide the HSC with that information within 28 days;
- Respond to HSC reports within 28 days;
- Provide reports to the Committee by the deadline set, typically 5 clear days prior to the meeting.

**That the HSC will –**

- Co-ordinate the development of a rolling work-programme in consultation with NHS Trusts and patient representative groups.
- Arrange for agendas, reports and minutes to be distributed to the CCG and the Trusts, where appropriate, at least 5 working days before the meeting
- Invite the Trust and CCG representatives to meetings giving adequate and appropriate notice. The HSC acknowledges that some Members of the CCG are practicing GP's and that they will need to ensure appropriate practice cover. To this end, the HSC will ensure, as far as is practically possible, that as much notice is given to require CCG attendance at HSC meetings. This also places a responsibility on the CCG to acknowledge their responsibility to attend HSC meetings and make appropriate arrangements.
- Provide a lead officer/single point of contact for all the Trusts.

## **Working with HealthWatch Trafford**

This protocol is designed to guide the relationship between Trafford's HSC and HealthWatch Trafford to aid communication, co-operation and understanding.

The HSC and the Healthwatch Trafford share common aims of improving health, reducing health inequalities and improving access to, and the quality of, local health

and social care services. As such there is value in the bodies co-operating in accordance with the following principles.

- Develop a shared understanding of each other's roles, responsibilities and priorities;
- Exchange information gathered to avoid duplication, to share learning and to inform each other's programme of work and undertake joint work, where appropriate;
- Work in a climate of mutual respect and courtesy;
- Respect each other's independence and autonomy.

### **Requests for Information**

#### **Healthwatch Trafford will -**

Provide information relating to patient experience and associated matters which enable the HSC to carry out its functions (excluding patient and Healthwatch Trafford employee identifiable personal information or information that is non disclosable by law).

#### **The HSC will –**

- Co-ordinate the development of a rolling work-programme in consultation with NHS Trusts and patient representative groups.
- Arrange for agendas, reports and minutes to be distributed to Healthwatch Trafford and the Trusts, where appropriate, at least 5 working days before the meeting
- Invite the Healthwatch Trafford representatives to meetings giving adequate and appropriate notice.

Provide a lead officer/single point of contact for Healthwatch Trafford.

### **Referrals from Healthwatch Trafford to the HSC**

The Local Government and Public Involvement in Health Act 2007 legislated the referral of social care matters to the HSC from Healthwatch Trafford.

In order to fulfil this duty the HSC will –

- Acknowledge receipt of the referral within 20 working days and consider the matter at the next available HSC meeting
- Keep the referrer informed of the committee's actions in relation to the matter.

- Decide whether or not to exercise any of its powers such as, but not exclusively, in relation to requesting information of health bodies, requesting the attendance of key officers at a future HSC or writing to the secretary of state.
- Arrange for agendas, reports and minutes of the HSC, where appropriate, be dispatched to the Healthwatch Trafford, at least 5 working days before the meeting.

### Referrals from the HSC to the Healthwatch Trafford

On occasion, the HSC may become aware of an issue that is best placed to progressed by Healthwatch Trafford.

In order to support the undertaking of this work Healthwatch Trafford will -

- Acknowledge receipt of the referral within 20 working days and consider the matter at the next available Healthwatch Trafford meeting;
- Keep the referrer informed of the Healthwatch Trafford actions in relation to the matter;
- Advise the HSC in writing as to whether the Healthwatch Trafford intends to take further action in response to the referral, or the reasons for no further action being taken.

### Working with Trafford Council's Older People's Champion

The Older People's Champion is an elected Member who is appointed to improve older people's services and are willing to work together and use their influence to stand up for the interests of older people. They have a role in ensuring older people have access to information about local services and plans for older people. All appointed representatives will be committed to rooting out age discrimination in access to treatment and services helping to improve health outcomes for residents.

The Older People's Champion will endeavour to keep the HSC updated at regular intervals with any information relating to the commissioning or delivery of health and social care services which negatively impacts on older residents.

In order to put the relationship between the Older Person's Champion and the HSC on a more formal footing it will follow a similar protocol to that of referrals to Healthwatch Trafford.

### Referral from the Older People's Champion to the HSC

In order to support the undertaking of this work the HSC will -

- Acknowledge receipt of the referral within 20 working days and consider the matter at the next available HSC meeting;
- Keep the referrer informed of the HSC actions in relation to the matter;

- Advise the Older Person's Champion in writing as to whether the HSC intends to take further action in response to the referral, or the reasons for no further action being taken.

### Referral from the HSC to the Older People's Champion

In order to support the undertaking of this work the Older People's Champion will -

- Acknowledge receipt of the referral within 20 working days and consider the matter with the support of colleagues at the Council and amongst NHS partners;
- Keep the HSC informed of their actions in relation to the matter;
- Advise the HSC in writing as to the initial outcome of their inquiry and, with the agreement of the HSC Chairman, place the matter on the next available HSC agenda.

### Service Redesign/Change

A significant part of the liaison between the HSC and local health bodies and Healthwatch is in respect of changes to health services. The following sets out a joint protocol to identify 'substantial variation/development' and to approve public engagement activity in relation to NHS service change

The HSC plays a key role in scrutinising NHS service change and ensuring that local Commissioners engage appropriately with local people. Additionally, it performs a specific function by identifying whether a service change should be considered a 'substantial variation'. This paper sets out the processes around this which are in line with the legislation and Health Scrutiny Guidance issued in 2014..

#### **'Substantial variation'/ Substantial development**

There is no specific definition of substantial variation or substantial development outlined in the legislation. Instead it is recommended that the local NHS and the HSC should work to the same definition of substantial variation so that judgements about the need to consult are likely to be similar.

The following circumstances have been used to determine substantial variation or developments some time.':

- Changes in accessibility of services
- The impact of the proposal on the wider community
- The degree to which patients are affected
- Changes to service models and methods of service delivery

The Health Scrutiny guidance requires that Health Commissioners and Scrutiny Committees should adopt the following approach where there is a proposal for a substantial development of a health service in an area or for a substantial variation in the provision of such services.

1. The relevant health body must consult the HOSC and inform them of:
  - The proposed date by which the health body intends to make a decision as to whether to proceed with the proposal; and
  - The date by which the health body requires the HOSC to provide any comments.
2. The Health Body must inform the HOSC of any changes to the dates provided and make public any changes to these dates
3. The HOSC will provide comments on the date as required above.
4. Where the HOSC's comments include a recommendation to the health body and that body disagrees with that recommendation
  - The Health Body must notify the HOSC of the disagreement;
  - The HOSC and the health body must take such steps that are reasonably practicable to try and reach agreement in relation of the subject in relation to the recommendation
5. Where the HOSC intends to make a report to the Secretary of State for Health it must:
  - Either inform the Health Body of its decision to make this report and the date by which it proposes to do this;
  - Or, state the date by which it proposes to make this decision as to whether to exercise its power. The HOSC must make the decision on the date stated and it must also inform the Health Body of its decision.

In cases where the Health Body is a service provider and the proposals relate to services which the Clinical Commissioning Group or the National Commissioning Board is responsible for arranging the provision of consultation must be carried out by the responsible commissioner.

Where the proposals for change are to be carried out by more than one health body the duties around consultation may be discharged by those bodies jointly or by one or more of those bodies, on behalf of those bodies.

# **Member/Officer Relations Protocol**

## **1.0 INTRODUCTION**

- 1.1 The aim of this Protocol is to guide Members and Officers of Trafford Council in their relations. It is hoped the Protocol will help build good working relationships between Members and Officers as they work together.
- 1.2 A strong, constructive and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances.
- 1.4 This Protocol forms a key part of the Council's approach to corporate governance and its commitment to uphold standards in public life.

## **2.0 INTERPRETATION OF THE PROTOCOL**

- 2.1 Members and Officers must observe this Protocol at all times.
- 2.2 The provisions of this Protocol will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistle Blowing Protocol and the Council's policies, procedures and processes.
- 2.3 Where there is a conflict or discrepancy between this Protocol and the Codes and Policies referred to in 2.2 above then those Codes and Policies shall have precedence. Conventions will also be taken into account in cases of conflict or discrepancy. Any questions over interpretation will be decided by the Monitoring Officer in consultation with the Chief Executive.
- 2.4 It is recognised that, in the period preceding any Council Election or by-election, specific protocols are in place. These protocols will take precedence over this Protocol where there is again conflict or a discrepancy.
- 2.5 This Protocol does not affect or interfere with any rights or protection which a person may have in law.

## **3.0 THE ROLE OF MEMBERS**



- 3.1 Members are accountable to the electorate who determine the people they wish to represent them on the authority. Therefore, this Protocol recognises that Members are elected to serve the people of Trafford.
- 3.2 Members, as politicians, may express the values and aspirations of their party political groups but they must recognise that in their role as Members they have a duty to always act in the public interest.
- 3.3 Members may have a number of roles within the Council and need to be alert to the possible conflicts of interest that may arise.
- 3.4 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with Officers and the expectations that Officers may have of them.
- 3.5 Members are mainly responsible for:
- the political direction and leadership of the Authority
  - the determination of policies, plans and strategies
  - deciding matters to give effect to or implement those policies, plans and strategies particularly in service delivery terms
  - performing the Council's regulatory functions
  - monitoring and reviewing, primarily through the Executive and Overview and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and in delivering its services
  - participation in partnership working
  - representing the Council on national, regional and local bodies and organisations
  - representing the views of their communities and individual constituents
- 3.6 Some Members will have additional responsibilities relating to their membership of the Executive, Overview and Scrutiny Committees or other committees and sub-committees. The holding of these roles will involve a different relationship with certain Officers in areas where the Member has particular roles and responsibilities.
- 3.7 Members who serve on committees and sub-committees collectively have delegated responsibilities. These responsibilities may include deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
- 3.8 Officers can expect Members:
- to act within the policies, practices, processes and conventions established by the Council

- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice
- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

### 3.9 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
- do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers

3.10 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (section 151 Officer) and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:

- interfere with or obstruct the Officer in exercising those responsibilities
- victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

#### **4.0 THE ROLE OF OFFICERS**

4.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

4.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

4.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Members' view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.

4.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded.
- work in partnership with Members in an impartial and professional manner
- assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- respond to enquiries and complaints in accordance with the Council's standards
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times
- provide support and learning and development opportunities for Members to help them in performing their various roles

- not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
- comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council

4.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

4.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

## **5.0 THE RELATIONSHIP: GENERAL**

5.1 Members and Officers are servants of the public. They are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the Public, whereas Officers are accountable to the Council as a whole.

5.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

## **6.0 THE RELATIONSHIP: OFFICER/CHAIRMAN**

6.1 Officers and Committee Chairmen will inevitably need to work closely together. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups, to carry out their duties in respect of the Council as a whole, or to undermine public trust and confidence in the Council.

6.2 It must be remembered that officers within a Service are accountable to their Director and that whilst Officers should always seek to assist a Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

## **7.0 THE RELATIONSHIP: OVERVIEW AND SCRUTINY BODIES**

7.1 It is accepted that in carrying out the Council's overview and scrutiny functions Members may require an Officer to attend to answer questions or to discuss issues.

- 7.2 It is recognised by this Protocol that challenge in a constructive and non-confrontational way is important in ensuring policies and performance are meeting the Council's strategic objectives. Therefore, nothing in this Protocol is intended to stop Members holding Officers to account for decisions made under delegated powers. Nor is it intended to affect the Council's overview and scrutiny functions
- 7.3 When deciding whether to require an Officer to attend, the body will consider the seniority of the Officer it would be appropriate to invite. There is a presumption against inviting Officers outside the senior Officers' range to attend in this capacity. Requests for Officer attendance should be made to the Director concerned. Such requests should indicate in broad terms the areas which Members will want to discuss, and should give reasonable notice of the dates when attendance is needed
- 7.4 Where an Officer attends such a body his/her contribution should be confined to matters of fact and explanation. However, an Officer may be asked to explain and justify advice which he/she has given prior to a decision having been taken, including decisions taken by him/her under delegated powers.
- 7.5 Officers should not be drawn, overtly or covertly, into discussions of a political nature which would be inconsistent with the political neutrality requirement. Any questioning of an Officer should not be reasonably interpreted as constituting harassment.
- 7.6 In overview and scrutiny proceedings the capability or competence of Officers must not be questioned. The distinction needs to be drawn between reviewing the policies, performance and decisions of the Council or its services and the appraisal of staff's individual performance. The latter is not a function of overview and scrutiny bodies.
- 7.7 The approach here is consistent with the Overview and Scrutiny Procedure Rules as set out in the Council's Constitution.
- 7.8 In applying this part of the Protocol, account will be taken of any guidance agreed by Overview and Scrutiny bodies provided that guidance is consistent with the principles of this Protocol.

## **8.0 POLITICAL GROUPS**

- 8.1 The Chief Executive, together with Directors and Heads of Service and occasionally other employees all with the permission of the Chief Executive may at times decide that it is appropriate to attend a political group meeting with a view to briefing and advising on the formulation of policy. This may be of his/her own initiative or at the request of a political group. However, the decision on whether he/she should attend is the Chief Executive's, in either case.
- 8.2 If the Chief Executive decides that he/she or another Officer may attend a political group meeting and it concerns a proposed significant policy change which is about to be presented to a meeting of the Council, Executive or

committee, then he/she must offer the facility to all other political groups within the Authority, indicating the area of policy upon which he/she is offering to brief/advise. He/she will inform the leader of the political group with whom he/she is having the meeting that he/she will be offering the facility to the other political groups.

8.3 Certain points must be clearly understood by all those participating in this process, Members and Officers alike. In particular:

(a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meeting, or parts of meeting, when matters of party business are to be discussed;

(b) political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and

(c) similarly, where Officers provide information and advice for a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant committee when the matter in question is considered.

8.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

8.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

## **9.0 MEMBERS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS**

9.1 The Council's Constitution (Part 4) sets out in the provisions relating to Members' access to information. The key issue to note for the purposes of this Protocol is that Members should not put undue pressure on officers to release information and documents to which they are not entitled to have access. Reference should be made to the provisions relating to Members' access to documents contained in the Access to Information provisions inserted into the Local Government Act 1972, particularly the restrictions in s. 100F(2).

- 9.2 Members have a right to request from any Directorate relevant information or advice which they might reasonably need to assist them to discharge their functions as Members of the Council. This information can range from general information regarding the Directorate's functions to specific enquiries on behalf of constituents.
- 9.3 Members have a statutory right to inspect documents relating to any business to be transacted in the open section of the agenda for a Council, committee or sub-committee meeting, irrespective of whether or not they are a Member of that committee or sub-committee. This right applies additionally to relevant background papers. The right does not, however, extend to documents which have been deemed to contain "exempt information" as defined in Schedule 12A, Part 1 of the Local Government Act 1972. Exemption categories are set out in Part 4 of the Constitution – Access to Information Procedure Rules. In respect of access to such information, a Member will normally be expected to justify a request in specific terms.
- 9.4 The common law rights of Members, which are broader, are based on the principle that any Member has a *prima facie* right to inspect Council documents insofar as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This is commonly referred to as the "need to know" principle. In respect of the Council / committee papers referred to above, a Member's "need to know" will normally be presumed.

The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination for the "need to know". This question must initially be determined by the particular Director whose Service holds the document in question (with advice, if necessary, from the Director of Legal & Democratic Services).

## **10.0 CORRESPONDENCE BETWEEN MEMBERS AND OFFICERS**

- 10.1 Correspondence between an individual Member and an officer will not as a matter of course be copied (by the officer) to any other Member. Where correspondence is copied to another Member, this should be made clear to the original Member. In other words, a system of "silent copies" should not be employed. Members will, of course, bear in mind that officers will brief Chairman and Executive Members on a regular basis as part of the ordinary decision making process.
- 10.2 Where an officer corresponds with a Member on a matter of general interest in his or her ward, it is in the best interests of the Council to ensure that other Members in the locality are informed of such matters. In these circumstances, copies of correspondence will normally be sent to all Members in the locality unless there is a reason why this is not appropriate (such as it involves an individual) or for a specific reason from the Member concerned.

- 10.3 Official letters on behalf of the Council should normally be sent out under the name of the appropriate officer, rather than under the name of a Member. It will be appropriate in certain circumstances (e.g. representations to a Government Minister or other organisations) for a letter to appear under the name of a Member (this is most likely in the case of an Executive Member or Chairman), but this should be the exception rather than the norm. Letters which, for example, create obligations or give instruction on behalf of the Council should never be sent out under the name of a Member. When Members use official Council notepaper, they should be careful to ensure that it is for the discharge of their duties as a Member and not in any private capacity.

## **11.0 WARD COUNCILLORS' REPRESENTATIVE ROLE**

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members should be notified at the outset of the exercise.
- 11.2 Officers will seek both to inform and to keep Members informed about any initiative which is being developed under their control. However, Members must be aware of the pressures on officers' time and that officers may exercise judgement as to how much information is provided.
- 11.3 If a meeting is being arranged by a Member(s) on a ward issue, they can decide not to invite other ward Members. Officers can be invited to attend such meetings. If an officer attends a meeting and a Member who was not present requests information about what was discussed the officer should provide this information, as long as the information is not commercially sensitive, does not breach Data Protection and or any confidentiality and should also inform the lead Executive Member.
- 11.4 When a meeting dealing with a ward issue is arranged by an external body, group or person, they can be advised of the Council's guidance for officers arranging meetings and encouraged to follow this guidance. Where a meeting is arranged and an officer is invited, but not all the relevant ward Members are invited, the officer should request an explanation from the organiser before agreeing to attend. If officers attend such a meeting where there is no adequate reason for the differing treatment of Members or if the meeting is 'political' (i.e. only Members from a specific party/parties are invited to attend), an equitable parity for the ward Members is not being provided. In such instances, officers should not attend the meeting, unless there is an overriding justification to attend, and they should communicate this to all relevant Members in advance of the meeting.
- 11.5 Officers will, if asked by local residents for advice on how to contact a Member, guide the resident in the first instance to approach their own Ward Councillors for the area where they live. On occasion residents may choose to contact a Member in another ward and/or from a different political party.



- 11.6 At all times, officers need to be mindful of the sensitivities when dealing with issues raised by residents and/or Members in order that information, particularly personal data, is treated with great care and not shared in an indiscriminate manner or in breach of Data Protection principles.
- 11.7 Members frequently receive correspondence from their ward constituents and are asked to respond to and help with a variety of issues as they arise. There is an expectation that Members will deal with issues arising within their own wards that are referred to them by constituents. Members will not deal with issues that originate from outside of their ward unless:
- the relevant ward councillors are unable to deal with the issue
  - the constituent expressly indicates that they do not wish to involve the ward councillors for their area
  - the Member concerned has another link to the ward, for example, as a Member of a Friends Group
- 11.8 In the event of any of the above scenarios being applicable, the Member concerned will advise the relevant ward councillors as a matter of courtesy. It is also recognised that there may be occasions where constituents contact the Mayor, the Leader of the Council, Opposition Group Leaders or Executive Members for assistance with a particular matter. In such instances, the protocol that Members from that specific ward will deal with matters from their ward will be applicable, unless any of the exceptions in the above paragraph are applicable.
- 11.9 Where a Ward Councillor has taken lead responsibility for communicating with or meeting with an individual or group over an issue that they raised, officers should ask that councillor if other ward councillors need to be made aware of the issue or invited to relevant meetings on the issue. If there is no need for the other ward members to be aware then officers may deal directly with the ward councillor who has taken lead responsibility, but will be bound by 11.3 above in relation to requests for information from other Members. If other councillors have been involved or the issue is of significance to the wider ward then all ward councillors should be involved.

## **12.0 CEREMONIAL EVENTS**

- 12.1 The Mayor, or in his/her absence, the Deputy Mayor, will be the appropriate person to lead Council ceremonial events and to represent the Council by invitation at ceremonial events of other organisations. Where an event is specifically associated with an Executive function, the Leader of the Council and the appropriate Executive Member should be invited.
- 12.2 Appropriate Executive Members and Chairmen of Committees, or where they are not available, Vice-Chairmen, should be invited to ceremonial events within the scope of their portfolio or committees. Where the relevant Executive Member is not available, the Leader of the Council should be invited to the event or another Member of the Executive.

12.3 Local Members should always be informed of, and where possible, invited to ceremonial events taking place within their wards. The same also applies to the leaders of the political groups.

12.4 Any Member taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage bearing in mind that the Member is representing the Council as a whole.

### **13.0 ACCESS TO PREMISES**

13.1 Officers have the right to enter Council land and premises in order to carry out their work. Some Officers have the legal power to enter property in the ownership of others.

13.2 Members have the right of access to Council land and premises to fulfil their duties.

13.3 When making visits as individual Members, Members should:

- notify and make advance arrangement with the appropriate manager or Officer in charge (unless this is not practicable);
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit; and
- notify ward Members beforehand if visiting somewhere outside his/her own ward.

### **14.0 USE OF COUNCIL RESOURCES**

14.1 All Members are provided with ICT to enable them to type, print and photocopy documents and stationary to assist them in discharging their roles as Members. These goods and services are paid for by public funds and should only be used for Council purposes.

14.2 Members should not ask Officers to provide resources or support which they are not permitted to give, for example support or resources

- which are to be used for business which is solely to do with a political party;
- for work in connection with a ward or constituency party political meeting or electioneering;
- for work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- for private personal correspondence;

- for work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and
- which constitutes support to a Member in his/her capacity as a member of another authority.

## **15.0 BREACHES OF THE PROTOCOL**

- 15.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Director or Head of Service. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive, and in the case of a Head of Service with the appropriate Director. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.
- 15.2 Where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate, in certain circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Standards Committee if appropriate.
- 15.3 Breaches of the Protocol by a Member may also constitute a breach of the Members Code of Conduct.

## **16.0 STATUS OF THIS PROTOCOL**

- 16.1 This Protocol was approved by Council on 22nd May 2013. It now forms part of the Council's Constitution. As such, it is binding on all Members including co-opted and independent Members, and Officers.
- 16.2 This Protocol shall apply, as appropriate and necessary, to any person appointed individually or on behalf of a body or organisation to advise support or assist the Authority in its work.

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## **PART 6**

# **MEMBERS' ALLOWANCES SCHEME**

## MEMBERS' ALLOWANCES SCHEME

The Trafford Metropolitan Borough Council (“the Authority”), in exercise of the powers conferred by the Local Authorities (Members’ Allowances) (England) Regulations 2003 (as amended) hereby makes the following Scheme:

1 This Scheme may be cited as the Trafford Metropolitan Borough Council Members’ Allowances Scheme.

2 In this Scheme

“councillor” means an elected member of the Trafford Metropolitan Borough Council;

“co-optee” means a person who is not an elected member of Trafford Metropolitan Borough Council but is a voting member of a committee or sub-committee of the Authority;

“year” means the period from 1<sup>st</sup> July 2013 to 31<sup>st</sup> March 2014 and each 12 month period thereafter from 1<sup>st</sup> April until 31<sup>st</sup> March.

### Basic Allowance

3 (1) Subject to paragraph 8, for each year the basic allowance specified in Schedule 1 hereto shall be paid to each councillor.

(2) The basic allowance referred to in paragraph 3 shall be inclusive of all travelling expenses, whether by public or private transport except in the following circumstances:

(a) Councillors who are members of the Planning and Development Management Committee who are required to visit sites which are the subject of planning applications shall be paid the amount specified in the schedule to reflect the additional travelling expenses resulting from those visits. Substitute Members of the Planning and Development Management Committee should not be eligible for an additional travelling allowance given that the basic allowance includes an element towards travelling expenses within the borough.

(b) Councillors and co-optees who are required to travel on Council business outside the boundaries of the Borough shall be paid travelling and subsistence allowances as set out in Schedule 2 hereto. All car allowance will be paid at the minimum rate.

(c) Councillors who are registered disabled shall be reimbursed taxi fares or have the fares otherwise paid for provided that

(i) public transport is not reasonably available; and

- (ii) the journey is necessary in order to attend or return from an approved duty which includes duties necessarily undertaken as part of any special responsibility.

### **Special Responsibility Allowances**

- 4
- (1) For each year a special responsibility allowance shall be paid to those councillors who hold special responsibilities in relation to the Authority that are specified in Schedule 1 to this scheme.
  - (2) Subject to paragraph 8, the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
  - (3) If any councillor is entitled to receive more than one special responsibility allowance payment shall be restricted to the highest of the relevant special responsibility allowances to which the councillor is entitled and one half of the second highest. This restriction shall not apply to the Leader of the Council for the Greater Manchester Combined Authority, Transport for Greater Manchester Committee allowance, Greater Manchester Waste Disposal Authority allowance and Social Services Visits allowance which shall be paid in addition to any other special responsibility allowance to which a councillor may be entitled.
  - (4) To be eligible for special responsibility payments, the Main Opposition Leader, Deputy Opposition Leader and Shadow Cabinet Members must represent a group holding at least 25% of the seats on the Council. Shadow Executive arrangements should reflect the composition of the Council's Executive and as such the special responsibility allowance for the Deputy Opposition Leader should only be applicable to a shadow executive member appointed as Deputy Opposition Leader.
  - (5) To be eligible for the special responsibility allowance for Social Services Visits a nominated councillor must meet the following conditions:-
    - (i) be cleared under the CRB checking procedure
    - (ii) carry out the monthly visits as assigned by the Social Services Central Support Unit and adhere to any agreed procedures relating to visits to social services establishments

If a councillor, without good cause, fails to carry out any of his/her assigned visits for a period of two consecutive months that councillor shall cease to be eligible to receive the allowance and shall repay any instalments of the allowance paid for any month when he/she failed to carry out the assigned visits.

If a councillor is unable, for any reason, to carry out visits for a period of time that councillor will, for that period of time, cease to be eligible to receive the allowance.

- (6) A special responsibility allowance is allocated to Licensing Sub-Committee Chairmen on a pro-rata basis in accordance with the number of meetings chaired and is to be paid 12 months in arrears. The Chairman of the Licensing Committee has responsibility to ensure that the chairing of Licensing Sub-Committee meetings is shared equally amongst the Licensing Sub-Committee Chairmen.

### **Childcare and Dependants' Carers' Allowances**

- 5 The Authority has agreed that a childcare and dependant carers' allowance should be paid. This allowance will be paid based on actual costs incurred, on production of receipts, up to a maximum as detailed in Schedule 1 of this Scheme, for attendance on approved duties as set out in Schedule 3 hereto. This allowance cannot be claimed where the carer is another member of the councillor's household.

### **Co-optees' Allowances**

- 6 (1) Subject to paragraphs 6(2) and 8 for each year the relevant allowances specified in Schedule 1 hereto shall be paid to each relevant co-optee.
- (2) Allowances shall not be paid to co-optees under 6(1) if they are already being paid by any employer or other organisation to attend the committee or sub-committee on which they are a co-optee.
- (3) The amount of any allowance paid to a co-optee who chairs an Overview and Scrutiny Committee shall not be less than the minimum amount of any Special Responsibility Allowance payable under the Council's Scheme to a person who chairs any other committees or sub-committees of the Council.

### **Renunciation**

- 7 A councillor or co-optee may, by notice in writing given to the Chief Executive, elect to forgo any part of his/her entitlement to an allowance under this Scheme.

### **Part Year Entitlements**

- 8 (1) the provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.



- (2) If an amendment to this scheme changes the amount to which a councillor is entitled by way of basic allowance or a special responsibility allowance, then in relation to each of the periods
- (a) beginning with the year ending with the day before that on which the first amendment in that year takes effect, or
  - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year.

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (3) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to basic allowance shall be to the payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his or her term of office subsists bears to the number of days in that year.
- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph (2)(a), the part entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his or her term of office as a councillor subsists bears to the number of days in that period.
- (5) Where a councillor has during part of, but not throughout a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to the payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he or she has such special responsibilities bears to the number of days in that year.
- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

- (7) this paragraph also applies to co-optees in respect of the allowances to which they are entitled.

### **Annual Adjustment**

- 9 (1) The Members' Allowance scheme, including the Dependants' Carers' Allowance, will be adjusted annually before the start of each year and the allowances (excluding travelling and subsistence allowance) will be increased by the amount of the annual pay award by the National Joint Council for Local Government Service
- (2) The annual adjustment in 9 (1) shall take place for the years commencing 1<sup>st</sup> April 2014, 2015 and 2016.

### **Claims and Payments**

- 10 (1) Claims for travelling and subsistence and Dependants' Carers' allowances under this Scheme shall:
- (i) be made in writing to the Chief Finance Officer within two months of the date of the approved duty in respect of which the entitlement to the allowance arises; and
  - (ii) specify the duty in respect of which the claim is submitted and shall be accompanied by any receipt for the expenditure incurred.
- (2) Payments shall be made in respect of basic, special responsibility and other allowances (except as set out in 10 (1) in instalments of one-twelfth of the amount specified in this scheme on the fifteenth day of each month and shall be subject to taxation and national insurance contributions.

### **Other Authorities**

- 11 If a councillor or co-optee is also a member of another authority, that councillor or co-optee must not receive allowances from more than one authority in respect of the same duties.

### **Revocation of Previous Allowances Scheme**

- 12 The previous Members' Allowances Scheme is hereby revoked, without prejudice to a Councillor's entitlement to payments under that scheme.

## SCHEDULE 1

### MEMBERS' ALLOWANCES 2015/16

	<b>Annual Allowance £</b>
<b>Basic Allowance</b>	6,492
<b>Special Responsibilities</b>	
Leader of the Council	25,968
Deputy Leader of the Council	18,176
Main Opposition Leader	12,983
Minority Opposition Leader	2,595
Cabinet/Executive Members (except Deputy Leader)	12,983
Deputy Executive Members	6,491.50
Shadow Cabinet/Executive Members (including Deputy Opposition Leader)	2,595
Shadow Deputy Executive Members	1,297.50
Planning & Development Management Committee Chairman	10,388
Licensing Committee Chairman	10,388
Committee Chairmen	7,789
Committee Vice-Chairmen	3,895
Chairman of Standards Committee	2,295
Opposition Spokespersons (Planning & Development Management and Licensing)	2,595
Transport for Greater Manchester Committee (TfGMC): Trafford Members	
▪ TfGMC Members Allowance (Paid to all those not holding other remunerated TfGMC post)	3,909
▪ Responsibility Allowances:	
• The Chair of TfGMC	28,872
• 3 Vice Chairs of TfGMC / Chairs of the Sub- Committees	14,436
• 3 Deputy Chairs of the Sub-Committees	5,161

Greater Manchester Waste Disposal Authority (GMWDA): Trafford Members	
▪ TfGMC Members Allowance (Paid to all those not holding other remunerated TfGMC post)	2,146
▪ Responsibility Allowances:	
• The Chair of GMWDA	12,264
• 3 Vice Chairs of GMWDA	5,519
• 3 Deputy Chairs of GMWDA	2,657
Greater Manchester Combined Authority (restricted to Leader of the Council)	9,591
Licensing Sub-Committee Chairmen	3,246 (pro rata to Number of meetings chaired)
<b>Co-optees' Allowances:</b>	
Other co-optees	1,148
Standards Committee	767
<b>Other Allowances:</b>	
Social Services Visits	612
Planning Development Control Travel Allowance	389
Childcare/Dependant Carers' Allowance	Up to £83 per week
Independent Person	£1022
	An additional rate of £30 per hour should be paid for any work that is required in excess of five days input.

## SCHEDULE 2

### TRAVELLING AND SUBSISTENCE ALLOWANCES

#### **Car Allowance**

46.9p per mile (if used outside the Borough)

#### **Bicycle Allowance**

30p per day (if used outside the Borough)

#### **Subsistence Rates**

Breakfast	£4.48
Lunch	£6.17
Tea	£2.43
Evening Meal	£7.64

#### **Out of Pocket Allowances (Residential Training Courses)**

Per night	£3.63
Per week	£14.55

## SCHEDULE 3

### APPROVED DUTIES

1. A meeting of the Executive
2. A meeting of a Committee of the Executive
3. A meeting of the Authority
4. A meeting of a Committee or Sub-Committee of the Authority
5. A meeting of any other body to which the Authority makes appointments or nominations
6. A meeting of a committee or Sub-committee or any other body to which the Authority makes appointments or nominations
7. A meeting which has both been authorised by the Authority, a committee or Sub-Committee of the authority or a Joint Committee of the Authority and one or more other Authorities, or a Sub-committee of a Joint Committee and to which representatives of more than one political group have been invited (if the Authority is divided into political groups) or to which two or more Councillors have been invited (if the Authority is not divided into political groups).
8. A meeting of the Local Authority Association of which the Authority is a member.
9. Duties undertaken on behalf of the Authority in pursuance of any standing order made under Section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened.
10. Duties undertaken on behalf of the Authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.
11. Duties undertaken on behalf of the Authority in connection with arrangements made by the Authority for the attendance of pupils at a school approved for the purposes of Section 342 of the Education Act 1996.
12. Panels and Working Parties
13. Joint Briefings
14. Visiting teams/Committee visits.

15. Any other duty approved by the Council for the purposes of, or in connection with, the discharge of the functions of the Council, or of any of its Committees or Sub-Committees.
16. Any duty for the purpose of, or in connection with, the discharge of the functions of the Executive.
17. Mayoral duties undertaken by the Mayor and Deputy Mayor of Trafford.

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# TRAFFORD COUNCIL

## *Financial Procedure Rules January 2017*

## FINANCIAL PROCEDURE RULES

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**The Council's Financial Procedure Rules should be read in conjunction with other regulations and guidance published by the council, including, but not limited to, the Constitution. Specific reference is made to the Scheme of Delegation to Officers which specifies the relative roles and responsibilities of key officers.**

**The Corporate Directors of each Directorate are responsible for ensuring that all staff are aware of the existence and content of such documents and for compliance with them.**

# FINANCIAL PROCEDURE RULES

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# **1 INTRODUCTION**

- 1.1 These Financial Procedure Rules are a written code of procedures approved by Trafford Borough Council (the Council) to provide a framework for proper financial management. The Financial Procedure Rules form part of the Council's Constitution and set out rules on accounting, audit, administrative procedures and budgeting systems. Importantly, they will be continuously updated and refined in the context of the Council's changing structure and methods of operating.
- 1.2 To conduct its business efficiently, the Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to. Part of this process involves the establishment of Financial Regulations that set out the Council's financial policies.
- 1.3 All decisions which have financial implications must have regard to proper financial control and value for money. If there is any doubt as to whether a financial proposal is appropriate, or whether a financial action is correct, this must be clarified with the Chief Finance Officer in sufficient time to allow for appropriate consideration in advance of the decision or action being taken.
- 1.4 Failure to follow Financial Procedure Rules or financial instructions issued by the Chief Finance Officer under Financial Procedure Rules may result in action under the Council's disciplinary procedures.
- 1.5 The Council's governance structure is laid down in its Constitution, which sets out how the Council operates, how decisions are made and the procedures that are to be followed.
- 1.6 As part of authorities' governance arrangements, there is a statutory requirement for each Council to appoint an officer to be responsible for its financial affairs. For Trafford Council this officer is the Chief Finance Officer.
- 1.7 These Financial Procedure Rules must be followed by all officers of the Council, in conjunction with the Council's Constitution and the Accounts and Audit Regulations. All financial arrangements should also comply with current relevant statutory requirements and European legislation.
- 1.8 These Financial Procedure Rules do not apply to schools. Financial Procedure Rules for Schools are detailed in a separate document which has been provided to all maintained schools.
- 1.9 In line with the CIPFA Good Practice guidance, each section of the Financial Procedure Rules follows the format set out below:
  - Why is this important?
  - Financial Procedure Rules (FPR)
  - Responsibilities of the Chief Finance Officer
  - Responsibilities of Management

## **2 STATUS OF FINANCIAL PROCEDURE RULES**

- 2.1 Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf.
- 2.2 The Financial Procedure Rules identify financial responsibilities of individuals including; Executive Members, Council Members, Officers, the Chief Executive, the Director of Legal & Democratic services, the Chief Finance Officer, other Directors and Budget Holders. Any delegation of the financial responsibilities described in these Financial Procedure Rules must be recorded in writing.
- 2.3 Where such responsibilities are delegated, the officer to whom the responsibilities have been delegated must provide sufficient information to the Executive Member or relevant Director on request, in order to give assurance that all responsibilities and decisions have been performed in accordance with these Financial Procedure Rules. Where decisions have been delegated or devolved to other responsible officers, references to the relevant Member or Officer in the Rules should be read as referring to them.
- 2.4 All Members and Officers of the Council have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, and provides value for money.
- 2.5 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Executive Members. The Chief Finance Officer shall be authorised to temporarily suspend application of the Financial Procedure Rules in exceptional circumstances.
- 2.6 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Members, Officers and others acting on behalf of the Council are required to follow.
- 2.7 Any person charged with the use or care of the Council's resources and assets should inform themselves of the Council's requirements under Financial Procedure Rules, with any queries being referred to the Chief Finance Officer.
- 2.8 All Corporate Directors should ensure that any financial procedures/guidelines produced by their departments in support of financial control are fully compliant with the Financial Procedure Rules and the agreement of the Chief Finance Officer should be obtained where such financial procedures are developed.
- 2.9 The word 'should' in the Financial Procedure Rules implies a duty or obligation to act in the way outlined.
- 2.10 Any proposals for changes or amendments to the Financial Procedure Rules must be forwarded to the Chief Finance Officer for consideration.

- 2.11 All Council employees must report to their manager, supervisor or other responsible senior officer, any illegality, impropriety, breach of procedure or serious deficiency discovered in the following of financial procedures. Managers must notify immediately and confidentially the Chief Finance Officer, or if not appropriate the Chief Executive or Director of Legal & Democratic Services (the Monitoring Officer), where it appears that such a breach has occurred.

### **3 GENERAL RESPONSIBILITIES OF THE CHIEF FINANCE OFFICER**

- 3.1 Subject to the overall control of the Council and the Executive on matters of policy, the Chief Finance Officer is responsible for the proper administration of the Council's financial affairs through:
- (i) advising the full Council, Executive and all Committees and officers on accounting and financial matters;
  - (ii) supervising the arrangements for the receipt of monies due to the Council, payment of monies due from the Council, and the Council's treasury management and insurances;
  - (iii) the format and preparation of the annual estimates and the presentation of these to the Executive and the Council, ensuring that a balanced, robust and sustainable budget has been set;
  - (iv) the preparation and presentation of the statement of accounts of the Council;
  - (v) the operation of bank accounts.
- 3.2 The Chief Finance Officer is responsible for approving and controlling all accounting and financial systems in all departments of the Council, including the form of any documents and records used.
- 3.3 All Directors must notify the Chief Finance Officer as soon as possible of any matter within their area of responsibility which may affect the financial position of the Council.
- 3.4 When any changes in service are contemplated, a report must be prepared, in conjunction with the Chief Finance Officer, containing financial appraisals prior to submission to the Executive.
- 3.5 The Chief Finance Officer is responsible for ensuring that there is an effective Financial Scheme of Delegation and that this scheme is followed in practice within Trafford.
- 3.6 Only the Chief Finance Officer, or Officers specifically nominated and authorised by the Chief Finance Officer, are to undertake the general responsibilities outlined in this section. It is contrary to the Financial Procedure Rules for any other officer to assume or to allow others to believe that they have assumed these responsibilities.

## **FPR1 BUSINESS AND FINANCIAL PLANNING**

The Council's and Executive's responsibilities in respect of budget and policy are set out in the 'Budget and Policy Framework Procedure Rules' contained in the Council's Constitution.

### **Why is this Important?**

*Planning is a dynamic and continuous process and is a fundamental tool in the management and control of the organisation. Financial planning is a key part of this process, setting out the financial consequences of the actions planned to meet the objectives and targets set within the plan.*

*The financial plans do not stand in isolation, and in essence are the evaluation of major strategic plans of the Council, which must be developed within the framework of the budget and the Corporate Plan. This will be a two-way process with the development of these specific plans influencing the development of the budgets and Corporate Plan, and vice versa. This evaluation is critical to the organisation, as the availability of finance is often the critical factor in determining the pace of development towards key objectives.*

### **Budgeting**

#### **Why is this Important?**

*The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.*

*The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a Council to budget for a deficit.*

*Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. As capital expenditure can involve very large sums of money it is important that capital projects are carefully appraised and managed to ensure that the project objectives are delivered.*

*The Local Government Act 2003 established a system for capital financing based on a prudential framework. Local authorities have the freedom to borrow funds to finance their capital programmes, without Government consent, subject to local authorities ensuring that their plans are affordable, prudent, sustainable and based upon sound treasury management. Capital expenditure should form an essential part of the Council's asset management strategy and should be carefully prioritised in line with Council policy in order to maximise the benefit of scarce resources.*

*As set out in the 'Budget and Policy Framework Procedure Rules', each year, the Executive must submit its revenue and capital estimates of expenditure and income to the Annual Budget Meeting of the Council.*

**The rules for revenue and capital budgets are:**

- 1.1 Budget Holders are defined as the Chief Executive, Corporate Directors, Directors, Heads of Service and Strategic Leads, together with any other Officer with the relevant delegated authority to control and monitor budgets. Budget Holders must be consulted in the preparation of the budgets for which they are responsible and accountable for;
- 1.2 Budget Holders are responsible for the day to day control of income and expenditure against a set budget for a cost centre, or group of cost centres that make up the area for which they have operational responsibility;
- 1.3 as part of the monitoring process, Budget Holders must review regularly the effectiveness and operation of revenue budget preparation and ensure that any corrective action is taken;
- 1.4 under the Local Government Act 2003, the Chief Finance Officer is required to prepare a report, for use when the Council is deciding its annual budget and council tax, on the robustness of the budget and the adequacy of the Council's reserves. The Government has a back-up power to impose a minimum level of reserves on a Council that it considers to be making inadequate provisions;
- 1.5 each year the Chief Finance Officer, in consultation with Directors and Heads of Service, will roll forward the Capital Investment Programme. The Executive shall consider all proposals for capital spending against available resources. The Capital Investment Programme is approved annually in February by the Council. Any increase to the total approved budget must be agreed by the Full Council, unless the increase is financed from external resources;
- 1.6 any new proposals involving capital investment need to be evaluated and are subject to the prioritisation and appraisal process as referred to in the Council's Capital Strategy before being considered for inclusion in the Programme;
- 1.7 if the acceptable tender amount is below the approved estimate, no works other than those included in the tender will be included without the express approval of the Chief Finance Officer;
- 1.8 the Council's de-minimis level for any single item of capital expenditure is £10,000. Anything below this should be treated as revenue expenditure. Exceptions to this level will be made for items of capital expenditure that are financed by specific grant.



## **FPR2 MAINTENANCE OF RESERVES**

### **Why is this Important?**

*Every authority must decide upon the level of general reserves (balances) it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained. When a Council is deciding its annual budget and council tax level it is required by statute to take into account a report from the Chief Finance Officer on the adequacy of the Council's reserves and robustness of the budget. The Government has a reserve power to impose a minimum level of reserves on a Council that it considers to be making inadequate provisions.*

### **The rules for Maintenance of Reserves are:**

- 2.1 the Council must establish and maintain reserves in accordance with the Local Government Act 2003, the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC) and agreed accounting policies;
- 2.2 requests for reserves and provisions must be submitted by Directors to the Chief Finance Officer for approval. This does not apply to underspend amounts required to be carried forward in accordance with the Medium Term Financial Plan (MTFP);
- 2.3 for each reserve established, the purpose, usage and basis of transactions must be clearly identified;
- 2.4 when requested and in any event, always at the financial year end, the Directors shall provide the Chief Finance Officer with a statement of reserve balances held and movements therein.

## **FPR3 BUDGET MANAGEMENT**

### **Budgetary Control & Monitoring**

#### **Why is this Important?**

*Budgetary control and monitoring ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.*

*By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity, enabling remedial action to be taken, where necessary. The Council itself operates within an annual budget allocation, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure and income within the budget allocated to it (i.e. controllable budget).*

*For the purposes of budgetary control by Budget Holders, a budget will normally be split into controllable and non-controllable for a service area or cost centre, with the service managers being held accountable for the controllable elements of the budget.*

#### **Budgetary Control & Monitoring rules**

##### **Procedure rules for managing and controlling the revenue budget are:**

- 3.1 the responsibility of the Council for budget monitoring and control, under the Local Government Act 2003 is acknowledged;
- 3.2 every budget should have an appointed Budget Holder – ideally only one;
- 3.3 Budget Holders shall be accountable for the budgets under their control;
- 3.4 Budget Holders must accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- 3.5 Budget Holders will follow an approved certification process for all expenditure;
- 3.6 Budget Holders shall ensure that income and expenditure must be properly recorded and accounted for;
- 3.7 Budget Holders shall ensure that performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget;
- 3.8 the Chief Finance Officer in consultation with the Executive Member for Finance shall establish an appropriate format and frequency for monitoring the Council's financial performance in compliance with regulations and best practice.

3.9 Budget Holders may not incur any expenditure in excess of budget (taken as an aggregate amount across all areas of the revenue budget in their control, after correct and proper accounting adjustments) without a robust plan to recover such overspending (or under achievement of income) over the following accounting period. Any expenditure in excess of the budget must be specified in the appropriate financial reports as determined by the Chief Finance Officer in consultation with the Executive Member for Finance.

**Procedure rules for managing and controlling the capital budget are:**

3.10 each capital scheme must have a named Budget Holder who is accountable for it;

3.11 the accountable named officer must advise the Chief Finance Officer as soon as appropriate of all proposed variations to approved budgets;

3.12 the accountable named officer must notify the Chief Finance Officer:

- if a significant alteration of the nature of works is recommended
- a significant extension of time is granted or a significant delay has arisen
- a contractor or other body has submitted a claim which would result in a final account sum of £10,000 or more above the original contract sum
- the contractor has ceased trading or is in liquidation

3.13 Budget Holders are responsible, with the assistance of the Chief Finance Officer, to explain any variances of financial performance from gross budgets which are in excess of £100,000 in terms of operational activity;

3.14 the Chief Finance Officer shall report to the Executive on a quarterly basis detailing progress of capital schemes against approved budget as well as general scheme progress, and include any variations to the overall budget.

## FPR4 VIREMENT

### Why is this Important?

*The scheme of virement is intended to enable the Executive, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.*

#### **Virement rules:**

- 4.1 the overall budget is agreed by the Executive and approved by the Council. Budget Holders are therefore authorised to incur expenditure in accordance with the remits of the approved budget. The Financial Procedure Rules below cover virement; that is, the reallocation of financial resources after approval by the Council between approved estimates or heads of expenditure. For the purposes of these Financial Procedure Rules, revenue budget heads are defined by Council, usually listed in the annual budget report as the budget categorised objectively and similarly capital virements are movements between project heads, also defined by the Council and listed in the budget report;
- 4.2 a virement does not create additional overall budget liability. Budget Holders are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Budget Holders must plan to fund such commitments from within their own budgets;
- 4.3 Budget Holders shall be subject to the delegated authority, limits and specific procedures for virements specified below:

## **Virements - Instructions to Budget Holders**

A virement is a transfer of funds between cost centres. There are two types: permanent and temporary.

Temporary virements are on a non-recurring basis and permanent virements are recurring year on year, this distinction is important as permanent virements effect planning budgets as well as in year budgets.

For a permanent virement that has a part year effect and to ensure that the planning budget (2) is accurate, the whole of the permanent virement must be input in plans V1 and 2 and then plan V1 amended by a temporary virement for the part of year.

Printouts from the financial system, from before and after the transaction, must be held with the virement form and kept on record for inspection and audit trail purposes.

Virements must not be used to move centrally apportioned budgets (non-controllable recharges) as required under Service Accounting Code of Practice (SERCOP) to directly controllable budgets and vice versa;

### **Authorisation of virements must adhere to the following rules:**

<b>VIREMENT TYPE</b>	<b>MAXIMUM DELEGATED LIMIT</b>	<b>AUTHORISER</b>
Level 1 Virement - Movements within a cost centre.	Any	Budget Holder.
Level 2 Virement Between cost centres, but within the same Budget Head as categorised objectively.	Any	All respective Executive portfolio holders, Chief Executive, Deputy Chief Executive, Executive Directors, Directors, Strategic Leads and Heads of Service.

<p>Level 3 Virement - Between Budget Head as categorised objectively.</p>	<p>up to £500k</p>	<p>(Revenue) All respective Executive portfolio holders, Chief Executive, Deputy Chief Executive, Executive Directors, Directors.</p> <p>(Capital) Chief Finance Officer if expenditure is supported by Grant, Developer Contribution or capital receipt.</p>
<p>Level 4 Virement - Between Budget Head as categorised objectively.</p>	<p>Between £500k and £1,500k if no change to net budget.</p> <p>Over £1,500k if no change to net budget.</p>	<p>(Revenue) Chief Finance Officer in consultation with Executive Portfolio holder.</p> <p>(Capital) – Chief Finance Officer in consultation with Executive Portfolio holder if expenditure is supported by Grant, Developer Contribution or capital receipt.</p> <p>(Revenue) Chief Finance Officer in consultation with the Leader of the Council, Deputy Leader and Executive Portfolio holder.</p> <p>(Capital) – Chief Finance Officer in consultation with the Leader of the Council, Deputy Leader and Executive Portfolio holder if expenditure is supported by Grant, Developer Contribution or capital receipt.</p>
<p>Level 5 Virement - Between Budget Head as categorised objectively.</p>	<p>Any if it results in a change to net budget.</p>	<p>(Revenue) Council</p> <p>(Capital) – Council for any new capital expenditure supported by borrowing or discretionary resources.</p>

## **FPR5 ACCOUNTING**

### **Why is this important?**

*Secure and reliable records and systems are important so we can:*

- *process and record financial transactions and information;*
- *support how we use public money; and*
- *meet regulations and best practice.*

### **Accounting rules**

The Chief Finance Officer shall:

- 5.1 determine accounting systems and procedures and the form of financial records;
- 5.2 provide guidance and advice on all accounting matters;
- 5.3 monitor accounting performance to ensure an adequate standard for all services;
- 5.4 certify financial returns, grant claims and other periodic financial reports required of the Council;
- 5.5 approve grant bids and any financial arrangement which could impose a financial liability on the Council including lease arrangements.

Directors shall:

- 5.6 adhere to accounting procedures and adopt the form of financial records and statements as determined by the Chief Finance Officer;
- 5.7 complete and pass to the Chief Finance Officer financial returns and other financial reports requiring certification;
- 5.8 maintain an effective and appropriate control environment for staff with finance responsibilities as advised by the Chief Finance Officer;
- 5.9 report changes to operational procedures or circumstances which affects the control environment to the Chief Finance Officer.

## **FPR6 FINAL ACCOUNTS**

### **Why is this Important?**

*The Council is required to:*

- (a) Make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs. For the Council, that officer is the Chief Finance Officer;*
- (b) Manage its affairs to secure economic, efficient and effective use of resources and safeguard its assets;*
- (c) Prepare and approve the statement of accounts in accordance with proper accounting practices.*

*The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Accounts & Audit Committee is responsible for approving the statutory annual statement of accounts.*

### **Requirements for Final Accounts**

Annual statement of accounts:

- 6.1 the Chief Finance Officer shall make arrangements for the proper administration of the Council's financial affairs and the Council shall secure that one of its officers (the Chief Finance Officer) has the responsibility for the administration of these affairs;
- 6.2 the Chief Finance Officer in consultation with the Council's Monitoring Officer (Director of Legal and Democratic Services) shall ensure that the Council complies with relevant financial legislation and best practice which has the weight of law e.g. Accounts and Audit Regulations and CIPFA Codes of Practice, which set out the statutory dates for approval and publication of the annual accounts.



## **FPR7 VALUE FOR MONEY / EFFICIENCY**

### **Why is this Important?**

*Public money should be spent with demonstrable probity and in accordance with the Council's Finance Procedure Rules. With limited funding for Council services and service user expectations increasing, it is paramount that the Council looks at ways of providing and demonstrating value for money and efficiency, with authorities having a statutory duty to achieve best value in the use of their resources. The Council's procedures should also help to ensure that services obtain value for money from their procurement and purchasing arrangements.*

### **Rules for securing value for money and efficiency are set out as follows:**

- 7.1 Service Reviews should be undertaken by aligning business planning, financial planning and risk management;
- 7.2 the Council's Contract Procedure Rules must be adhered to;
- 7.3 the Council's Procurement Strategy must be taken into consideration, as appropriate;
- 7.4 Internal Audit must assess the adequacy of internal controls as a contribution to the proper, economic, efficient and effective use of resources;
- 7.5 All decisions relating to the disposal of Council assets must be authorised by the Chief Finance Officer prior to engaging with interested parties, except for property, when surplus to requirements, which will be included in the Land Sales Programme as approved by the Executive.

## **FPR8 TREASURY MANAGEMENT**

### **Why is this Important?**

*Treasury Management is an important part of the overall financial management of the Council's affairs, incorporating the management of the organisations investments and cashflows, bankings, money market and capital market transactions, and the effective control of the risks associated with these activities and the pursuit of optimum performance consistent with those risks.*

*CIPFA's 'Treasury Management in Public Services: A Code of Practice', governs the appropriate way of administering these funds. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.*

*The Council is responsible for approving the Treasury Management Policy Statement and annual Treasury Management Strategy, setting out the matters detailed in section 6 of CIPFA's, 'Treasury Management in Public Services: A Code of Practice'. The policy statement and annual Treasury Management Strategy is proposed to the Full Council by the Executive, after prior scrutiny by the Accounts and Audit Committee.*

*The Local Government Act 2003 established a new system for capital financing having regard for CIPFA's prudential code framework (this framework includes prudential indicators, of which a number relate directly to treasury management). Local Authorities now have the freedom to borrow funds to finance their capital programmes, without Government consent, subject to local authorities ensuring that their plans are affordable, prudent and sustainable and based upon sound treasury management.*

### **Rules for Treasury Management**

The Council's borrowings and investments must comply with:

- 8.1 the CIPFA Code of Practice on Treasury Management in Local Government;
- 8.2 the Council's Treasury Policy Statement (including the Treasury Management Practices and Schedules);
- 8.3 the Annual Treasury Management Strategy (including the treasury management prudential indicators).

## **FPR9 EXTERNAL ARRANGEMENTS**

### **Partnerships**

#### **Why is this Important?**

*Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities frequently work in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.*

*Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.*

#### **Procedure rules for Partnership arrangements are:**

- 9.1 before entering into a partnership it must be ensured that the partnership has appropriate governance arrangements in place;
- 9.2 partners must be aware of their responsibilities under the Council's Financial and Contract Procedure Rules;
- 9.3 risk management processes must be in place to identify and assess all known risks;
- 9.4 project appraisal processes must be in place to assess the viability of the project in terms of resources, staffing and expertise;
- 9.5 the roles and responsibilities of each of the partners involved in the project must be formally agreed and accepted before the project commences;
- 9.6 there must be regular communication with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

## **FPR10 TRUST FUNDS**

### **Why is this Important?**

*These sums of money have been donated to the Council and can only be spent for the purpose for which they were given. They do not form part of the Council's accounts.*

### **Rules for Trust Funds**

- 10.1 The arrangements for Trust Funds are for the Council to be aware of the specific requirements for which these sums of money have been donated.
- 10.2 The Chief Finance Officer will determine the appropriate financial governance arrangements for Trust Funds.

## **FPR11 EXTERNAL FUNDING**

### **Why is this Important?**

*External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private sector providers. Funds from external agencies such as the National Lottery, and Central Government sources provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.*

#### **Procedure rules when accounting for External Funding are:**

- 11.1 key conditions of funding and any statutory requirements must be complied with and that the responsibilities of the accountable body are clearly understood;
- 11.2 funds shall only be to meet the priorities approved in the policy framework by the Council;
- 11.3 any match-funding requirements must be given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements;
- 11.4 the statutory responsibility to maintain adequate records in relation to all claims must be followed;
- 11.5 other than for property related leases, only the Chief Finance Officer and officers delegated by him/her may approve grant bids and any other arrangement which could impose a financial liability on the Council;
- 11.6 all claims for grant (both final and interim) must be certified by the Chief Finance Officer.

## **FPR12 CONTROL OF INCOME**

### **Why is this Important?**

*Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cashflow and also avoids the time and cost of administering debts.*

*Income raised through levying fees and charges is a significant proportion of the Council's overall income budget and as well as its power to target subsidy and raise resources, fees and charges have the power to affect the way that services are delivered. It can facilitate or deny access to services, change resident and user behaviour, or enable service managers to develop and improve service response to users.*

### **Income Rules**

#### **Responsibilities of the Chief Finance Officer**

- 12.1 to agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection;
- 12.2 to approve the form of all methods of receiving income, whether electronic or manual, and to satisfy himself or herself regarding the arrangements for their control;
- 12.3 to establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly;
- 12.4 to ensure money collected and deposited is reconciled to the bank account on a regular basis;
- 12.5 to ensure adequate arrangements are in place to fully protect the banking data of the council's customers, in particular those standards set out by the Payment Card Industry (PCI);
- 12.6 to agree the write-off of bad debts up to an approved limit as specified in the Officers Scheme of Delegation;
- 12.7 to keep a record of all sums written off up to the approved limit;
- 12.8 to ensure that appropriate accounting adjustments are made following write-off action.

#### **Responsibility of each Director of Service**

Each Director of Service within their own department shall make and maintain adequate arrangements to ensure:

- 12.9 all income due to the Council is identified and charged correctly, in accordance with an approved departmental charging policy. The charging policy should include the appropriate charging of VAT, and reviewed annually, in line with corporate policies;

- 12.10 all income shall be collected from the correct person, promptly, using the correct procedures and the appropriate stationery/systems as approved by the Chief Finance Officer;
- 12.11 wherever possible/practical, income should be obtained in advance, or at the time of service provision. Where credit is given, Directors must ensure that the credit status of each customer is satisfactory. Directors are responsible for issuing debtor accounts in a form approved by the Chief Finance Officer immediately a debt falls due. Each Director, in conjunction with the Chief Finance Officer must maintain adequate records to ensure that all credit income due to the Council is promptly recovered.
- 12.12 appropriate staff are identified to act as accountable officers to be custodians of money collected on behalf of the Council and ensure that:
- all money received by an employee shall be banked without delay (by deposit directly into the Council's bank account or given to an approved security company appointed by the Council) and properly recorded;
  - the responsibility for cash collection should be separated from the reconciliation of the amount due to the amount received;
  - details entered on the pay-in-slip and duplicate or counterfoil should include, particulars of such payment, including in the case of each cheque paid in, the amount of the cheque, the invoice number if one exists or relevant reference number;
  - an official receipt is issued promptly and other documentation maintained for income collection where appropriate;
  - all income is banked intact and without deductions of any kind;
  - Income is not used to cash personal or other cheques.
  - staff lock away all income to safeguard it against loss or theft;
  - where amounts in hand exceed the insurance limit, they shall be banked forthwith using the Council's security services. Directors must ensure by liaison with the Insurance Section, that the insurance limit on their safe is adequate to cover the value of money received and held;
  - income should be checked to the sales records such as till rolls, receipts issued, attendance records;
  - access to cash is restricted to as few staff as practicably possible and suitable handover arrangements are in place where cash is handed over to a second person.

- 12.13 any apparent patterns of cash discrepancies are investigated promptly. Where such discrepancies are in excess of £100 individually, or in total within any period of one month, the Director concerned must immediately investigate and notify the Chief Finance Officer who may undertake such investigations as he/she deems appropriate;
- 12.14 effective action must be taken to pursue non-payment within defined timescales;
- 12.15 credit notes may be issued by Managers to correct for errors in raising debt due, and to the extent allowed by Council procedures in other circumstances. They must never be used to write down or write off income that is properly due to the Council. Where the issue of a credit note would reduce income such that it would not cover costs incurred by the Council, the permission of the Chief Finance Officer must be sought first;
- 12.16 formal approval for debt write-off is obtained in accordance with the procedures as defined by the Chief Finance Officer, and outlined in the Officers Scheme of Delegation in the Council's constitution.
- 12.17 appropriate write-off action is taken within defined timescales. The 'writing off' of a debt does not absolve a Director of the responsibility to collect such debts, and the position in relation to such debtors is to be monitored by the Director;
- 12.18 appropriate accounting adjustments are made following write-off and VAT recovery action;
- 12.19 all appropriate income documents must be retained and stored for the defined period in accordance with the document retention periods;
- 12.20 money collected and deposited is reconciled to the bank account and/or general ledger system by a person who is not involved in the collection or banking process;
- 12.21 all controlled stationery associated with income collection (e.g. receipt books, paying in books etc.) must be held in a controlled environment;
- 12.22 the setting of fees and charges must be in line with legislation, best practice and guidance issued by the Council, Executive or the Chief Finance Officer;
- 12.23 to the maximum extent possible income is collected by electronic means. This means that positive action should be taken to promote the use of customer payment by direct debit, card payments via the web, at the point of order for one-off items, and continuous debit arrangements for ongoing services provision;
- 12.24 full compliance with all practices necessary to fully protect the banking data of the council's customers, in particular those standards set out by the Payment Card Industry (PCI).



## **FPR13 INTERNAL AUDIT**

### **Why is this Important?**

*The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015, more specifically require that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.*

*Accordingly, internal audit is an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisations objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources. Internal Audit’s remit includes:*

- (a) assessing if operations are being carried out as planned, and if objectives/goals are being achieved;*
- (b) assessing the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation or externally;*
- (c) assessing the completeness, reliability and integrity of information, both financial and operational;*
- (d) assessing the extent to which the council’s assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money;*
- (e) assessing the economy, efficiency and effectiveness with which resources are deployed.*

### **Internal Audit Rules**

Requirements are:

- 13.1 that it is independent in its planning and operation;
- 13.2 the Audit and Assurance Manager must have direct access to, and freedom to report in his/her own name and without fear or favour to, the Chief Executive, all levels of management and directly to elected Members;
- 13.3 the Audit and Assurance Manager or his/her authorised representative has authority to access all the Authority’s establishments or operating bases, to access all relevant records and is entitled to pursue such enquiries as he/she considers necessary;
- 13.4 all officers, representatives and Members of the Council are required to fully cooperate with Internal Audit at all stages in the conduct of their reviews; to respond to draft Internal Audit reports and to take action to implement agreed Internal Audit recommendations;
- 13.5 the internal auditors must comply with the United Kingdom Public Sector Internal Audit Standards (PSIAS) and associated guidance on PSIAS published by CIPFA.

## **FPR14 PREVENTING FRAUD AND CORRUPTION**

### **Why is this Important?**

*The Council will not tolerate fraud, theft, bribery or corruption in the administration of its responsibilities, whether from inside or outside the Council.*

*The Council's expectation of propriety and accountability is that Members and Officers at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices and by being aware of their personal role in preventing and detecting fraud, theft, bribery and corruption.*

*The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers and partners) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud, theft, bribery or corruption.*

*All senior officers and managers are responsible for ensuring that responsibilities within their service area are clearly identified, for raising awareness to fraud and corruption and for establishing an anti-fraud and corruption culture that is embedded in working practices.*

### **Rules for Preventing Fraud and Corruption are that:**

- 14.1 the Council must have in place an effective 'Anti-fraud and Corruption Strategy and Policy' which all Members and officers should adhere to, and maintains a culture that will not tolerate fraud or corruption;
- 14.2 the Council must have a 'Confidential Reporting Code and Policy' that defines whistle blowing procedures and which operates effectively and in accordance with the Public Interest Disclosure Act 1998;
- 14.3 it is the duty of Members and officers who suspect fraud, corruption or irregularity to report it promptly in accordance with the Council's Fraud Response Plan;
- 14.4 all Members and staff must act with integrity and lead by example. All must sign up to and abide by the appropriate Code of Conduct and the ICT Acceptable Use Policy;
- 14.5 all suspicions of fraud, theft, bribery and corruption must be reported promptly in accordance with the Council's Fraud Response Plan. The Audit and Assurance Manager will be informed of such cases, and in accordance with the Fraud Response Plan, liaise with other relevant services to agree the appropriate investigation approach;
- 14.6 in cases of theft, fraud, financial misconduct, serious and intentional breaches of the Financial and Contract Procedure Rules, bribery or corruption committed by employees, the Council will seek disciplinary action for gross misconduct. This includes fraud relating to employment with the Council as well as other forms of engagement e.g. through benefit claims made to the Council by employees or Members.
- 14.7 The Chief Finance Officer will determine whether any matter of financial irregularity and/or associated corruption is reported to the Police;

- 14.8 high standards of conduct shall be promoted amongst Members by the Standards Committee;
- 14.9 registers of interests, gifts and hospitality in which any interest or offers of gifts or hospitality are recorded must be maintained by the monitoring officer for Members and officers in accordance with the appropriate Code of Conduct.

## **FPR15 INVENTORIES**

### **Why is this Important?**

*The Council holds furniture, fittings, equipment, plant, machinery and other attractive items of significant value. It is important that these assets are safeguarded and used efficiently in service delivery. It is therefore important that these assets are recorded in an inventory in order to verify; location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.*

### **Rules for Inventories**

- 15.1 it is the responsibility of service managers in consultation with the Chief Finance Officer to determine whether or not an inventory is to be maintained;
- 15.2 if an inventory is established, managers must ensure that it is properly maintained and regularly checked and missing items reported to the Chief Finance Officer.

## **FPR16 REQUIREMENTS FOR COMPETITIVE QUOTATIONS**

### **Why is this Important?**

*Public money should be spent with demonstrable probity and in accordance with the Council's Procurement Strategy and Policies. Authorities have a statutory duty to achieve value for money and the Council's procedures should help to ensure that services obtain value for money from their procurement and purchasing arrangements.*

*Contract procedure rules set out the Council's requirements for obtaining competitive quotations and going out to tender for the procurement of work, goods and services.*

### **Rules for obtaining competitive quotations**

16.1 The Council's Contract Procedure Rules must be complied with when undertaking procurement of work, goods and services.

## **FPR17 CONTRACTS**

### **Why is this Important?**

*Public money should be spent with demonstrable probity and in accordance with the Council's Procurement Strategy and Policies. The Council spends sizable amounts of public money on contracts, therefore it is essential that procedures and processes are in place to ensure value for money and fairness, evaluate risk and adhere to all relevant procurement rules.*

*Contract Procedure Rules deal with arrangements for tendering and the form of contracts.*

### **Rules for entering Contracts**

**17.1** The Council's Contract Procedure Rules must be complied with when entering into contracts for the provision of works, goods and services.

## **FPR18 ORDERS FOR WORK, GOODS AND SERVICES**

### **Why is this Important?**

*The Council spends a large amount of public money on the procurement of work, goods and services. It is therefore important that ordering of work, goods and services is strictly regulated to ensure monies are spent prudently and correctly. Cash flow is important to business, particularly small to medium enterprises, and the Council has particular regard to the needs of local business. It is a statutory requirement as well as a Council key performance indicator to pay all undisputed invoices within 30 days, and for additional effort to pay local businesses even sooner. It is therefore imperative that not only are these rules followed, but they are followed quickly and that all records are properly maintained. This need is reinforced by the key objective to provide value for money, correcting and administering systemic error and queries in the payment system rarely adds value, and the need to do it quickly, correctly and first time cannot be understated.*

### **Rules for ordering works, goods and services**

18.1 ordinarily the Council will only pay for goods or services, and/or make other payments, in arrears. No officer may undertake a contract or order which would include for a payment in advance without the prior approval of the Chief Finance Officer;

Directors shall be responsible for all orders for works, goods and services emanating from their own departments and must ensure:

18.2 controls are in place to ensure orders can only be placed for the procurement of Council works, goods and services;

18.3 procedures laid down in the Council's Purchase to Pay guide are adhered to;

18.4 official orders must be used for requisitioning works, goods and services;

18.5 an official order must be raised using the approved electronic ordering system for the procurement of all work, goods and services, unless specifically exempted by the Chief Finance Officer;

18.6 all orders for works, goods and/or services are approved by an authorised officer, in accordance with the Council's Scheme of Delegation;

18.7 adequate budget provision must be available before an official order is raised;

18.8 delivery notes must be obtained when delivery of goods made and goods must be checked promptly for quality/compliance to specifications and checked against the official order and the appropriate system must be correctly and speedily updated within one working day.

## **FPR19 PAYMENTS FOR WORK, GOODS AND SERVICES**

### **Why is this Important?**

*The Council spends a large amount of public money on the procurement of work, goods and services. It is therefore important that payment of work, goods and services is strictly regulated to ensure monies are spent prudently and correctly. Payments relating to purchases made through the Council's electronic ordering system are automatically authorised for payment up to the values awarded to the original authorising officer. This section relates to the payment of accounts that have been exempted from the Council's primary ordering system.*

### **Rules for Payment of accounts**

Directors shall ensure arrangements are made for the prompt certification and processing of invoices for all works, goods and services for which they are responsible for and must ensure:

- 19.1 that adequate controls are in place to ensure that undisputed payments: are promptly made to the correct supplier; are made for the correct amount; that all purchases are coded correctly both for the finance ledger and any procurement database; and are paid within the relevant time period (i.e. complies with regulation and any internal target);
- 19.2 procedures laid down in the Council's Purchase to Pay guide are adhered to and payments are not made unless goods have been received by the Council at the correct price, quantity and quality standards;
- 19.3 manual invoices must be signed by an authorised officer;
- 19.4 the signing of cheques is subject to the limits set within the Council's banking contract as follows. Individual cheques below £50,000 require one authorised bank signatory, £50,000 or above require two authorised bank signatories;
- 19.5 all expenditure, including VAT, must be accurately recorded against the correct budget.



## **FPR20 PAYMENTS TO STAFF**

### **Why is this Important?**

*Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for.*

#### **Rules for making payments to staff:**

- 20.1 all payments to employees of the Council should be in compliance with the Council's established procedures as advised by the Director of Human Resources;
- 20.2 proper authorisation procedures must be in place and there must be adherence to corporate timetables in relation to:
  - *starters*
  - *leavers*
  - *variations*
  - *enhancements*
- 20.3 frequent reconciliation of payroll expenditure against approved budget and bank account must take place;
- 20.4 all appropriate payroll documents must be retained and stored for the defined period;
- 20.5 HM Revenue and Customs regulations must be complied with;
- 20.6 car mileage and expense re-imbusement payments must be paid to employees of the Council in line with Council policy;
- 20.7 a list of authorised signatories together with specimen signatures relative to specific documentation in the payroll system should be retained by payroll service, and Director of Human Resources should ensure this list is regularly reviewed and updated.

## **FPR21 CUSTODY OF STOCKS AND STORES**

### **Why is this Important?**

*The Council holds stocks and stores of significant value. It is important that these assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.*

### **Rules for the security of stocks and stores**

Directors shall be responsible for the custody, recording and physical control of stocks and stores held in their department and ensure:

- 21.1 stocks and stores shall be used only for the purposes of the Council and are properly accounted for;
- 21.2 they shall be available for use when required;
- 21.3 stocks and stores no longer required are disposed of in accordance with the regulations of the Council so as to maximise benefits; the writing down or writing off of stock must be done in consultation with the Chief Finance Officer;
- 21.4 a stocks and stores inventory is maintained for the Council, which records when they are acquired by the Council and this record is updated as changes occur with respect to the location and condition of the stocks and stores;
- 21.5 all Officers shall be made aware of their responsibilities with regard to safeguarding the security of the Council's stocks and stores;
- 21.6 Any missing stock or stores are reported immediately to the Chief Finance Officer.

## **FPR22 PETTY CASH AND IMPREST ACCOUNTS**

### **Why is this important?**

*The Council holds cash sums at various premises in order to allow services operational flexibility needed for minor purchases and reimbursements to staff. It is important that cash is safeguarded and properly recorded and accounted for in order to allow services to operate effectively.*

### **Procedure rules for petty cash and imprest accounts are:**

- 22.1 Directors shall be responsible for the safe custody, recording and physical control of petty cash and imprest accounts held in their department. For each cash holding the following roles must be assigned to different Officers: (**“ the Imprest Holder”**) who shall be responsible for physically holding and issuing the cash and maintaining the appropriate records (there can be more than one holder per cash holding for practical purposes but it should be kept to as minimum a number as possible); (**“the manager”** who must be senior to the Imprest Holder and who will be responsible for ensuring that: the rules concerning cash holdings are followed; reconciliations are checked; reimbursements are certified; requests for cash increases are made; and that missing cash is reported;
- 22.2 all requests for imprest account monies must be made to the Chief Finance Officer by the Directors concerned. Any subsequent changes to the financial level must be approved by the Chief Finance Officer;
- 22.3 the Chief Finance Officer must maintain a record of all imprest accounts and the approved current level;
- 22.4 no sums received on behalf of the Council may be paid into an imprest account but shall be banked or paid promptly in accordance with financial procedure rule 12;
- 22.5 payments from imprest accounts shall be limited to minor items, except with prior approval of the Chief Finance Officer or authorised officer;
- 22.6 all cash advances and disbursements shall be supported by vouchers and all expenditure by receipts;
- 22.7 the Manager responsible shall regularly check that the level of bank, cash, vouchers and receipts reconcile to the approved level of the petty cash holding; reporting any missing cash to the Chief Finance Officer immediately. The regularity of check should be at least monthly for petty cash when the holding should be certified for reimbursement. For disbursements, the regularity and format of check should be balanced against the level of the holding and the frequency of disbursements. Such regularity may be advised by the Chief Finance Officer for each such holding.
- 22.8 when requested, but always at the financial year end, the Manager shall provide the Chief Finance Officer with certificates of holdings;

- 22.9 reimbursements of petty cash / imprest will only be made upon receipt of relevant documentation and supporting evidence which shall be made to the Chief Finance Officer or their authorised Officer;
- 22.10 on leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash advance, the Holder shall account to the Chief Finance Officer for the amount advanced to him or her;
- 22.11 any cash holding can be removed by the Chief Finance Officer or authorised Officer at any time.

## **FPR23 CAPITAL ASSETS**

### **Why is this Important?**

The Council holds capital assets in the form of land, buildings, vehicles, equipment, and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

### **Rules relating to the security of capital assets such as land, buildings, fixed plant machinery, equipment, software and information are:**

- 23.1 capital assets must be used only for the purposes of the Council and must be properly accounted for;
- 23.2 capital assets must be available for use when required;
- 23.3 capital assets no longer required must be disposed of in accordance with the Asset Management Plan and Land Sales Programme of the Council so as to maximise benefits;
- 23.4 an asset register must be maintained for the Council, assets must be recorded when they are acquired by the Council and this record is updated as changes occur with respect to the valuation, disposal, location and condition of the asset;
- 23.5 all employees of the Council must be aware of their responsibilities with regard to safeguarding the security of the Council's capital assets.

## **FPR24 INSURANCE**

### **Why is this Important?**

*All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event.*

*Insurance is a major element within risk management, enabling risks from adverse events to be mitigated through taking out cover policies. However, these are not without cost, and risk prevention is always preferable to paying higher premiums, where this is possible.*

*An ex-gratia payment is a payment made to an individual in respect of loss or damage in a situation where the Council accepts no liability for the loss or damage but is willing to make some reimbursement without accepting liability. Most commonly such payments are made to employees in respect of personal property (including clothing or personal items such as spectacles) damaged or lost accidentally. Ex-gratia payments are not made in situations where the loss is fully insured, either by the individual or the Council.*

### **Insurance Rules**

The Chief Finance Officer shall ensure that:

- 24.1 procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the Council;
- 24.2 provision is made for losses that might result from the risks that remain;
- 24.3 procedures are in place to investigate claims within required timescales;
- 24.4 acceptable levels of risk are determined and insured against where appropriate;
- 24.5 ex-gratia payments are made in line with Council policy;
- 24.6 a register is maintained of all insurances and the property or risks covered.

Directors shall:

- 24.7 report all instances of possible claims and losses in accordance with timescales and procedures set by the Chief Finance Officer;
- 24.8 provide timely information required by the Chief Finance Officer or the Council's insurers on any insurance related matters.

## **FPR25 RISK MANAGEMENT**

### **Why is this Important?**

*All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.*

*It is the overall responsibility of the Executive to promote a culture of risk management awareness throughout the Council. The Council's Risk Management Strategy is approved by the Corporate Leadership Team and Accounts and Audit Committee.*

#### **Rules for risk management are:**

- 25.1 procedures must be in place to identify, assess, prevent or contain material known risks, and these procedures must be operated effectively throughout the Council;
- 25.2 a monitoring process must be in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process must be conducted on a continuing basis;
- 25.3 managers know that they are responsible for managing relevant risks and must ensure they have all relevant information on risk management initiatives;
- 25.4 risk management reporting should be carried out in accordance with the Council's risk management reporting protocols set out in the Risk Management Strategy;
- 25.5 significant changes in risk management processes or policy should be notified to the Chief Finance Officer;
- 25.6 procedures must be in place to investigate claims within required timescales;
- 25.7 the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

## **FPR26 TAXATION**

### **Why is this Important?**

*The Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.*

*The Council incurs VAT on a range of goods and services purchased. The Council also charges VAT on some services that it provides and on the sale of certain goods. The Council has a duty to declare these VAT transactions to HM Revenue and Customs (HMRC).*

*In performing its payroll function, the Council will collect deductions from employees' pay in relation to both PAYE and National Insurance contributions. The Council has a responsibility to pay and provide information on these deductions to HMRC on a timely basis.*

*The Council may also incur Corporation Tax (and associated forms of taxation) where it operates trading companies. The Council has a responsibility to pay and provide information of such taxation to HMRC on a timely basis.*

### **Procedure rules for Taxation**

- 26.1 managers must be provided with relevant information and kept up to date on tax issues;
- 26.2 tax related documentation must be stored and be readily accessible for examination in accordance with the Council's document retention policy and/or as directed by the Chief Finance Officer;
- 26.3 all taxable transactions must be identified, properly carried out and accounted for within stipulated timescales;
- 26.4 returns must be made to the appropriate authorities within the stipulated timescale.



## **FPR27 DOCUMENTATION RETENTION PERIODS**

### **Why this is Important?**

*The main reason for retaining financial records is to provide evidence that income and expenditure recorded in the Council's financial statements is valid, accurate and complete. This is necessary to satisfy the requirements of internal and external audit enquiries, and also the tax authorities.*

*Following the Freedom of Information Act 2000, all public bodies (including local authorities) have a statutory duty to provide recorded information within a prescribed timeframe, following a written request. From January 2005 any person who makes a request to the Council must be informed whether the Council holds that information and can be supplied with that information (subject to exemptions). It is therefore important that the Council is able to provide the information requested. This Act has re-emphasised the need for adequate records.*

### **Rules for Retention of documents:**

- 27.1 the documentation retention periods must be regularly reviewed;
- 27.2 the documentation retention periods must be agreed with the third parties i.e. internal/external audit, HM Revenue and Customs;
- 27.3 all employees of the Council must be made aware of the document retention periods;
- 27.4 all employees of the Council must be made aware of the requirements placed on the Council in relation to the freedom of information act;
- 27.5 the Council issues employees of the Council guidance in relation to compliance with the freedom of information act;
- 27.6 financial records must not be disposed of other than in accordance with arrangements approved by the Chief Finance Officer and under no circumstances prior to the closure of the audit of accounts for the relevant year by the external auditor.

The Council's documentation retention periods for financial records is 6 years plus current, with the exception of schemes supported by European funding which must be retained indefinitely.

## **DATE OF APPROVAL**

These Finance Procedure Rules were approved by Full Council on xx<sup>th</sup> May 2017 and came into effect on xx<sup>th</sup> May 2017.