

# Council Agenda



Contact: Steven Corrigan, Democratic Services Manager

Telephone number 07717 274704

Email: [steven.corrigan@southandvale.gov.uk](mailto:steven.corrigan@southandvale.gov.uk)

Date: 3 October 2022

Website: [www.whitehorsedc.gov.uk](http://www.whitehorsedc.gov.uk)

## Summons to attend a meeting of Council

to be held on Wednesday 12 October 2022 at 7.00 pm  
The Ridgeway, The Beacon, Portway, Wantage, OX12 9BY

A handwritten signature in black ink, appearing to read "P. Arran".

Patrick Arran  
Head of Legal and Democratic

**Alternative formats of this publication are available on request. These include large print, Braille, audio, email and easy read. For this or any other special requirements (such as access facilities) please contact the officer named on this agenda. Please give as much notice as possible before the meeting.**

# Agenda

## Open to the public including the press

### 1. Apologies for absence

To record apologies for absence.

### 2. Declarations of interest

To receive declarations of disclosable pecuniary interests, other registrable interests and non-registrable interests or any conflicts of interest in respect of items on the agenda for this meeting.

### 3. Minutes

(Pages 9 - 15)

To adopt and sign as a correct record the Council minutes of the meeting held on 13 July 2022.

### 4. Urgent business and chair's announcements

To receive notification of any matters which the chair determines should be considered as urgent business and the special circumstances which have made the matters urgent, and to receive any announcements from the chair.

### 5. Public participation

To receive any questions or statements from members of the public that have registered to speak.

### 6. Petitions

To receive any petitions from the public.

### 7. Treasury outturn 2021/22

(Pages 16 - 36)

Cabinet, at its meeting on 30 September, considered the report of the head of finance on the outturn performance of the treasury management function for the financial year 2021/22.

The report of the head of finance, which the Joint Audit and Governance Committee considered on 27 September 2022 and Cabinet considered on 30 September, is **attached**.

**RECOMMENDATION:** to

1. approve the treasury management outturn report for 2021/22;
2. approve the actual 2021/22 prudential indicators within the report.

**8. Adoption of powers from Oxfordshire County Council under Land Drainage Act**

(Pages 37 - 43)

Cabinet, at its meeting on 30 September, considered the report of the head of development and corporate landlord on a request from Oxfordshire County Council (OCC) for the district council to act as an agent of the county council in the discharge of delegated functions for the operation and management of the powers and responsibilities of the lead local flood authority (LLFA) under Sections 19, 23, 24 and 25 of the 1991 Land Drainage Act.

The report of the head of head of development and corporate landlord, which Cabinet considered, is **attached**.

Cabinet resolved to:

- (a) support the request from Oxfordshire County Council for Vale of White Horse District Council to adopt powers under the Land Drainage Act, as set out in paragraph 8 of the head of development and corporate landlord's report to Cabinet on 30 September 2022;
- (b) subject to Council approving the adoption of powers in (c) below, that Cabinet authorises the head of development and corporate landlord, in consultation with the head of legal and democratic, to negotiate and finalise the agreement with Oxfordshire County Council and enter into agreement to adopt the powers from Oxfordshire County Council;

**RECOMMENDATION:** to approve the adoption of powers under an agency agreement with Oxfordshire County Council.

**9. Review of the council's constitution**

(Pages 44 - 144)

To consider the report of the head of legal and democratic on proposed changes to the council's constitution.

**10. Report of the leader of the council**

To receive the report of Councillor Emily Smith, Leader of the council.

## **11. Questions on notice**

To receive questions from councillors in accordance with Council procedure rule 33.

### **1 Question from Councillor Amos Duveen to Councillor Helen Pighills, Cabinet member for Health Communities**

Thinking ahead about the looming winter crisis, is the council looking into providing warm spaces, so called 'warm banks', for people who cannot afford their energy bills?

And, if so, what options are being considered?

### **2 Question from Councillor David Grant to Councillor Debby Hallett, Cabinet member for Corporate Services and Transformation**

With the ending of the sale of new petrol and diesel cars just over seven years away, electric vehicle charging points are now becoming a welcome condition on many planning permissions. At a local new estate, I was disappointed to see developers had installed the bare minimum to meet this condition, using a three-pin socket. Charging a car on these could take up to 20 hours making it impractical to rely on for daily use and preventing residents taking advantage of cheaper electricity rates at night, which the national grid needs them to do to balance electricity demand. These are likely to be ripped out and replaced by anyone who is considering making the switch.

The council has been farsighted enough to install much faster public charging points in our local car parks, but home charging is still the most cost-effective option for residents. Is there anything we can do to insist on a minimum charging speed for new chargers where they are being insisted on as part of the planning conditions?

### **3 Question from Councillor Bob Johnston to Councillor Neil Fawcett, Cabinet member for Strategic Partnerships**

Following the news that the OxPlan 2050 process has come to an end, what will the council do to ensure that our agreed priorities continue to influence planning policy across Oxfordshire?

### **4 Question from Councillor Ron Batstone to Councillor Emily Smith, Leader of the Council**

In July 2021 Council reiterated its commitment to opening Grove station. It asked the leader to write to the Secretary of State for transport to ask for this to be considered as soon as possible.

Can the leader give an update on any response to her letter and the outcome of the bid to the Restoring Your Railways Fund?

**5 Question from Councillor Paul Barrow to Councillor Judy Roberts, Cabinet member for development and infrastructure**

We continue to have an increasing number of incidents of untreated sewage being discharged into our rivers with all the risks to public health from enteric infections and spread of antibiotic resistance. This was discussed at the Full Council meeting in July 2020. It is a problem for the Environment Agency, but much could be done by Thames Water through improved infrastructure to support new housing development.

I would like to know, first, what is being done to ensure that new housing developments incorporate sufficient sewerage (infrastructure) capacity and that this is associated with improved treatment capacity and, second, can we be assured that for all new housing development surface water is separated from foul water and discharged or treated separately?

**6 Question from Councillor Diana Lugova to Councillor Emily Smith, Leader of the council**

As the planning authority, when making decisions about planning applications we must comply with national planning policy and regulations to ensure that development is not harmful to nature and wildlife. I believe our council has ambitions to strengthen local policy to protect and enhance wildlife when planning new development, but I am very worried that recent announcements from the national government about scrapping of environmental laws will make this even harder.

The laws the government have said they would get rid of include the [Habitat Regulations](#) which protect some of our most vulnerable wildlife and green places across England. They also defend our clean water, clean air, and clean rivers.

Would the government's new stated approach mean that our ambitions as a council to strengthen protection and enhancement of wildlife and biodiversity through stronger policies in our emerging Joint Local Plan be undermined?

**7 Question from Councillor Elaine Ware to Councillor Sally Povolotsky, Cabinet member for Climate Change and Environment**

Across the Vale of White Horse, we now have 62 Electric vehicle chargers in the council car parks, thanks to work at all levels of government. Would the Cabinet Member for Climate Change and Environment please provide the information as to:

1. The total usage of EV Chargers from each car park since installation
2. Loss of income from parking bays now occupied by EV charger installations
3. Income received by the council from the use of the chargers.

## **12. Motions on notice**

To consider motions from councillors in accordance with Council procedure rule 38.

### **Motion 1. Delayed Waste Services Guidance**

#### **Motion to be proposed by Councillor Sally Povolotsky, seconder to be notified**

Council notes that:

1. Under the Environment Bill, there are due to be significant changes in waste and recycling policy, as well as the introduction of a deposit return scheme.
2. It is expected that DEFRA will require the majority of the planned reforms to come into effect from 2025, but the guidance councils need to put this in place has not yet been issued.
3. Our current waste contract runs until 2024. This council, like many others, are unable to commission or plan new waste services in line with the Environment Bill without detailed information about what is expected and how it will be funded.
4. The Local Government Association wrote to the previous environment minister, highlighting growing disquiet within the sector because of the lack of guidance.
5. The Local Authority Recycling Advisory Committee (LARAC) concluded that continuing delays and uncertainty means that investment is not being “unlocked” and local decisions are being stalled.

Therefore, Council resolves to

6. Support the aims in the Environment Bill to reduce waste and encourage reuse as well as recycling.
7. Ask the leader to write to the new environment minister, copied to our two local MPs, to:
  - a. ask for the guidance we need to plan our waste services to be issued urgently.
  - b. express this council’s concern about the risk the current delay creates to local household waste services and our impeccable record as one of the UK’s top district councils for waste recycling.
  - c. back the request made by LARAC that the industry needs at least a year’s advance warning to budget for operational changes, and up to five years to deliver infrastructure changes.

### **Motion 2. Support for Struggling Local Businesses**

#### **Motion to be proposed by Councillor Hayleigh Gascoigne, Seconded by Councillor Neil Fawcett**

We are living through a Cost of Living crisis, which is affecting individuals, families and businesses in the Vale and across the UK. This is being driven by food price inflation, up a record 13.1%\* and energy price inflation. Small businesses have been particularly affected by rising energy, affecting their viability.

Data published by the Federation of Small Businesses (FSB) shows that nearly 53% of small companies expect to stagnate, downsize or fold in the next year. Many were taken to the brink of collapse during the pandemic and desperately need a period of stability and prosperity to recover. Businesses such as restaurants and pubs, which experienced

greater challenges during the pandemic, now face even greater problems.

Even with the Government price cap support, energy prices will be double what they were last year for domestic users and for businesses, the cap only lasts for six months. The capped electricity costs 30% higher than 2021 for small businesses, and gas prices are 147% higher.

People will have less disposable income to support our local businesses during this crisis and the many businesses that were taken near to collapse during the pandemic desperately need a period of stability and prosperity to flourish. The short-term energy price cap will not provide this.

During the covid-19 pandemic, this council processed and gave out £37.2 million of covid grants to help businesses in our district. We also offered advice and networking opportunities through services such as 'South and Vale business support'.

Council therefore resolves to:

1. Request that the Leader write to the relevant minister(s) asking them to:
  - a) reconsider the short length of the business energy cap period and to look at additional ways to provide direct support to specific business sectors such as pubs and restaurants.
  - b) accelerate and provide further renewable energy grants to enable businesses to more affordably transition to non-fossil fuel derived energy sources. This will help to mitigate this crisis and reduce exposure to similar crises in the future.
2. Aim to process any available support grants in the fairest and quickest way in line with Government guidance and due diligence. Using the experience gained during the covid pandemic, enable the council to seek to get them to where they are needed most.
3. Continue to provide advice and support to help local businesses through South and Vale Business Support, building on the lessons learned through our covid support programme.
4. Request the Chief Executive to consider instructing officer to bid for grants that become available to district councils to support local businesses to generate energy sustainably, making them less reliant on the rising costs of natural gas and electricity.
5. Continue to work positively with the Future Oxfordshire Partnership and Oxfordshire Local Enterprise Partnership (OxLEP) to ensure that the current needs of SMEs and rural businesses across the Vale are understood and considered when developing OxLEP programmes.

\*as of the latest available figures in August 2022

### **Motion 3. Fracking**

#### **Motion to be proposed by Councillor Nathan Boyd, Seconder to be notified**

This Council welcomes the government's intention to tackle energy insecurity given the current energy costs crisis and supports efforts to introduce new environmentally friendly power generation including wind, solar and other green energy solutions. However, this council is concerned at the suggestion of the potential for fracking in the Vale of White Horse and its impact of residents.

No viable deposits of shale gas have been identified in the area in or around Vale of White Horse, but even if one were to be identified, the potential introduction of fracking into the Vale would have a number of detrimental implications for the local area, which include:

- 1) The introduction and effect of heavy vehicle movements on our roads.
- 2) The seismic risks caused by fracking especially considering the uncertainty about steps to predict and reduce its impact
- 3) The potential impact upon our rivers and protected streams
- 4) The hugely detrimental potential effect on our Areas of Outstanding Natural Beauty

If the Government decided to allow any exploration and extraction of shale gas within the district, this council would require the strictest of safeguards in relation to any potential site in the Vale.

Our residents will be naturally concerned at the implications of fracking therefore this council believes that residents consent to any potential site is critical and that Government should take account of the views of residents – which should be at the forefront - when considering any application.

With the evidence available, this council does not believe that fracking is a good alternative energy option for the Vale of White Horse.

Council therefore resolves to ask the leader of the council to write to the appropriate Government minister to make the council's position on fracking clear and to suggest that the method of local approval should not only be through council approval, but also by a referendum of local residents to be carried out at the cost of the energy company.



# Minutes of a meeting of the Council



held on Wednesday, 13 July 2022 at 7.00 pm  
at the First floor, 135 Eastern Avenue, Milton Park, Milton, OX14 4SB

## Open to the public, including the press

### Present in the meeting room:

Councillors: Margaret Crick (Chair), Jerry Avery (Vice-Chair), Paul Barrow, Ron Batstone, Eric Batts, Andy Cooke, Andy Crawford, Neil Fawcett, Hayleigh Gascoigne, David Grant, Simon Howell, Alison Jenner, Bob Johnston, Diana Lugova, Ben Mabbett, Robert Maddison, Sarah Medley, Patrick O'Leary, Helen Pighills, Mike Pighills, Sally Povolotsky, Emily Smith, Catherine Webber and Richard Webber

Officers: Patrick Arran, Head of Legal and Democratic and Monitoring Officer, Steven Corrigan, Democratic Services Manager and Mark Stone, Chief Executive

### Remote attendance (not entitled to vote):

Councillors Nathan Boyd, Samantha Bowring, Eric de la Harpe, Amos Duveen, Debby Hallett, Judy Roberts, Val Shaw, Bethia Thomas, Max Thompson and Elaine Ware

## 16. Apologies for absence

Apologies for absence were submitted on behalf of Councillors Cheryl Briggs, Andy Foulsham, Jenny Hannaby and Janet Shelley.

## 17. Minutes

**RESOLVED:** to approve the minutes of the extraordinary Council meeting and the annual Council meeting held on 18 May 2022 as correct records and agree that the Chair sign them as such.

## 18. Declarations of interest

None.

## 19. Urgent business and chair's announcements

The Chair provided general housekeeping advice. She welcomed the opportunity to be undertaking her role as Chair of the council visiting people in the community once again.

## 20. Public participation

Three members of the public had registered to ask a question.

- A. Steven Corrigan, Democratic Services Manager, read out the following question on behalf of Alderwoman Joyce Hutchinson:

“Having examined the original S106 agreements I note that two postscripts have been added by the District Council

- 1) Reserving funds for the Wessex Leisure Centre
- 2) Making reference to an e-mail written by R. Cross dated 16/12/16

As Wessex Leisure Centre does not exist and is no longer planned and the e-mail ‘is no longer retained on file ‘quoted from a Freedom of Information request, will these references be removed and the S106 contributions be spent according to the original legal agreements?

If not how will any changes in the spending of the S106 contributions be decided?”

Councillor Roberts, Cabinet member for development and infrastructure, responded as follows:

“I share your concern that developer contributions that were intended to improve local sports and leisure facilities should do so, even if the previous administration tried to tie them to a project that they should have known was never feasibly going to happen.

Following the termination of the Wessex Leisure Centre project, Section 106 funds earmarked for that scheme remain formally allocated whilst projects to deliver the most appropriate and beneficial use of those funds are considered.

Work is ongoing towards achieving this, in consultation with local representatives.

The options being considered cover schemes which may be delivered by the district council or potentially projects of other organisations where that delivers a suitable outcome. Any use of Section 106 funds will need to be spent in accordance with the associated spending criteria”.

- B. Julie Maberley, representing Wantage and Grove Campaign, asked the following question.

“In the Council Meeting on 10 February 2021, in response to a question from Alderman Hutchinson, “Councillor Helen Pighills stated that the council’s Corporate Plan committed the council to work with partners on the production of a leisure strategy. It was hoped this would be available by the end of March but was dependent on the availability of staff resources which had been assisting with the council’s response to the Covid pandemic.

She confirmed that S106 funds previously allocated to the Wessex Leisure Centre project were being reviewed to determine how they could be re-allocated to alternative projects in the areas which generated the funds and what projects could be funded.

She confirmed that there was no CIL money available for leisure projects in Grove and Wantage.

Whilst the council could not commit to ensure the leisure facilities would be in walking distance, the council was committed to ensure the funds would be used in the areas that generated them and to reduce reliance on cars to access facilities.”

It is now July 2022 and we have seen no evidence of a leisure strategy or any review of the s106 funds previously allocated to the Wessex Leisure Centre.

When will the Leisure Strategy included in the Councils Corporate Plan be produced and will there be any public consultation on the strategy before it is final?”

Councillor Helen Pighills, Cabinet member for healthy communities, responded as follows:

“On 22 July, the Cabinet will consider my proposed Active Communities Strategy, and the papers for this meeting will be published later this week.

The Active Communities Strategy will sit beneath the overarching Healthy Communities Strategy as just one in a suite of supporting strategies, that will address many of the wellbeing and health related priorities of the council’s Corporate Plan. The strategy sets out how the Council plans to improve the health and wellbeing of residents and the role council plays in providing high quality active opportunities for all our communities. A key aim of the strategy will be collaborative partnership working across the district.

Officers are also working with Sport England to secure relevant external support and expertise to develop a district wide leisure facilities strategy. It is anticipated that the formal commercial appointment for this work will be made by the end of the year through the Sport England Active Environments Framework. This crucial work will not only outline needs across the district but is a crucial piece of evidence needed to inform our Joint Local Plan with South Oxfordshire”.

C. Mr Gooch asked the following question:

“It was recognised by the Council as long ago as 2006 in LTP2 that Wantage Town has poor connectivity and lacks investment and vital infrastructure. What work, if any, has the Council undertaken to apply for a share of the £3.6billion available in the Towns Fund and if they have not done so why not?

Councillor Neil Fawcett, Cabinet member for strategic partnerships and place, responded as follows:

“Thank you for the question which helpfully reminds me of that time in September 2019 when the government invited 100 places around the UK to develop proposals for a Town Deal, as part of their planned £3.6 billion Towns Fund.

Members will probably recall as I do that the launch of the Towns Fund attracted a lot of publicity because of accusations that the choice of towns was politically motivated. A subsequent inquiry by Public Accounts Committee in Parliament concluded that it was *“not convinced by the rationales for selecting some towns and not others”*.

Sadly, nowhere in Oxfordshire was invited to bid so we were simply not in a position to put in an application even if we had wanted to.

The Council always considers its position carefully in terms of funds made available by government, including working with civil servants at the Department of Levelling Up, Housing and Communities to get a better understanding of assessment criteria. Through those relationships we are able to build a clearer understanding of the

Council's likely chances of success when bidding for any funds. Beyond the headline figures there are often nuances and technical implications to be considered, that affect our chances of success.

Where realistic opportunities do arise that would benefit Wantage, or any other area in the district, we will actively pursue that opportunity. We have been successful at winning grants for a number of different government funds but for the time being unfortunately the towns fund, to which your question relates, is not available to Wantage”.

## **21. Petitions**

None.

## **22. Community Governance Review - related alteration order**

Council considered an agenda item which set out that the Community Governance and Electoral Issues Committee was currently undertaking a community governance review and would be making final decisions on a number of matters at its meeting on 12 September 2022. The committee could agree changes to parish boundaries which could impact on district ward and county division boundaries. To make district ward and county divisions coterminous with any parish changes, Council considered a proposal to authorise the head of legal and democratic to request the Local Government Boundary Commission for England to make related alteration orders to alter both the district wards and county division boundaries where necessary. The Chair of Council, Councillor Crick, advised of an amendment to the recommendation to include consultation with the Chair of the Community Governance and Electoral issues Committee on any request.

**RESOLVED:** to authorise the head of legal and democratic, in consultation with the Chair of the Community Governance and Electoral Issues Committee, to request the Local Government Boundary Commission for England to make related alteration orders to change district wards and county divisions to reflect the changes made to the parish boundaries arising from the current community governance review.

## **23. Future Oxfordshire Partnership Update**

Council received and noted the written update report on The Future Oxfordshire Partnership from Councillor Fawcett, Cabinet member for Strategic Partnerships and Place.

## **24. Report of the leader of the council**

Councillor Emily Smith, Leader of the council, provided an update on a number of issues. The text of her address is available on the council's [website](#).

## **25. Questions on notice**

### **A. Question from Councillor Hayleigh Gascoigne to Councillor Judy Roberts, Cabinet member for development and infrastructure**

“The house building in Great Western Park, which sits on the boundary of Didcot and Harwell, appears to be almost complete, if not already completed.

The provision for medical facilities, in the form of a GP surgery, was part of the legal agreement with the developers. Can we have an update on what the progress is on the GP surgery, as this is a clear concern for the local public?"

### **Answer**

Thank you for your question on a matter I know is of keen interest to local residents.

The Vale of White Horse District Council has been actively engaging with supporting the former Oxfordshire CCG (OCCG) (now Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (BOB ICB)) and Woodlands Medical Centre, to find a mutually acceptable way forward which will enable the delivery of a new branch surgery at Great Western Park. The new premises will also ease pressure on space at the existing surgery.

The original Great Western Park development S106 Agreement directed that the land be transferred to the Vale Council as at that time Oxfordshire CCG was unable to hold land. As the council is not a provider of healthcare facilities this has complicated matters and a significant amount of officer time has been spent trying to move this forward to the benefit of Didcot residents.

In April 2022, the OCCG confirmed in writing to the council that it has delegated powers from NHS England to be the commissioner of Primary Care Services in Oxfordshire and they are keen to ensure that primary medical services operate from the Great Western Park site to serve the local population. OCCG has also confirmed that the Woodlands Medical Centre is willing to expand in the locality and has written formally to the council confirming that Woodlands Medical Centre has nominated a preferred medical developer and requested that the council progresses a number of matters to enable this to happen. This is now underway.

The matter is complex but, by continuing to work together, we are hopeful that this will enable the ICB and Woodlands Medical Centre to deliver the health centre in a timely manner. I understand they hope that the new surgery building will open its door to patients by 2025 at the latest. I would encourage people registered with Didcot GP practices to get involved with their local patient groups so they can be part of the discussions about the future of this project, which is important to the growing population of the town and its surrounding areas.

### **B. Question from Councillor Bob Johnston to Councillor Helen Pighills Cabinet member for healthy communities**

"It is 20 years since the White Horse Leisure and Tennis Centre in Abingdon opened. Can the Cabinet member give an approximate figure for the number of visitors to the White Horse Leisure and Tennis Centre since then?"

### **Answer**

Thank you for your question which helpfully highlights the many years of service that the White Horse Leisure and Tennis Centre has provided, and which continues to be delivered with our leisure partners GLL. The leisure centre is a vital facility for helping to keep our residents active and healthy, and attracts people from a wide area, not just Abingdon.

The centre was opened in 2002 and some of us were delighted to go along Sunday before last to mark its 20th birthday with leisure centre staff and customers.

The leisure centre in Abingdon, costing £11 million pounds, was the largest leisure project in Southern England. I understand from colleagues who were part of the Liberal Democrat administration at the time, that this significant project was delivered on time and within budget by hard working officers.

Our reporting data covers a period from April 2002 to May 2022 and identifies circa 13.67 million visits in that time

### **Supplementary question and answer**

In response to a supplementary question, Councillor Pighills agreed that it was right that in acknowledging the success of the White Horse Leisure and Tennis Centre over the years, that Council also pay tribute to the role and hard work of officers across the council who paid a part in bringing the project to fruition on time and within budget and the impact their work has had over the past two decades and will continue to have in the future.

## **26. Motions on notice**

Council considered the motion set out in the agenda.

**Councillor Sally Povolotsky moved, and Councillor Diana Lugova seconded the motion as set out in the agenda at agenda item 15:**

After debate and on being put to the vote the motion was agreed.

### **RESOLVED:**

That this Council notes that families and individuals in our district face a cost-of-living crisis.

Households across the UK are facing the highest tax burden in 70 years, and the typical family will see a hit of £1,200 a year through a combination of tax rises and soaring energy prices according to the Resolution Foundation.

People living in rural areas, like ours, are disproportionately affected by fuel price increases because of the lack of public transport and longer distances to reach work, education and health services.

In April, Ofgem increased the energy price cap by 54 per cent, however there is no price cap on solid fuel bottled gas or heating oil which 5%\* of Vale residents rely on to heat their homes.

Council thanks our officers for the additional work already being done support residents amid this crisis; including:

- Processing the £150 Council Tax rebates promptly and well before the government's deadline
- Establishing processes to enable access to the Household Support Fund
- Expanding the support, supplies and signposting available from our Community Hub through the height of Covid and beyond
- Extremely successful homelessness prevention work
- Managing partnership grants with non-for-profit organisations to provide financial and other advice across the district
- Signposting of benefits and other support

But there is much more to do both nationally and locally. Therefore, Council resolves to ask the Leader and Chief Executive to explore:

1. Expanding our Council Tax Reduction Scheme to reduce the tax burden for lower income households
2. Ways to protect funding for partnership grants delivering advice services to residents in next year's budget and future years as far as possible
3. Ways to continue and widen the remit of the community hub, which was initially created in response to Covid to support residents and is now acting as a central point for information and support
4. Working with partners to improve access to affordable food across our district

And asks the leader to write to relevant government ministers and our local MPs to ask for urgent action to relieve the cost-of-living crisis through such measures as:

- a. Provide immediate financial support for consumers of heating oil, Bottled gas, solid fuels, those reliant on generators for electricity and those on prepayment meters.
- b. Increase Rural Fuel Duty Rate Relief and expand the number of rural areas covered
- c. Consider reducing VAT to 17.5% putting money back into the pockets of average families, boosting the economy and helping to support local retailers
- d. Deliver a real and immediate increase in investment in UK renewables and an energy plan for the UK which immediately reduces costs for the end user and leads to the decarbonisation of the UK energy network in the long term.

The meeting closed at 8.01 pm

Chair:

Date:

# Joint Audit and Governance Committee



Report of Head of Finance

Author: Donna Ross

Telephone: 07917 088335

Textphone: 18001 07917 088335

E-mail: [donna.ross@southandvale.gov.uk](mailto:donna.ross@southandvale.gov.uk)

SODC cabinet member responsible for Finance: Councillor Leigh Rawlins

Telephone: 01189 722565

Email: [leigh.rawlins@southoxon.gov.uk](mailto:leigh.rawlins@southoxon.gov.uk)

VWHDC cabinet member responsible for Finance: Councillor Andrew Crawford

Telephone: 01235 772134

Email: [andy.crawford@whitehorsedc.gov.uk](mailto:andy.crawford@whitehorsedc.gov.uk)

To: Joint Audit and Governance Committee, Cabinet and Council

DATE: 27 September 2022 by Joint Audit and Governance Committee

29 September 2022 (S) / 30 September 2022 (V) by Cabinet

13 October 2022 (S) / 12 October 2022 (V) by Council

## Treasury Outturn 2021/22

### Recommendations

That Joint Audit and Governance Committee:

1. notes the treasury management outturn report 2021/22,
2. is satisfied that the treasury activities are carried out in accordance with the treasury management strategy and policy, and
3. make any comments and recommendations to Cabinets as necessary.

That Cabinet:

Considers any comments from Joint Audit and Governance Committee and recommends Council to:

1. approve the treasury management outturn report for 2021/22;
2. approve the actual 2021/22 prudential indicators within the report.



## **Purpose of report**

1. This report fulfils the legislative requirements to ensure the adequate monitoring and reporting of the treasury management activities and that the councils' prudential indicators are reported to the councils at the end of the year. The report provides details of the treasury activities for the financial year 2021/22.
2. This complies with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA's) Code of Practice on Treasury Management.

## **Strategic objectives**

3. Effective treasury management is required to help the councils meet their strategic objectives.

## **Background**

4. The councils' treasury activities are strictly regulated by legislation. The CIPFA Prudential Code and CIPFA Treasury Management Code of Practice require a report to be provided to the councils at the end of the financial year.
5. This report provides details on the treasury activity and performance for 2021/22 against prudential indicators and benchmarks set for the year in the 2021/22 Treasury Management Strategy (TMS), approved by each council in February 2021. Each council is required to approve this report.
6. Link Asset Services are the councils' retained treasury advisors.
7. There are three types of investment, the performance of which is covered in this report
  - a. True treasury investments – these are investments for the management of temporary cashflow balances. These include loans to other local authorities, or approved financial institutions. It also includes longer-term investments in externally managed pooled funds such as CCLA Property Fund.
  - b. Non-treasury loans – these are loans to third parties, which earn a return, but they do not fall under the strict definition of a treasury investment.
  - c. Direct property investments - both councils have investment properties let on commercial basis. The primary purpose of holding these assets is for investment purposes and they are not part of regeneration schemes.
8. The councils continue to invest with regard for security, liquidity and yield, in that order.

## **Economic conditions and factors effecting investment returns during 2021/22**

9. At the start of the financial year UK Bank Base Rate was held at 0.10 per cent and remained unchanged until December 2021 when The Bank of England raised the rate to 0.25 per cent. There were further increases of 0.25 percent in February and

March 2022 with Base Rate reaching 0.75 per cent by year-end. [At the time of writing (August 2022) rates have increased further to 1.75 per cent.]

10. Link Asset Services provide a regular forecast of interest rates, the latest forecast is reproduced in **appendix A**. This forecast shows that Base Rate is expected to peak at 2.9 per cent in June 2023 before falling back to 2.25 per cent around March 2024 and remain at that level for the next 12 months. Labour shortages, commodity price inflation, the impact of Russia's invasion of Ukraine and subsequent Western sanctions all point to inflation remaining at elevated levels well into 2023.
11. The Treasury Management Strategy makes clear that investment priority is given to the security of principal in the first instance. As a result, investments have only been made with counterparties of high credit quality and relatively low risk.
12. In line with the budget forecast, short-term investment returns remained close to zero for the first half of the financial year. The expectation for interest rates within the treasury management strategy for 2021/22 was that Bank Rate would remain at 0.1 per cent until it was clear to the Bank of England that the emergency level of rates introduced at the start of the Covid-19 pandemic were no longer necessary.
13. The Bank of England and the Government also maintained various monetary and fiscal measures, supplying the banking system and the economy with massive amounts of cheap credit so that banks could help cash-starved businesses to survive the various lockdowns/negative impact on their cashflow. The Government also supplied huge amounts of finance to local authorities to pass on to businesses. This meant that for most of the year there was much more liquidity in financial markets than there was demand to borrow, with the consequent effect that investment earnings rates remained low until towards the turn of the year when inflation concerns indicated central banks, not just the Bank of England, would need to lift interest rates to combat the growing levels of inflation.
14. The rises in Base Rate from December 2021 allowed both councils to place deposits at above budgeted interest rates during the last quarter of the financial year and generate investment returns above the budget forecasts.

## **Summary of investment activities during 2021/22**

15. Prudential limits (security). Both councils are required by the Prudential Code to report on the limits set each year in the TMS. The purpose of these limits is to ensure that the activity of the treasury function remains within certain parameters, thereby mitigating risk and reducing the impact of an adverse movement in interest rates. However, if these limits are set to be too restrictive, they may impair the opportunities to reduce costs/improve performance. These limits are shown in **appendix B**.
16. Yield - the performance of the two councils is summarised in the tables below.

South		Treasury investments £000	Non treasury loan £000	Sub Total £000	Property investment £000	Overall total £000
1	Average investment balance	174,907	15,000	189,907	8,012	197,918
2	Budgeted investment income	1,224	623	1,847		
3	Actual investment income	1,375	623	1,998	490	2,488
4	surplus/(deficit) (3) - (2)	151	0	151		
5	Rate of return (3) ÷ (1)	0.79%	4.15%	1.05%	6.11%	1.26%

Vale		Treasury investments £000	Property investment £000	Overall total £000
1	Average investment balance	145,589	5,091	150,680
2	Budgeted investment income	558		
3	Actual investment income	744	286	1,030
4	surplus/(deficit) (3) - (2)	187		
5	Rate of return (3) ÷ (1)	0.51%	5.62%	0.68%

17. Both South and Vale exceeded treasury budgeted investment income this year in terms of actual income against budget and rates of return against benchmark on their in-house managed portfolios. This was predominantly a result of deposits that matured in the last quarter of the financial year being reinvested at slightly higher rates than predicted. More detail on benchmarks is included in the appendices that follow this report.

18. Detailed reports on the treasury activities for each council and performance for 2021/22 against prudential indicators and benchmarks set for the year are contained in **appendix C** – South Oxfordshire DC and **appendix D** – Vale of White Horse DC.

19. A detailed list of both councils' treasury investments as at 31 March 2022 is shown in **appendix E**.

## Debt activity during 2021/22

20. During 2021/22, there has not been a need for either council to borrow and both councils continue to take a prudent approach to their debt strategy. The prudential indicators and limits set out in **appendix B** provide the scope and flexibility for the council to borrow in the short-term, if such a need arose, for cash flow purposes to support the council(s) in the achievement of their service objectives.

## Climate and ecological impact implications

21. There are no climate or ecological implications arising from this report, however the Council can make significant impact via future investment opportunities and operational changes. Numerous changes have already been made to ensure that climate is a key consideration in key documents and processes (such as the procurement strategy), and this will become more evident in future decision making. As opportunities to support the climate ambitions of the Councils arise, they will be considered and appropriately weighted to include any climate or ecological impacts.

## Financial implications

22. The treasury investments arranged in 2021/22 generated just under £2 million of investment income for South during the year and over £700,000 for Vale. Income

earned from investments supports the councils' medium term financial plans and contributes to the councils' balances or supports the in-year expenditure programmes.

## **Legal implications**

23. There are no significant legal implications. Compliance with the CIPFA Code of Practice for Treasury Management in the Public Services and the MHCLG Local Government Investment Guidance provides assurance that the councils' investments are, and will continue to be, within their legal powers.

## **Conclusion**

24. Despite a difficult operating environment, both councils continued to make investments during 2021/22 that maintained security and liquidity whilst providing a return that mostly exceeded market benchmarks.

## **Background papers**

- Chartered Institute of Public Finance and Accounting (CIPFA) code of practice for treasury management in the public sector.
- DCLG Local Government Investment Guidance
- CIPFA treasury management in the public services code of practice and cross sectoral guidance notes
- Treasury Management Strategy 2021/22 – Councils in February 2021.

## **Appendices**

- A. Interest rate forecasts
- B. Prudential limits
- C. SODC – Treasury activities 2021/22
- D. VWHDC – Treasury activities 2021/22
- E. Treasury investments as at 31 March 2022
- F. Glossary of terms

Appendix A

Link Group Interest Rate Forecasts

	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25
BANK RATE	2.25	2.50	2.75	2.75	2.75	2.50	2.50	2.25	2.25	2.25	2.25
3 month ave earnings	2.50	2.80	3.00	3.00	2.80	2.50	2.40	2.30	2.30	2.30	2.20
6 month ave earnings	2.90	3.10	3.10	3.10	2.90	2.80	2.70	2.60	2.50	2.50	2.40
12 month ave earnings	3.20	3.30	3.20	3.10	3.00	2.90	2.80	2.70	2.40	2.40	2.40
5 yr PWLB	2.80	3.00	3.10	3.10	3.00	3.00	2.90	2.90	2.80	2.80	2.80
10 yr PWLB	3.00	3.20	3.30	3.30	3.20	3.10	3.10	3.00	3.00	3.00	2.90
25 yr PWLB	3.40	3.50	3.50	3.50	3.50	3.40	3.40	3.30	3.30	3.20	3.20
50 yr PWLB	3.10	3.20	3.20	3.20	3.20	3.10	3.10	3.00	3.00	2.90	2.90

Forecasts as at 09/08/2022

## Prudential limits (indicators) as at March 2022

Prudential indicators as at 31 March 2022				
	Vale		South	
	Original estimate £m	Actual position £m	Original estimate £m	Actual position £m
<b>Authorised limit for external debt</b>				
Borrowing	30	0	30	0
Other long-term liabilities	0	0	0	0
	<b>30</b>	<b>0</b>	<b>30</b>	<b>0</b>
<b>Operational boundary for external debt</b>				
Borrowing	25	0	25	0
Other long-term liabilities	0	0	0	0
	<b>25</b>	<b>0</b>	<b>25</b>	<b>0</b>
<b>Investments</b>				
<b>Interest rate exposures</b>				
Limits on fixed interest rates %	100%	82%	100%	77%
Limits on variable interest rates £k	50	27	50	46
<b>Maximum principal sums invested &gt; 364 days</b>				
Upper limit for principal sums invested > 364 days £k	40	26	70	36
<b>Limit to be placed on investments to maturity</b>				
1 - 2 years	NA	NA	NA	NA
2 - 5 years	NA	NA	NA	NA
5 years +	NA	NA	NA	NA

**Prudential indicators – explanatory note****Debt**

There are two limits on external debt: the ‘Operational Boundary’ and the ‘Authorised Limit’. Both are consistent with the current commitments, existing plans and the proposals in the budget report for capital expenditure and financing, and with approved treasury management policy statement and practices. They are both based on estimates of most likely, but not worst case, scenario.

The key difference is that the Authorised Limit cannot be breached without prior approval of the Council. It therefore includes more headroom to take account of eventualities such as delays in generating capital receipts, forward borrowing to take advantage of attractive interest rates, use of borrowing in place of operational leasing, “invest to save” projects, occasional short-term borrowing to cover temporary revenue cash flow shortfalls as well as an assessment of risks involved in managing cash flows.

The Operational Boundary is a more realistic indicator of the likely position.

**Interest rate exposures**

The maximum proportion of interest on borrowing which is subject to fixed/variable rate of interest.

## **Investments**

### **Interest rate exposure**

The purpose of these indicators is to set ranges that will limit exposure to interest rate movement. The indicator required by the Treasury Management Code considers the net position of borrowing and investment and is based on principal sums outstanding.

### **Principal sums invested**

This indicator sets a limit on the level of investments that can be made for more than 364 days.

## SODC treasury activities in 2021/22

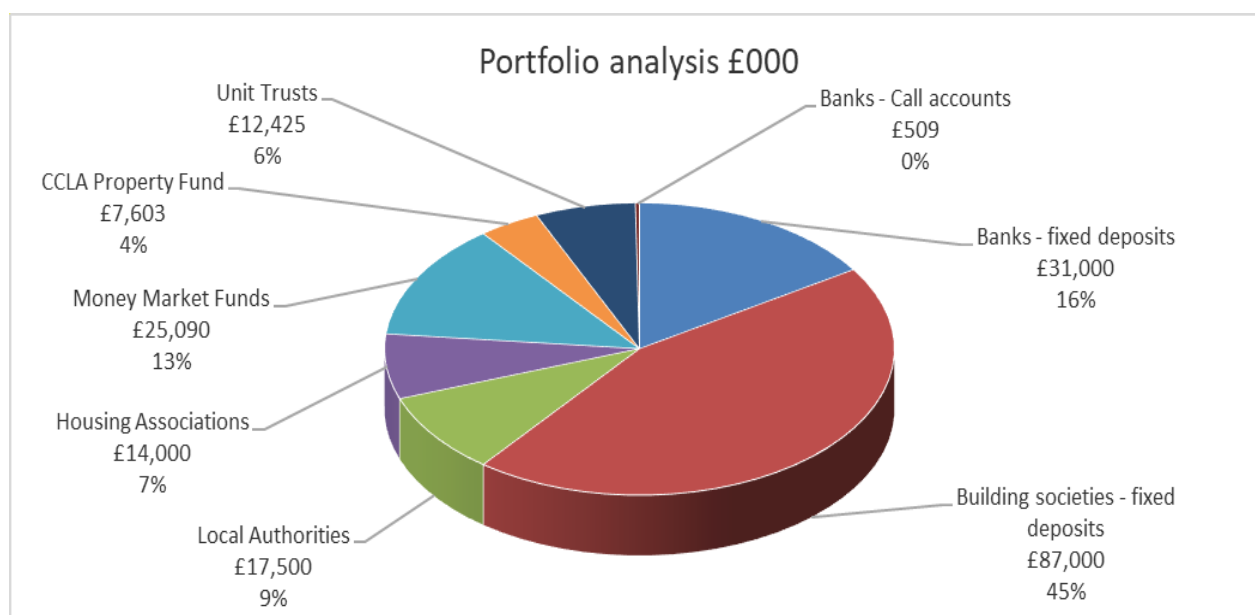
### Council treasury investments as at 31 March 2022

- The council's treasury investments, analysed by maturity as at 31 March 2022 were as follows:

<b>Table 1: Maturity structure of investments at 31 March 2022</b>		
	<b>£000</b>	<b>% holding</b>
Call	509	0%
Money market fund	25,090	13%
<b>Cash available within 1 week</b>	<b>25,599</b>	<b>13%</b>
Up to 3 months	18,500	9%
4-6 months	45,500	23%
6 months to 1 year	69,500	36%
Over 1 year	16,000	8%
<b>Total cash deposits</b>	<b>175,099</b>	<b>89%</b>
CCLA Property Fund	7,603	4%
Unit Trust	12,425	6%
<b>Total investments</b>	<b>195,126</b>	<b>100%</b>

- The majority of the funds invested were held in the form of fixed interest rate and term cash deposits. These provide some certainty over the investment return.
- The investment profile is organised to ensure sufficient liquidity for revenue and capital activities, security of investments and to manage risks within all treasury management activities.
- The chart below shows in percentage terms the portfolio above analysed by counterparty type:





### Treasury investment income

5. The total income earned on investments during 2021/22 was £1.99 million, compared to the original budget of £1.85 million, as shown in table 2 below:

<b>Table 2: Investment interest earned by investment type</b>			
	<b>Annual Budget</b>	<b>Actual Interest</b>	<b>Variation</b>
<b>Investment type</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
Fixed deposits and Short-term liquidity accounts	1,171	1,266	95
Unit Trust	388	471	83
CCLA property fund	288	262	(26)
	<b>1,847</b>	<b>1,999</b>	<b>152</b>

6. The actual return achieved was £152,000 more than the original budget. This was principally due to:
- Interest earned on cash deposits being £95,000 higher than forecast in the 2021/22 budget due to higher than forecast cash balances and an increase in UK interest rates.
  - Dividends accumulated by the Unit Trust were £83,000 above budget due to an improvement in the FTSE All-Share Index during 2021/22. The Unit Trust objective is to provide growth by investing in shares that closely track the performance of the Index.
  - Dividends received on the CCLA Property Fund were £26,000 less than forecast. However, the reduction in dividends was more than matched by capital growth with the Fund's unit price increasing by 17.6 per cent.

7. The actual average rate of return on internally managed treasury deposits for the year was 1.14 per cent (0.83 per cent in 2021/22).

### Performance measurement

8. A list of treasury investments as at 31 March 2022 is shown in **appendix E**. All investments were with approved counterparties. The average level of investments held was £175 million. Table 3 below shows in summary the performance of the council's treasury investments against the benchmarks set out in the Treasury Management Strategy. These benchmarks are used to assess and monitor the council's treasury investment performance for each type of investment.
9. The £175 million does not represent the council's usable, cash backed reserves, which at 31 March 2022 totalled £144 million including capital grants received in advance of spend. The difference represents the council's working capital balance and timings of cashflows.

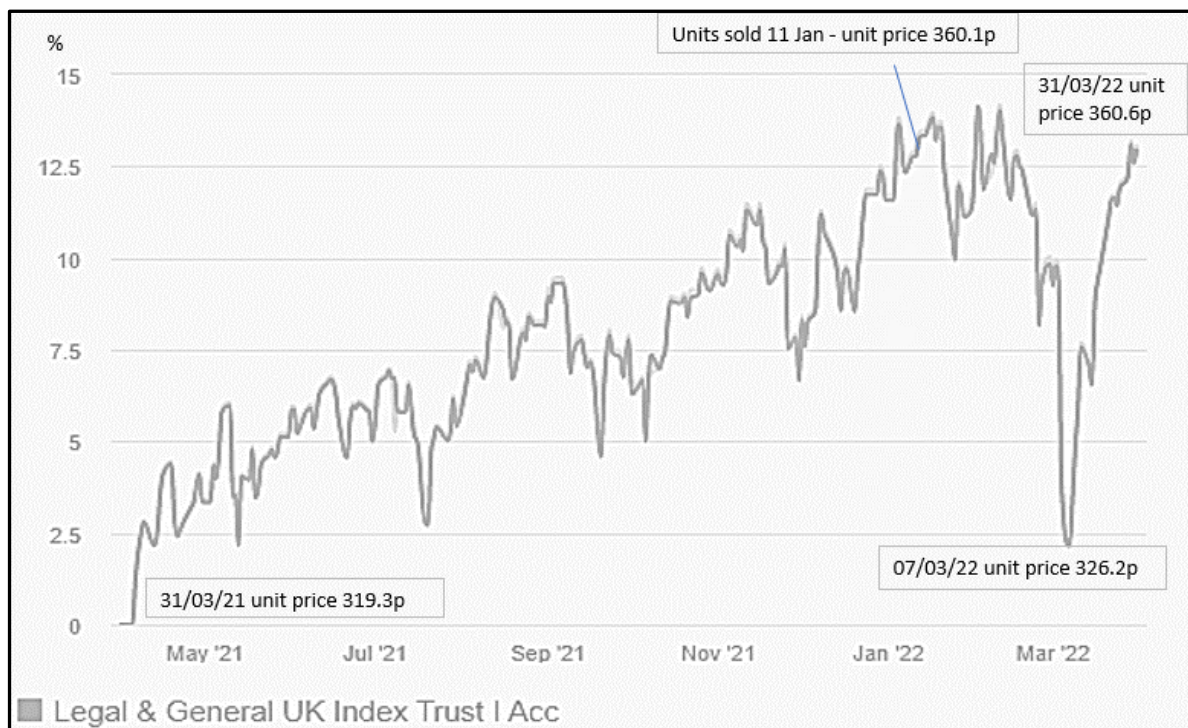
Table 3: Treasury investment returns achieved against benchmark				
	Benchmark Return	Actual Return	Growth (Below)/ above Benchmark	Benchmarks
Deposits & Short-term liquidity funds – internally managed	0.24%	0.81%	0.57%	3mth SONIA
Unit Trust *	13.07%	12.88%	(0.19%)	FTSE All Shares Index
Property Fund *	22.52%	21.78%	(0.74%)	IPD balanced property unit trust index
* Returns include income and capital growth				

Note: the benchmark return for unit trusts and CCLA includes the movement in capital value. All other benchmarks reflect earnings of treasury investment income.

10. Daily cashflow balances are managed in-house with the portfolio of fixed-term deposits, call accounts and money market fund balances benchmarked against the three-month SONIA rate, which was an average of 0.24 per cent for 2021/22. The performance for the year of 0.81 per cent exceeded the benchmark by 0.57 per cent.
11. The CCLA property fund initial principal investment of £5 million (March 2013) increased in value during 2021/22 from £6.5 million to £7.6 million. Dividends received in the year totalled £0.26 million. Both the capital appreciation and the interest earned are included in the performance of 21.78 per cent achieved above. The capital gain is however not realised and so for comparison purposes, the actual rate of return of income received during the year is 3.8 per cent compared with the Fund's benchmark income return of 3.3 per cent.

**Equities**

12. The council’s holdings with the Legal & General (L&G) UK Index Trust were purchased in 2000/01 at an initial cost of £10 million. This is an authorised unit trust incorporated in the United Kingdom and regulated by the FSA. The trust’s objective is to provide growth by tracking the capital performance of the UK equity market as represented by the FTSE All-Share index.
13. The index is comprised of shares in all eligible companies listed on the London Stock Exchange’s main market. The Fund seeks to replicate as closely as possible the constituents of the benchmark index, by holding all, or substantially all, of the assets comprising the FTSE All-Share Index in similar proportions to their index weightings. It may also hold shares in companies which are reasonably expected to become part of the Benchmark index in the near future. At 31 March 2022 the UK Index Trust Fund comprised 613 holdings.
14. The Fund performance as shown in Table 3 is comprised of income and capital growth. The capital growth performance is based on volatile market values and is unrealised. The price of units in the fund ranged from 319.3p per unit at the start of the financial year to a high of 364.1p per unit on 10 February 2022.
15. The chart below shows the performance of the Unit Trust during 2021/22



16. In line with the council’s policy, in January 2022 units valued at £2 million were sold in order to realise some of the Fund’s capital growth when its value exceeded £14 million. (Fund value 31/12/2021 = £14.255 million). The price of the Units sold was £360.1p. The All-Share Index fell a week later, and the Fund value dropped to a low price of £326.2p per unit on 7 March 2022 before recovering to end the financial year at a unit price of £360.6p.

17. The Fund invests in UK companies and aims to replicate the FTSE All Share with returns broadly in line with the performance of the Index. The constituents of the Fund will not always exactly match the Index and therefore performance may be positively or negatively impacted by the constituent and weighting variations and other factors such as trading costs for example.
18. The performance of the fund over the past five years compared to the benchmark index is summarised in table 4 below.

Table 4: Unit Trust returns achieved against benchmark					
12 months to 31 March	2022	2021	2020	2019	2018
	%	%	%	%	%
L&G UK Index Trust	12.88	27.63	-18.84	5.87	1.36
Index	13.07	28.77	-19.06	6.01	1.29
Relative to Index	-0.19	-1.14	0.22	-0.14	0.07

19. The council holds accumulation units where income attributable to the unit class is automatically reinvested in the in the Fund and is reflected in the price of each accumulation unit, rather than being distributed to unit holders. Consequently, no cash distribution payments were received during the year. Officers monitor the performance of the unit trust holding on a regular basis.

### Non-treasury investment loan

20. During 2013/14, the council entered into a secured loan agreement with SOHA to enable them to finance affordable housing schemes. The Council lent £15 million over 20 years at a fixed rate of 4.15 per cent. Interest is paid quarterly and during 2021/22, the council received £0.6 million.

### Land and property

21. The Council holds a portfolio of investment properties, which includes land, depots, garages, and shops that are let on a commercial basis. These assets are valued on an annual basis and had average net book value of £8 million during 2021/22 (£7.9 million 2020/21). Income generated was £0.49 million in 2021/22 (£0.32 million in 2020/21) giving a gross rate of return of 6.11 per cent.
22. Due to movement in property values and the exclusion of whole life costs, these rates of return should not be taken as a direct comparison with the performance of other classes of investment.

### Liquidity and yield

23. The council uses short-term investments to meet daily cash-flow requirements and aims to invest a proportion of the portfolio in longer-term instruments where possible.
24. The average daily balance held in short-term notice accounts during 2021-22 was £23.6million.

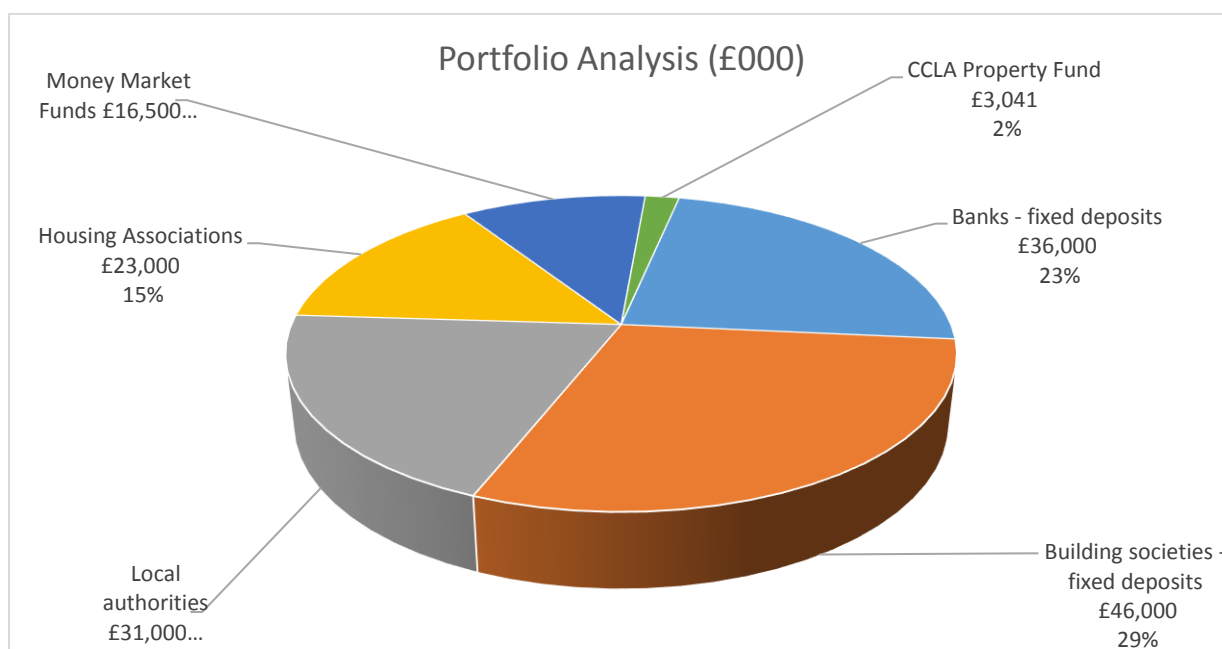
## VWHDC detailed treasury performance in 2021/22

## Council treasury investments as at 31 March 2022

1. The council's treasury investments analysed by age as at 31 March 2022 were as follows:

Table 1: maturity structure of investments at 31 March 2022:		
	£000	% holding
Money market fund	16,500	11%
Cash available within 1 week	16,500	11%
Up to 3 months	30,500	20%
5-6 months	27,000	17%
6 months to 1 year	55,500	36%
Over 1 year	23,000	15%
<b>Total cash deposits</b>	<b>152,500</b>	<b>98%</b>
CCLA Property Fund	3,041	2%
<b>Total investments</b>	<b>155,541</b>	<b>100%</b>

2. The majority of the funds invested were held in the form of fixed interest rate and term cash deposits. These provide some certainty over the investment return.
3. The investment profile is organised to ensure sufficient liquidity for revenue and capital activities, security of investments and to manage risks within all treasury management activities.
4. The chart below shows in percentage terms how the portfolio above is spread across investment types:



### Treasury investment income

5. The total interest earned on treasury investments during 2021/22 was £0.74 million compared to the original budget estimate of £0.56 million as shown in table 2 below:

Table 2: Investment interest earned by investment type			
Investment type	Annual Budget £000	Actual Interest £000	Variation £000
Fixed term and call	471	644	173
CCLA Property Fund	87	100	13
<b>Total Interest</b>	<b>558</b>	<b>744</b>	<b>186</b>

6. The actual rate of return achieved was £0.19 million higher than the original budget. This was primarily due to average balances throughout the year remaining higher than forecast.
7. The actual average rate of return on internally managed treasury deposits for the year was 0.45 per cent.

### Performance measurement

8. A list of treasury investments as at 31 March 2022 is shown in **appendix E**. All investments were with approved counterparties. The average level of investments held was £146 million. Table 3 below shows in summary the performance of the council's treasury investments against the benchmarks set out in the Treasury Management Strategy. These benchmarks are used to assess and monitor the council's treasury investment performance for each type of investment.
9. The £146 million does not represent the council's usable cash backed reserves, which at 31 March 2022 totalled £55 million including capital grants received in advance of spend. The difference represents the council's working capital balance and timing of cashflows.

Table 3: Treasury investment returns achieved against benchmark				
	Benchmark return	Actual return	Growth (below)/above Benchmark	Benchmarks
Bank & Building Society deposits - internally managed	0.24%	0.51%	0.27%	3 Month SONIA
Property related funds (CCLA)*	22.52%	21.78%	(0.74%)	IPD balanced property unit trust index
* Returns include income and capital growth				

10. Daily cashflow balances are managed in-house with the portfolio of fixed-term deposits, call accounts and money market fund balances benchmarked against the three-month SONIA rate, which was an average of 0.24 per cent for 2021/22. The performance for the year of 0.51 per cent exceeded the benchmark by 0.27 per cent.
11. The CCLA property fund initial principal investment of £2 million (April 2013) increased in value during 2021/22 from £2.6 million to £3 million. Dividends received in the year totalled £0.1 million. Both the capital appreciation and the interest earned are included in the performance of 21.78 per cent achieved above. The capital gain is however not realised and so for comparison purposes, the actual rate of return of income received during the year is 3.8 per cent compared with the Fund's benchmark income return of 3.3 per cent.

### **Land and Property**

12. The council holds a portfolio of investment properties, which includes land, offices and shops that are let on a commercial basis. These assets are valued on an annual basis and had an average net book value of £5.1 million during 2021/22 (£5.7 million as at 31 March 2021). Income generated was £0.3 million (£0.2 million in 2020/21). This is equivalent to a gross return of 5.62 per cent.
13. Due to movement in property values and the exclusion of whole life costs, these rates of return should not be taken as a direct comparison with other classes of investment.

### **Liquidity and yield**

14. The council uses short-term investments to meet daily cash-flow requirements and also aims to invest a proportion of the portfolio in longer-term instruments where possible.
15. The average daily balance held in short-term notice accounts during 2021-22 was £31 million.



## South Oxfordshire District Council investments as at 31 March 2022

Counterparty	Deposit Type	Maturity Date	Principal	Rate
National Counties Building Society	Fixed	Apr-22	2,500,000	0.35%
Thurrock BC	Fixed	Apr-22	5,000,000	0.40%
Thurrock BC	Fixed	Apr-22	3,000,000	0.30%
National Counties Building Society	Fixed	Apr-22	1,000,000	0.33%
Thurrock BC	Fixed	May-22	5,000,000	0.40%
National Counties Building Society	Fixed	Jun-22	2,000,000	0.33%
Monmouthshire Building Society	Fixed	Jul-22	1,000,000	0.15%
Progressive Building Society	Fixed	Jul-22	2,500,000	0.16%
Principality Building Society	Fixed	Aug-22	2,000,000	0.15%
Monmouthshire Building Society	Fixed	Aug-22	2,000,000	0.15%
Principality Building Society	Fixed	Aug-22	1,500,000	0.15%
Principality Building Society	Fixed	Aug-22	2,000,000	0.15%
Monmouthshire Building Society	Fixed	Aug-22	2,000,000	0.15%
Furness Building Society	Fixed	Aug-22	2,000,000	0.30%
Thurrock BC	Fixed	Aug-22	3,500,000	0.20%
Newcastle Building Society	Fixed	Aug-22	2,000,000	0.18%
Newcastle Building Society	Fixed	Aug-22	2,000,000	0.18%
Surrey Heath BC	Fixed	Aug-22	3,000,000	0.16%
Furness Building Society	Fixed	Sep-22	2,000,000	0.30%
Goldman Sachs International Bank	Fixed	Sep-22	2,000,000	0.38%
National Bank of Kuwait	Fixed	Sep-22	3,000,000	0.22%
Monmouthshire Building Society	Fixed	Sep-22	3,000,000	0.15%
Nottingham Building Society	Fixed	Sep-22	3,000,000	0.15%
Furness Building Society	Fixed	Sep-22	2,000,000	0.30%
Nottingham Building Society	Fixed	Sep-22	2,000,000	0.15%
Cambridge BS	Fixed	Sep-22	3,000,000	0.25%
Principality Building Society	Fixed	Oct-22	3,000,000	0.23%
Progressive Building Society	Fixed	Oct-22	1,000,000	0.35%
Progressive Building Society	Fixed	Oct-22	2,000,000	0.35%
Goldman Sachs International Bank	Fixed	Oct-22	4,000,000	0.82%
Saffron Building Society	Fixed	Nov-22	2,000,000	0.35%
Saffron Building Society	Fixed	Nov-22	1,000,000	0.35%
National Counties Building Society	Fixed	Nov-22	3,000,000	0.50%
Skipton Building Society	Fixed	Nov-22	3,000,000	0.20%
Furness Building Society	Fixed	Nov-22	3,000,000	0.50%
Monmouthshire Building Society	Fixed	Nov-22	1,000,000	0.40%
West Bromwich Building Society	Fixed	Nov-22	4,000,000	0.28%
Saffron Building Society	Fixed	Dec-22	3,000,000	0.40%
Blaenau Gwent CBC	Fixed	Dec-22	3,000,000	0.18%
Blaenau Gwent CBC	Fixed	Jan-23	4,000,000	0.20%
Skipton Building Society	Fixed	Jan-23	4,000,000	0.25%
West Bromwich Building Society	Fixed	Jan-23	2,000,000	0.55%
Thurrock BC	Fixed	Jan-23	3,500,000	0.38%
Cumberland Building Society	Fixed	Jan-23	2,000,000	0.62%
Royal Bank of Scotland	Fixed	Feb-23	2,000,000	2.46%
Goldman Sachs International Bank	Fixed	Feb-23	5,000,000	1.72%
Wokingham BC	Fixed	Mar-23	5,000,000	1.10%
Places for People	Fixed	Mar-23	5,000,000	1.00%
Principality Building Society	Fixed	Mar-23	2,000,000	1.23%
West Bromwich Building Society	Fixed	Mar-23	2,000,000	1.15%
Places for People	Fixed	Apr-23	5,000,000	1.00%
Places for People	Fixed	May-23	2,000,000	1.00%
Places for People	Fixed	Jun-23	3,000,000	1.00%
Gravesham Borough Council	Fixed	Apr-24	3,000,000	0.30%
Gravesham Borough Council	Fixed	Mar-27	3,000,000	0.75%
Santander Reserve Account	Call		410,032	variable
Royal Bank of Scotland	Call		2,362	variable
Royal Bank of Scotland	Call		96,489	variable
Goldman Sachs	MMF		20,400,000	variable
Blackrock	MMF		4,690,000	variable
L&G Equities	Unit Trust		12,424,595	variable
CCLA	Property Fund		7,602,919	variable
<b>TOTAL</b>			<b>195,126,397</b>	



Vale of White Horse District Council investments at 31 March 2022				
Counterparty	Deposit Type	Maturity Date	Principal	Rate
Principality Building Society	Fixed	May-22	2,000,000	0.15%
Places For People Homes Ltd	Fixed	Jun-22	5,000,000	0.75%
Furness Building Society	Fixed	Jun-22	3,000,000	0.35%
National Counties Building Society	Fixed	Jun-22	1,000,000	0.33%
Merthyr Tydfil CBC	Fixed	Jun-22	4,000,000	0.80%
National Bank of Kuwait (Int)	Fixed	Jun-22	5,000,000	0.23%
Newcastle Building Society	Fixed	Jun-22	2,500,000	0.18%
National Counties Building Society	Fixed	Jul-22	1,000,000	0.33%
PCC for Merseyside	Fixed	Aug-22	5,000,000	0.38%
Monmouthshire Building Society	Fixed	Aug-22	2,000,000	0.15%
National Counties Building Society	Fixed	Aug-22	3,000,000	0.35%
Cambridge Building Society	Fixed	Aug-22	1,000,000	0.25%
National Counties Building Society	Fixed	Sep-22	1,000,000	0.33%
Monmouthshire Building Society	Fixed	Sep-22	1,000,000	0.15%
Principality Building Society	Fixed	Sep-22	3,000,000	0.15%
Thurrock Council	Fixed	Sep-22	5,000,000	0.20%
Saffron Building Society	Fixed	Sep-22	3,000,000	0.20%
Cambridge Building Society	Fixed	Sep-22	2,000,000	0.25%
Furness Building Society	Fixed	Oct-22	3,000,000	0.30%
Goldman Sachs International Bank	Fixed	Nov-22	3,000,000	0.91%
Metropolitan Housing Trust Ltd	Fixed	Nov-22	3,000,000	1.10%
West Bromwich Building Society	Fixed	Nov-22	2,500,000	0.36%
Monmouthshire Building Society	Fixed	Dec-22	3,000,000	0.38%
Principality Building Society	Fixed	Dec-22	2,000,000	0.38%
Goldman Sachs International Bank	Fixed	Dec-22	5,000,000	1.09%
Progressive Building Society	Fixed	Jan-23	3,000,000	0.35%
Thurrock Council	Fixed	Jan-23	3,000,000	0.25%
Close Brothers Ltd	Fixed	Jan-23	3,000,000	0.90%
Blackpool Borough Council	Fixed	Jan-23	4,000,000	0.40%
Cumberland Building Society	Fixed	Jan-23	2,000,000	0.62%
Goldman Sachs International Bank	Fixed	Feb-23	3,000,000	1.68%
Goldman Sachs International Bank	Fixed	Mar-23	2,000,000	0.37%
Close Brothers Ltd	Fixed	Mar-23	2,000,000	1.50%
National Bank of Kuwait (Int)	Fixed	Mar-23	5,000,000	1.65%
Southern Housing Group	Fixed	Mar-23	5,000,000	1.00%
Thurrock Council	Fixed	Mar-23	2,000,000	1.17%
Yorkshire Housing Ltd	Fixed	Apr-23	5,000,000	1.00%
Places for People Homes Ltd	Fixed	Jun-23	2,000,000	1.00%
Places For People Homes Ltd	Fixed	Oct-23	1,000,000	1.00%
Places For People Homes Ltd	Fixed	Feb-24	2,000,000	1.00%
Gravesham Borough Council	Fixed	Apr-24	3,000,000	0.30%
Rotherham MBC	Fixed	Jun-24	5,000,000	variable
Kirklees Metropolitan Council	Fixed	Mar-25	5,000,000	0.80%
Lloyds Bank	Call		8,000,000	0.04%
Goldman Sachs	MMF		8,000,000	variable
LGIM	MMF		8,500,000	variable
CCLA	Property fund		2,000,000	
<b>GRAND TOTAL</b>			<b>154,500,000</b>	

Note – these tables show principal investment values, whereas figures in table 1 of appendix C and appendix D are shown at the fair values of investments held.

## GLOSSARY OF TERMS

<b>Basis point (BP)</b>	1/100th of 1%, i.e. 0.01%
<b>Base rate</b>	Minimum lending rate of a bank or financial institution in the UK.
<b>Benchmark</b>	A measure against which the investment policy or performance of a fund manager can be compared.
<b>Bill of Exchange</b>	A non-interest-bearing written order used primarily in international trade that binds one party to pay a fixed sum of money to another party at a predetermined future date.
<b>Callable Deposit</b>	A deposit placed with a bank or building society at a set rate for a set amount of time. However, the borrower has the right to repay the funds on pre agreed dates, before maturity. This decision is based on how market rates have moved since the deal was agreed. If rates have fallen the likelihood of the deposit being repaid rises, as cheaper money can be found by the borrower.
<b>[Cash] Fund Management</b>	Fund management is the management of an investment portfolio of cash on behalf of a private client or an institution, the receipts and distribution of dividends and interest, and all other administrative work in connection with the portfolio.
<b>Certificate of Deposit (CD)</b>	Evidence of a deposit with a specified bank or building society repayable on a fixed date. They are negotiable instruments and have a secondary market; therefore the holder of a CD is able to sell it to a third party before the maturity of the CD.
<b>Commercial Paper</b>	Short-term obligations with maturities ranging from 2 to 270 days issued by banks, corporations and other borrowers. Such instruments are unsecured and usually discounted, although some may be interest bearing.
<b>Corporate Bond</b>	Strictly speaking, corporate bonds are those issued by companies. However, the term is used to cover all bonds other than those issued by governments in their own currencies and includes issues by companies, supranational organisations and government agencies.
<b>Counterparty</b>	Another (or the other) party to an agreement or other market contract (e.g. lender/borrower/writer of a swap/etc.)
<b>Credit Default Swap (CDS)</b>	A swap designed to transfer the credit exposure of fixed income products between parties. The buyer of a credit swap receives credit protection, whereas the seller of the swap guarantees the credit worthiness of the product. By doing this, the risk of default is transferred from the holder of the fixed income security to the seller of the swap.

<b>Capital Financing Requirement (CFR)</b>	The amount the council has to borrow to fund its capital commitments.
<b>CIPFA</b>	Chartered Institute of Public Finance and Accountancy.
<b>CLG</b>	[Department for] Communities and Local Government.
<b>Derivative</b>	A contract whose value is based on the performance of an underlying financial asset, index or other investment, e.g. an option is a derivative because its value changes in relation to the performance of an underlying stock.
<b>Debt Management Account Deposit Facility (DMADF)</b>	Deposit Account offered by the Debt Management Office, guaranteed by the UK government
<b>European Central Bank (ECB)</b>	European Central Bank – sets the central interest rates in the EMU area. The ECB determines the targets itself for its interest rate setting policy; this is to keep inflation within a band of 0 to 2%. It does not accept that monetary policy is to be used to manage fluctuations in unemployment and growth caused by the business cycle.
<b>European and Monetary Union (EMU)</b>	The Economic and Monetary Union (EMU) is an umbrella term for the group of policies aimed at converging the economies of all member states of the European Union.
<b>Equity</b>	A share in a company with limited liability. It generally enables the holder to share in the profitability of the company through dividend payments and capital appreciation. Equity values can decrease as well as increase.
<b>Forward Deal</b>	The act of agreeing today to deposit funds with an institution for an agreed time limit, on an agreed future date, at an agreed rate.
<b>Forward Deposits</b>	Same as forward dealing (above).
<b>Fiscal Policy</b>	The government policy on taxation and welfare payments.
<b>GDP</b>	Gross Domestic Product.
<b>[UK] Gilt</b>	Registered UK government securities giving the investor an absolute commitment from the government to honour the debt that those securities represent.
<b>LIBID</b>	London inter-bank bid rate (to be phased out in December 2021)
<b>LIBOR</b>	London inter-bank offered rate (to be phased out in December 2021)

<b>Money Market Fund</b>	A well rated, highly diversified pooled investment vehicle whose assets mainly comprise of short-term instruments. It is very similar to a unit trust, however in a MMF.
<b>Monetary Policy Committee (MPC)</b>	Government body that sets the bank rate (commonly referred to as being base rate). Their primary target is to keep inflation within plus or minus 1% of a central target of 2% in two years time from the date of the monthly meeting of the committee. Their secondary target is to support the government in maintaining high and stable levels of growth and employment.
<b>Other Bond Funds</b>	Pooled funds investing in a wide range of bonds.
<b>PWLB</b>	Public Works Loan Board.
<b>QE</b>	Quantitative Easing.
<b>Retail Price Index</b>	Measurement of the monthly change in the average level of prices at the retail level weighted by the average expenditure pattern of the average person.
<b>Sovereign Issues (excl UK Gilts)</b>	Bonds issued or guaranteed by nation states, but excluding UK government bonds.
<b>Supranational Bonds</b>	Bonds issued by supranational bodies, e.g. European Investment Bank. The bonds – also known as Multilateral Development Bank bonds – are generally AAA rated and behave similarly to gilts, but pay a higher yield (“spread”) given their relative illiquidity when compared with gilts.
<b>Treasury Bill</b>	Treasury bills are short-term debt instruments issued by the UK or other governments. They provide a return to the investor by virtue of being issued at a discount to their final redemption value.

# Cabinet Report



Report of Head of Development and Corporate Landlord

Author: John Backley

Telephone: 07917 088317

Textphone: 18001 07917 088317

E-mail: [john.backley@southandvale.gov.uk](mailto:john.backley@southandvale.gov.uk)

Wards affected: all

Vale Cabinet member responsible: Councillor Sally Povolotsky

Tel: 01235 422520

E-mail: [sally.povolotsky@whitehorsedc.gov.uk](mailto:sally.povolotsky@whitehorsedc.gov.uk)

To: CABINET

Date: 30 September 2022

## Adoption of powers from Oxfordshire County Council under Land Drainage Act

### Recommendations

- (a) To support the request from Oxfordshire County Council (OCC) for Vale of White Horse District Council to adopt powers under the land drainage act as set out in paragraph 8 of this report
- (b) To recommend approving the adoption of powers under an agency agreement with OCC
- (c) Subject to Council approving the adoption of powers that Cabinet authorises the Head of Development and Corporate Landlord in consultation with the Head of Legal and Democratic to negotiate and finalise the agreement with OCC and enter into agreement to adopt the powers from OCC.

### Purpose of Report

1. For cabinet to consider the request from Oxfordshire County Council (OCC) for the district councils to act as an agent of the county council in the discharge of delegated functions for the operation and management of the powers and responsibilities of the

lead local flood authority (LLFA) under Sections 19, 23, 24 and 25 of the 1991 Land Drainage Act.

In brief, the Functions of the Land Drainage Act 1991 that OCC are looking to discharge are:

- Section 19 - flood investigations
- Section 23 - the determination of applications for consent to alter a watercourse
- Section 24 – investigate any nuisance caused by erecting or altering an obstruction or culvert in a watercourse
- Section 25 - enforcement action (to comply with OCC policy for watercourse/ditch clearing enforcement)

## **Corporate Objectives**

2. For the corporate plan 2020-24, carrying out this work is in line with the policy to work in partnership with other councils.

## **Background**

3. The Flood and Water Management Act 2010 (FWMA) established OCC as Lead Local Flood Authority, with a responsibility for leading the coordination of flood risk management for surface, groundwater and smaller watercourses in its area. Under this Act the functions under sections 24 and 25 of the Land Drainage Act 1991 were transferred to OCC.
4. OCC as the Highway Authority has a duty to maintain the physical fabric of adopted highways to appropriate standards as well as a general responsibility to assert and protect public highway rights. Therefore, there may be occasions when OCC needs to consider using its powers to secure an action to maintain a watercourse or watercourse in the interests of safeguarding highway safety.
5. OCC has the power under section 24 of the Land Drainage Act 1991 to require a person to abate a nuisance caused by erecting or altering an obstruction or culvert in a watercourse without the consent of the drainage board/LLFA further to section 23 of the Land Drainage Act 1991.
6. OCC has the power under section 25 of the Land Drainage Act 1991 to compel certain persons to maintain a watercourse so that the proper flow of water is not impeded.
7. Note: “Watercourse” is defined as “including all rivers and streams and all ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows. The watercourses referred to in this note are those which are defined in the Act as “ordinary watercourses” rather than ‘Main rivers’ which are the responsibility of the Environment Agency and do not fall under this agreement.

## **Delegation of functions**

8. OCC is requesting the district council to act as an agent to carry out:

- (a) formal flood investigations under Section 19 of the Land Drainage Act 1991 that meet specific criteria (i.e internal flooding to five or more properties or to one property for more than one week or flooding of critical infrastructure). Appendix 1 has the formal thresholds for the investigation of flood incidents. In addition, OCC request the district council investigates and reports on flood events at any specific location as requested within the Vale 'affecting habitable dwellings' and 'affecting highways'.
- (b) the determination of applications for consent under Section 23 to alter watercourse
- (c) informal enforcement action under Section 24 and 25 on behalf of the County Council to ensure the proper flow of water (preliminary steps e.g. investigations, sending initial letter). If issue remains unresolved it is passed back to OCC for formal enforcement action.

9. In order to carry out this work, OCC has provided the following documents as part of the legal agreement available as background papers:

- (a) guidance notes for ordinary watercourse consent applications
- (b) OCC enforcement procedure and protocol S24 and S25 (including flowchart outlining the enforcement procedure S25, templates for informal letters S24).

10. Formal investigations require a report to be provided from the council to OCC within agreed deadlines.

## Risks

- 11. Both OCC and the district council have powers to investigate flooding. The County Council as LLFA has powers and duties under S19 of the 1991 Act in respect of investigations on becoming aware of a flood in its area. The District Council is a risk management authority under the 2010 Act and also has powers and duties as a local authority under the 1991 Act in respect of general drainage and flood risk management.
- 12. As both OCC as LLFA and the district council have powers to investigate flooding, the risk is that it is unclear who is responsible for investigating flooding and potentially work is doubled up or passed from one to the other causing delay and confusion. The delegation of function from OCC gives power to the Vale council to investigate any internal flooding to a habitable dwelling, business or infrastructure. In addition, formal reports are required for flooding in accordance with the thresholds set out in appendix 1, note this excludes flooding from main river.
- 13. The risk of not having the resources to carry out the task in the agreement is mitigated as both sides are able to withdraw from the agreement on written notice.
- 14. There is a low risk if we do not have the internal resource to carry out the service and we have to employ an external resource (temporary staff) and we are not able to recharge 100 percent of this cost to OCC. This risk is mitigated by the terms of the

proposed agreement including provision for OCC to accept recharge of interim staff costs although the total recharge amount is capped each year.

15. There is a low risk of resources being diverted to wide scale investigations following a major flood incident. In emergency flood situations, our land drainage engineers would be heavily involved in associated tasks prioritised over routine work.
16. Officers are negotiating a notice period to be three months if either side wishes to terminate or put the agreement 'on hold' which would reduce risk to the council if there are insufficient resources to continue carrying out the service for OCC or if the service becomes financially unsustainable for the Vale.

## **Opportunities**

17. As part of current duties, the council's engineering team provide expert advice to residents, councillors and internal teams, including major and minor planning applications in terms of land drainage. Vale has carried out a number of flood alleviation schemes over the years. These historic projects and the experience it brings provides the engineers with the ideal skills, geographical knowledge and understanding of land drainage to carry out the delegated functions as requested by OCC and to recharge for their work.
18. The council's engineering team has carried out the Sections (S) 19, 23, 24 and 25 work successfully on behalf of OCC on an informal basis since the service was brought in-house in April 2018.
19. The agreement allows for OCC to request flood investigations are carried out on other occasions other than stipulated as "additional works", but these must be agreed by the engineers and can be recharged at the agreed rate.

## **Climate and ecological impact implications**

20. Flood investigations and enforcement remind landowners of good practices for keeping water within watercourses by proper and regular maintenance.

## **Financial Implications**

21. Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. For Vale, the position reflected in the council's medium-term financial plan (MTFP) as reported to Full Council in February 2022 showed that the council was able to set a balanced budget for 2022/23, but that there is expected to be a budget gap in future years.
22. This future funding gap is predicted to increase to over £3.7 million by 2026/27. As there remains no certainty on future local government funding, following the announcement of a one-year spending review by government, and as the long-term financial consequences of the Coronavirus pandemic remain unknown, this gap could increase further. Every financial decision made needs to be cognisant of the need to address this funding gap in future years.
23. The engineering team keeps a record of the hours spent carrying out the service for OCC including travel costs and updates this each quarter. The agreement sets out an hourly recharge fee which covers the salary costs of the engineers, plus on-costs and a



management fee. There is an annual payment 'upfront' from OCC at the start of each financial year (non-returnable) which covers all the Vale costs. The cost of providing the service by the engineers is fully recharged to OCC up to the agreed annual limit as set out in the funding agreement. Once this limit is reached authorisation is required from OCC for any further spend and there is no obligation on the Vale to supplement any funding. The income this provides goes to supplement the land drainage budgets.

24. Officers keep account of actual time and spends up to the budget provided by OCC (with regular updates each month to monitor spend and identify ahead of time any potential overspend). Once the upfront payment levels are reached no further work is undertaken until OCC provide additional budget. The agreement allows for requests for additional resource or payment from OCC during severe flooding for example and therefore will be subject to OCC confirmation at the time.
25. In the past few years, the cost recharged to OCC based on hourly rates is largely within the budget OCC will be paying the council each year in the future. To note however there have been no serious flood events during this period which would have potentially increased the amount of work.
26. For the consenting work S23, the council receives an application fee of £50 per structure (as set out in the Act). The council only recharges when the time spent on processing the application is greater than the fee received.
27. Going forward OCC will pay up front on a non-returnable basis an annual fee. The agency agreement will allow for recharging to be based on an hourly rate for the engineers' work. Once the agreement is confirmed, officers will adjust the base budgets accordingly for income received from OCC and for the income from the applications for consenting work.

## **Staff Implications**

28. The salary of the engineers who will carry out the delegated work is already included in the base budget and so this additional income will not have an impact on existing budgets. The work associated with the agency agreements can be carried out using existing resources by the four staff members in the engineering team. Delegated function work may have an impact on existing projects if there were a large number of investigations for example following a serious flood event (non main river). The agency agreement would allow negotiations between Vale and OCC in these circumstances to potentially seek extended timescales, and/or increase budget to allow for recruitment of additional resources.
29. The council is able to withdraw and terminate the agency agreement by written notice with any costs pro-rata payment returned to OCC.

## **Equalities Implications**

30. No equalities implications have been identified through the development of this proposal.

## **Legal Implications**

31. OCC request that the Vale council enters into an agreement under Section 101 of the Local Government Act 1972 and Section 19 of the Local Government Act 2000 relating to the management of functions under the Land Drainage Act 1991.
32. A delegation of functions requires full council approval. Page 19 of the Vale constitution, refers, Functions of the full Council 3. (o) “decide whether to accept a delegation from another local authority under joint arrangements”.
33. Under General delegations, delegations to Chief Executive and Heads of Service, reference 7.5 the Head of Service is able “to exercise the powers delegated to the council under agency agreements or contracts with other councils”.
34. Officers request that authority is given to the Head of Development and Corporate Landlord in consultation with the Head of Legal and Democratic to finalise the details of the agreement between Vale and OCC and enter into the agreement.
35. The agency agreement sets out OCC request to Vale to carry out informal enforcement action under Section 24 and 25 on behalf of the County Council to ensure the proper flow of water (preliminary steps e.g. discussions and meetings with landowners, site investigations, sending initial letter), all of which can be carried out by the engineers. If the issue remains unresolved it is passed back to OCC for formal legal enforcement action and there is no legal action taken by Vale. There is therefore no impact on additional work for the legal team.

## **Conclusion**

36. The district council has carried out numerous flood alleviation schemes over the years. The engineering team provide expert land drainage advice to residents, councillors and internal teams such as planning applications. The in-house skills and knowledge can be therefore best applied to carry out the flood investigations, consenting and enforcement on behalf of OCC.
37. The agreement allows for Vale to recharge all of their time associated with relevant flood investigations and be paid in advance of any work carried out.
38. The district council can decide to withdraw this service at relatively short notice if there are changes to resources in the future.

## **Background papers**

- Guidance note for ordinary watercourse consent applications
- OCC enforcement procedure and protocol Sections 24 and 25 LDA 1991
- Draft agreement with OCC relating to management of functions under the land drainage act 1991.

## Appendix 1

### Thresholds for Section 19 formal flood investigations

Criteria for flood investigation:

- Internal flooding (including to basements) to five or more residential properties within an area of 1km<sup>2</sup>
- Internal flooding of two or more business premises within an area of 1km<sup>2</sup>
- Internal flooding (including to basements) of at least one property for one week or longer
- Flooding of one or more items of critical infrastructure, which could include hospitals, health centres, clinics, surgeries, colleges, schools, day nurseries, nursing homes, emergency services (police, fire, ambulance) stations, utilities and substations.
- Thames Water will investigate all foul sewer flooding affecting the public highway, properties and watercourses.

Caused a transport link to be impassable for the following periods:

- Motorways, trunk roads and major rail links – 2 hours or more
  - Class A and B highways and other railway links – 4 hours or more
  - Class C highways – 10 hours or more unless the route is the only means of access, or is primary route for critical infrastructure then reduce to 4 hours
  - Class U highways – 24 hours or more unless the route is the only means of access, or is primary route for critical infrastructure then reduce to 4 hours
- In addition to the formal investigations as above, OCC has agreed that investigations should also be carried and recharged where there is any **internal flooding to a habitable dwelling, business or infrastructure.**

# Council



Report of the head of legal and democratic and the monitoring officer

Author: Steve Culliford

Telephone: 07895 213735

E-mail: [steve.culliford@southandvale.gov.uk](mailto:steve.culliford@southandvale.gov.uk)

To: COUNCIL

DATE: 12 October 2022 (Vale) and 13 October 2022 (South)

## Review of the council's Constitution

### Recommendations

- (a) That Council adopts the following for inclusion in the new joint Constitution with effect from Annual Meeting of Council in May 2023 or earlier if practicable upon the advice of the Monitoring Officer:
  - (i) Part 1 - Summary and Explanation section set out in Appendix B;
  - (ii) Part 2 - Articles of the Constitution set out in Appendix C;
  - (iii) Part 3 (c) – Committee Functions;
- (b) That Council adopts the following changes to the joint Constitution with immediate effect:
  - (i) Replace Part 16 Joint Staff Committee Procedure Rules with the Joint Staff Committee terms of reference and procedure rules set out in Appendix D;
  - (ii) Replace Part 22 Officer Employment Procedure Rules with the document set out in Appendix E;
  - (iii) Adopt the Officers' Code of Conduct set out in Appendix F and insert as Part 35;
  - (iv) Replace Part 28 - The Protocol on Member and Officer Relations with the document set out in Appendix G;
  - (v) Adopt the Press and Media Protocol set out in Appendix H and insert as Part 36;

- (vi) An amendment to Part 18p paragraph 1.1(a)(i) (VALE ONLY) in the head of planning's scheme of delegation to read:

“A ward councillor (to include adjacent ward councillor whose parish has been consulted) calls in the application to be considered by the Planning Committee within 28 days of the ~~date of registration of the application~~ **start of the consultation period** and the request is agreed by the head of planning. This request must be in writing and refer to material planning matters to ensure the audit trail for making that decision is clear and unambiguous. Councillors' right of call-in does not apply to applications for certificates of lawful use or development, prior approvals and notifications.”

- (vii) To retain Part 18p paragraph 1.1(c)(i) in the head of planning's scheme of delegation as a mechanism to allow members to request a call-in of an amended planning application; and

- (c) authorises the head of legal and democratic to make these changes and any further minor or consequential amendments to the Constitution.

## Purpose of Report

1. This report proposes revisions to the current Constitution to ensure it is up-to-date and reflects the council's changing environment.

## Strategic Objectives

2. The Constitution underpins all the council's decision-making and therefore supports all Corporate Plan objectives.

## Background

3. South Oxfordshire District Council and Vale of White Horse District Council have adopted a joint Constitution. The majority of the Constitution applies equally to both councils, with a few minor differences. Periodically the council undertakes a Constitution review in pursuance of the requirements of Section 37 of the Local Government Act 2000. This is the first review since October 2020.
4. The Joint Constitution Review Task Group was appointed by Council in December 2021 to conduct this review. The task group consists of councillors from both South Oxfordshire District Council and Vale of White Horse District Council and is cross-party. The task group has met regularly in 2022. Two co-chairs were appointed to the review group: Councillor Stefan Gawrysiak from South Oxfordshire and Councillor Emily Smith from the Vale, who alternate the chairing role. The task group was supported by the head of legal and democratic, officers from democratic services, as well as service-specific officers where appropriate.
5. Only full Council can amend the Constitution. This report (being submitted to both councils' Council meetings) sets out the task group's recommendations.

## Scope of this review

6. The task group discussed the scope of this Constitution review. On advice from the head of legal and democratic, the task group concluded that the Constitution should be re-written from front to back to reflect the model Constitution adopted by most councils. The task group is aware of the size of this undertaking and has adopted a step-by-step approach. As such, the task group will be reporting to Council regularly to recommend new sections.
7. Due to the need to ensure the re-written Constitution is both correct and easy to read, the task group has had two readings of each element.

## Suggested changes to the Constitution

### General structure of the new Constitution

8. The task group considers that the new Constitution should adopt the model version, issued as guidance under the Local Government Act 2000. The format will follow this pattern:
  - Part 1 – Summary and explanation
  - Part 2 – Articles of the Constitution
  - Part 3 – Responsibility for the council's functions
  - Part 4 – Procedure rules
  - Part 5 – Codes and protocols
  - Part 6 – Members' allowances scheme
  - Part 7 – Management structure
9. Some elements are recommended for inclusion in the new Constitution to take effect after the May 2023 district elections, or sooner if practicable and convenient. These will be compiled into a new Constitution, the entirety of which will be effective from the Annual Meeting of Council in May 2023. These include:
  - The Summary and Explanation section
  - The Articles
10. In the meantime, the task group wish to introduce some elements of the new Constitution with immediate effect. These elements include:
  - The Joint Staff Committee Procedure Rules
  - The Officer Employment Procedure Rules
  - The Officers' Code of Conduct
  - The Protocol on Member and Officer Relations
  - The Press and Media Protocol

The introduction of these elements at this stage are seen as crucial to allow the council to adapt to the changing needs of its environment now, rather than wait until May 2023.

11. Some elements of the new Constitution have already been approved by Council. These have been included in the current Constitution and will carry over to the new version in May 2023. They are the:
  - Members' Allowances Scheme – approved by Council October 2021 (allowances are reviewed annually in line with the budget)

- Arrangements for assessing allegations of a breach of the member code of conduct – approved by Council in December 2021
  - Members’ Parental Leave Policy – approved by Council in December 2021
  - Revised Member Code of Conduct – approved by Council in May 2022
12. Part 7 of the new Constitution, the Management Structure is approved by the chief executive under delegated authority. This will be inserted into the new Constitution and does not require Council approval.
13. A full schedule of the elements of the new Constitution and the progress made by the task group is shown in the contents and action tracker, attached at **Appendix A**.

## **Part 1 – Summary and explanation**

14. The task group has produced a new **Summary and Explanation** section. This is attached at **Appendix B**. It sets out the purpose of the Constitution, outlines how the council operates, how decisions are made, and sets out residents’ rights. Council is asked to adopt this.

## **Part 2 – Articles of the Constitution**

15. The model Constitution contains **Articles**. The task group considers that the new Constitution should contain Articles as, after the summary and explanation section, the Articles are aimed at the public and provide more detail on how the council operates. The following Articles are recommended to Council for adoption, as set out in **Appendix C**.
- Article 1 – The Council Constitution
  - Article 2 – Members of the Council
  - Article 3 – Residents and the Council
  - Article 4 – The Full Council
  - Article 5 – Chair of Council
  - Article 6 - Scrutiny Committees
  - Article 7 – The Cabinet
  - Article 8 – Regulatory and Other Committees
  - Article 9 – Ethical Standards Complaints Panel
  - Article 10 – Joint Arrangements
  - Article 11 – Officers
  - Article 12 - Decision Making
  - Article 13 – Finance, Contracts and Legal Matters
  - Article 14 – Review and Revision of the Constitution
  - Article 15 - Suspension, Interpretation and Publication of the Constitution

## **Part 3 – Responsibility for functions**

16. This part of the Constitution will set out in detail where the responsibility for the council’s various functions lies. These responsibilities are determined by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. Some functions are reserved for the full Council, such as setting the budget and council tax, whereas others may be delegated to regulatory committees, such as determining planning or licensing applications. There are other matters categorised as executive functions, which are the responsibility of the leader and the Cabinet. There are also

some functions that the council works with other councils to provide through joint arrangements. In addition there is a scheme of delegation to officers.

17. To date, the task group has only looked in detail at the responsibilities of the **Joint Staff Committee**. The task group has reviewed the Joint Staff Committee's current responsibilities and believes that these should be amended so that the committee is no longer responsible for the appointment of heads of service. This followed discussions at a previous meeting of the committee, where it was considered that such appointments should be made by the chief executive and his deputies. The Joint Staff Committee's procedure rules are recommended for adoption with immediate effect and are attached at **Appendix D**.
18. South Oxfordshire's full Council meeting passed a motion on 19 May 2022 calling on the task group to review the scheme of delegation to the head of planning. The motion sought to allow a councillor to **call in an amended planning application**, beyond the 28-day consultation period on the original application. The task group heard from the motion's proposer, who explained the reasons behind the motion, and also considered a paper from planning officers. Officers were concerned at the impact such a change would have on the council's performance in determining applications within the set deadline and were concerned about potential appeals against the council's non-determination of planning applications within the set period.
19. After some debate, the task group concluded that a mechanism already existed to allow the head of planning to refer any planning application to the Planning Committee. Members sometimes asked the officers to refer applications to the committee using this mechanism. The task group considered that this would overcome the scenario set out in the Council motion. The proposer of the motion to South Oxfordshire's Council meeting agrees. The wording in the scheme of delegation, paragraph 1.1(c)(i), already sets out the delegation clearly and covers the scenario where a member can ask the head of planning to call-in an application for consideration by the Planning Committee. However, the task group has asked officers to raise members awareness of this delegation and mechanism to request a call-in of planning applications where they have been amended. Officers will be reviewing the Planning Code of Practice to make reference to this mechanism and will also include it in future member training.
20. The planning officer's paper had also suggested that the **start of the 28-day call-in period** should be aligned across both South and Vale councils. The task group agreed with this suggestion and preferred that this should read 'within 28 days of the start of the consultation period'. The text in paragraph 1.1(a)(i), which only related to the Vale, would be brought into line with the paragraph that related to South Oxfordshire, to read:

"A ward councillor (to include adjacent ward councillor whose parish has been consulted) calls in the application to be considered by the Planning Committee within 28 days of the ~~date of registration of the application~~ **start of the consultation period** and the request is agreed by the head of planning. This request must be in writing and refer to material planning matters to ensure the audit trail for making that decision is clear and unambiguous. Councillors' right of call-in does not apply to applications for certificates of lawful use or development, prior approvals and notifications."



## Part 4 – Rules of procedure

21. The task group has so far reviewed the **Officer Employment Procedure Rules**. These are attached at **Appendix E**. The task group has amended these in light of the changes to the Joint Staff Committee's terms of reference. The new officer employment procedure rules are recommended to Council for adoption with immediate effect.

## Part 5 – Codes and protocols

22. Following Council's adoption of the new Members' Code of Conduct in May 2022, the task group has reviewed the **Officers' Code of Conduct**. This officer code is recommended for Council's adoption with immediate effect and is set out at **Appendix F**.
23. Linked to the members' code of conduct and the officers' code of conduct, the task group has also reviewed the **Protocol on Member and Officer Relations**. The task group considers this to be an important document that members and officers alike should read and follow in their work with each other. The protocol is recommended to Council for adoption with immediate effect and is set out at **Appendix G**.
24. The task group has reviewed the **Press and Media Protocol**. This set out how the council should communicate and respond to the press and media. The task group considers this to be a useful document that should be included in the new Constitution. The protocol is recommended for adoption by Council and is attached at **Appendix H**.

## Financial Implications

25. There are minimal financial implications for amendments to the Constitution as no paper copies are printed. The Constitution is published to the council's website and the public, councillors and officers are encouraged to refer to this online version.

## Legal Implications

26. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review. The Monitoring Officer is responsible for ensuring that the council operates within the law and that the Constitution is fit for purpose.

## Conclusion

27. This report sets out proposals to amend the Constitution. The Joint Constitution Review Task Group recommends that Council approves the proposed changes for implementation on the dates shown above, and authorises the head of legal and democratic to make these changes and any further minor or consequential amendments.
28. The Constitution review is a continual process. Any changes adopted by Council can be subject to further review or adjustment. The task group will continue with the review and will make further recommendations to Council in due course.

## **Background Papers**

None

## APPENDIX A

### Constitution Contents and Action Tracker South Oxfordshire and Vale of White Horse District Councils

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
<b>Contents Page</b>				
<b>Part 1</b>		Reviewed	29 April 2022	
<b>Summary and Explanation</b>				
<b>Part 2</b>				
<b>Articles of the Constitution</b>				
	1 – The Council Constitution	Reviewed	20 June 2022	
	2 – Members of the Council	Reviewed	20 June 2022	
	3 – Residents and the Council	Reviewed	20 June 2022	
	4 – The Full Council	Reviewed	20 June 2022	
	5 – Chair of Council	Reviewed	20 June 2022	
	6 – Scrutiny Committees	Reviewed	20 June 2022	
	7 – The Cabinet	Reviewed	20 June 2022	
	8 – Regulatory and Other Committees	Reviewed	20 June 2022	
	9 – Ethical Standards Complaints Panel	Reviewed	16 August 2022	
	10 – Joint Arrangements	Reviewed	16 August 2022	
	11 - Officers	Reviewed	16 August 2022	
	12 – Decision Making	Reviewed	16 August 2022	
	13 – Finance, Contracts and Legal Matters	Reviewed	16 August 2022	
	14 – Review and Revision of the Constitution	Reviewed	16 August 2022	
	15 – Suspension, Interpretation and Publication of the Constitution	Reviewed	16 August 2022	
<b>Part 3</b>				
<b>Responsibility for Functions</b>				
	3 (A) Introduction, Key Decisions, Forward Plan			

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
	3 (B) Council Functions			
	3 (C) Committee Functions	Under consideration by Task Group	Still under review	
	3 (C) (a) Working Groups and Advisory Bodies			
	3 (D) Non-Executive Delegations			
	3 (E) Executive Functions and Cabinet Member Responsibilities			
	3 (E) (a) Table of Executive Functions			
	3 (F) Statutory and Proper Officer List			
<b>Part 4 Rules of Procedure</b>				
	4 (1) Council Procedure Rules			
	4 (2) Cabinet Procedure Rules			
	4 (3) Access to Information Procedure Rules			
	4 (4) Budget and Policy Framework			
	4 (5) Overview and Scrutiny Procedure Rules			
	4 (6) Audit Procedure Rules			
	4 (7) Financial Rules			
	4 (8) Contract Procedure Rules (Procurement rules)	Being drafted		
	4 (9) Officer Employment Procedure Rules	Reviewed	29 September 2022	
<b>Part 5 - Codes and Protocols</b>				
	5 (1) Members' Code of Conduct	New Oxfordshire code of conduct adopted by both Councils in May 2022	Not required	18 and 19 May 2022

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
	5 (2) Officers' Code of Conduct	Reviewed	29 September 2022	
	5 (3) Whistleblowing Protocol			
	5 (4) Protocol on Member and Officer Relations	Reviewed	29 September 2022	
	5 (5) Planning Protocol	Being drafted		
	5 (6) Licensing Protocol			
	5 (7) Protocol for the Attendance of Officers and Members at Meetings			
	5 (8) Counter Fraud and Anti-Corruption Policy			
	5 (9) Arrangements for assessing allegations of a breach of the Member Code of Conduct	Revised arrangements adopted by both Councils	Not required	South Council 9 December 2021 Vale Council 8 December 2021
	5 (10) Role Profiles for Councillors			
	5 (11) Local Petitions Scheme			
	5 (12) Code of Governance	Under review by officers		
	Optional			
	Social Media Protocol for Members			
	Press and Media Protocol	Reviewed	16 August 2022	
	Councillor Call for Action			
	Members' Parental Leave Policy	Added to Constitution following adoption by the Council	Not required	South Council 9 December 2021 Vale Council 8 December 2021

Section	Description	Review status	Date approved by Task Group	Date adopted by Council
<b>Part 6 – Members Allowances Scheme</b>				
	South and Vale Councillors’ allowances schemes	Updated 1 April 2022 to reflect new allowances approved by the Council	Not required	South Council 7 October 2021 Vale Council 6 October 2021
<b>Part 7 - Management Structure</b>				
	Management structure February 2022	Approved by Chief Executive under delegated powers	Not required	Not required

**KEY**

YELLOW HIGHLIGHTING	UNDER REVIEW BY TASK GROUP OR BEING RECOMMENDED TO COUNCIL
GREEN HIGHLIGHTING	ADOPTED BY COUNCIL

## APPENDIX B

# Part 1- Summary and Explanation

The Constitution combines all the governance provisions that the Council is required by law to adopt, together with its traditional standing orders. South Oxfordshire and Vale of White Horse District Councils have agreed a new joint constitution which clearly sets out:

- how the councils operate
- how decisions are made and
- the rules and procedures which are followed to ensure that both councils activities are undertaken in a way that is efficient and transparent and that councillors remain accountable to residents

Some of the functions set out in the Constitution are required by the law, while others are a matter for each council to choose and are referred to as 'local choice' functions.

The Constitution has been set out to promote openness and transparency in accordance with themes adopted by both councils in their local plans:

- Openness and accountability – South Oxfordshire District Council
- Working in an open and inclusive way – Vale of White Horse District Council

### **What is in the Constitution?**

The Constitution is divided into 15 articles which set out the basic rules governing both councils' business. More detailed procedures and codes of practice are provided in separate rules and protocols at Parts 3 to 7 of the Constitution.

### **How the Council Operates**

South Oxfordshire District Council is composed of 36 councillors. Vale of White Horse District Council is composed of 38 councillors. All councillors for both councils are elected every four years with the next elections being due in May 2023.

Councillors are elected to represent an area known as a 'ward' and 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 and constituents, including those who did not vote for them.

The councils have a Code of Conduct for members which is based on the Local Government Association Model Code, and which has been agreed by all principal councils in Oxfordshire. There is also a protocol on councillor/officer relations set out in part 5 of this constitution to ensure high standards in the way both officers and councillors undertake their duties. The Monitoring Officer provides training and advice to councillors on the Code of Conduct and the Joint Audit and Governance Committee oversees ethical standards for both councils.

All councillors meet at meetings of the full Council. Full Council is responsible for deciding the main policies and setting the budget each year, it also appoints the Leader of the Council.

The Leader appoints the Deputy Cabinet Leader and the other members of the Cabinet and allocates responsibilities ("portfolios") within the Cabinet.

### **How decisions are made**

The Executive – known as the Cabinet - for each council is made up of the Leader and up to nine other councillors. Cabinet is responsible for implementing the policies of full Council in accordance with the agreed budget. Most decisions in relation to council services are taken by the Cabinet or, in the case of day-to-day operational decisions, by officers authorised by the Cabinet.

When key decisions are to be taken or considered they must be published 28 days in advance in the Cabinet's work programme in so far as they can be anticipated. If these major decisions are to be considered at a meeting by the Cabinet the meeting, and any papers to be considered, will generally be open to the public, unless personal or confidential matters are to be discussed. If the Cabinet wishes to make a decision that is outside the Policy Framework or Budget this must be referred to full Council to decide.

### Individual Cabinet Members

Individual cabinet members have authority to make decisions in relation to matters within their cabinet portfolio areas. Like other areas of council business, these decisions are published in individual cabinet member decision notices.

### Officers

The councils employ officers to give advice, implement decisions and support councillors in their work. Officers undertake the day-to-day planning and management of day-to-day delivery of services and the wide range of functions undertaken by the councils and take a variety of decisions under powers delegated to them by either full Council or Cabinet in the Scheme of Delegation. Certain senior officers, also called statutory officers have special roles and duties to ensure that the councils act within the law and use their resources wisely.

The most senior officer is the Chief Executive who is also the council's statutory Head of Paid Service and has responsibility for determining the management and staff structure for delivering council functions and policies within available resources. Other senior managers lead different parts of the council's services.

The Monitoring Officer and the Chief Finance Officer have specific duties to ensure that the council operates within the law and uses resources wisely. The council provides these officers with staff, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

### Committees

Certain functions of the full Council, notably regulatory functions and those which involve dealing with applications from individuals e.g., development control (planning) and licensing, are not the responsibility of the Cabinet and are dealt with by committees set up by the councils for that purpose.



## Scrutiny

Councils with a cabinet model of governance must have at least one Scrutiny Committee that supports and monitors the work of the Cabinet and the Council as a whole. The councils have each appointed one Scrutiny Committee, and one Joint Scrutiny Committee. In addition, there are also partnership Scrutiny Committees which are governed by their own arrangements and procedure rules.

Scrutiny committees are responsible for discharging any other functions conferred by legislation on a Scrutiny Committee of a district council such as the requirement to scrutinise Community Safety Partnerships. For example, the committees cannot consider anything that relates to a decision on an individual case, or a decision made under planning, licensing, or other regulatory legislation. They can allow residents to have a greater say in council matters by holding public inquiries into areas of concern and can commission reports and undertake reviews which advise the Cabinet and full Council on specific aspects of policy and its implementation.

They monitor the decisions of the Cabinet and may investigate specific issues. They can also 'call-in' a key decision made by or on behalf of the Cabinet, but not yet implemented, and may ask Cabinet to reconsider the decision or refer it for a debate at a full Council meeting. They may also be consulted by the Cabinet or full Council on forthcoming decisions and on the development of policy.

## **Residents Rights**

South Oxfordshire and Vale of White Horse District Council welcome participation by residents in their work. Residents 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 an individual's legal rights.

Residents have the right to:

- vote at local elections if they are registered.
- contact their local councillor about any matters of concern;
- obtain a copy of the Constitution;
- attend meetings of the full Council, its committees, and public meetings of the Cabinet except where, for example, personal or confidential matters are being discussed;
- inspect agendas and reports except those which contain personal and confidential matters;
- petition to request a referendum for a different form of governance arrangements;
- participate in meetings of the full Council, committees and panels and contribute to investigations by scrutiny committee;
- find out, from the Cabinet work programme, what key decisions are to be discussed and / or to be decided by the cabinet members or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided, except where confidential or exempt information is being discussed;
- see reports and background papers, and any record of decisions made by full Council, Cabinet, or committees
- exercise their rights under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 to obtain information held by the councils;

- complain to the councils under their own complaints process;
- complain to the council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the council's code of conduct;
- complain to the Local Government Ombudsman if they think the council has not followed its procedures properly. (However, they should only do this after using the council's own complaints process);
- inspect the council's accounts and make their views known to the external auditor.

## **APPENDIX C**

# **Article 1 – The Council Constitution**

### **Powers of the Council**

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

### **The Constitution**

2. This is the Constitution of South Oxfordshire and Vale of White Horse District Council within the meaning of Section 37 Local Government Act 2000.

### **Purpose of the Constitution**

3. The purpose of the Constitution is to provide a clear outline of how the council operates to:
  - enable the council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
  - support the active involvement of residents in the process of local authority decision making;
  - provide for the separation of roles within the council's political management arrangements;
  - enable decisions to be taken efficiently, effectively and in accordance with best value principles,
  - assist the council to implement their Corporate Plan;
  - ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for their decisions;
  - help councillors to represent their constituents more effectively;
  - provide a means of improving the delivery of services to the community.

### **Interpretation of the Constitution**

4. The Constitution will be interpreted to give full effect to the aims and principles set out above. Where the Constitution permits the council to choose between different courses of action, the option which is considered to be closest to those aims and principles will be chosen.

### **Review of the Constitution**

5. The Monitoring officer will monitor and regularly review the operation of the Constitution as set out in Article 14.

### **Parts of the Constitution**

6. The Constitution is divided into the following parts and sets out:
  - Part 1 - A list of contents and an index. An explanation of the meaning of some of the expressions used in the Constitution set out in a glossary of terms.

- Part 2 - General information about what is included, the decision-making processes, how key parts of the council operates, members' key duties and the rights of the public to become involved.
- Part 3 - How decisions are made and by whom which includes the responsibilities for exercising functions and terms of reference of the council's committees, including the Cabinet.
- Part 4 - Detailed procedure rules (standing orders), covering how meetings operate, including full Council, Cabinet, Scrutiny, and other committees.
- Part 5 - Code and protocols which explain how councillors and staff of the council must conduct themselves, such as the Access to Information rules and the use of resources, gifts, and hospitality.
- Part 6 - Details of all the allowances that members are entitled to claim.
- Part 7 - The senior management structure of the council.

# Article 2 - Members of the Council

## Composition

1. South Oxfordshire District Council comprises 36 members. Vale of White Horse District Council comprises 38 members. Members are otherwise called councillors.

## Eligibility

2. Only individuals who are at least 18 years old and a British citizen or a citizen of the Commonwealth. A person must be registered to vote in the council area or have lived, worked, or owned property there for at least 12 months before an election.
3. A person is not able to be a councillor if they:
  - Work for the council they want to be a councillor for or for another local authority in a politically restricted post.
  - Are subject to a bankruptcy restrictions order or an interim order, or have been sentenced to prison for three months or more (including suspended sentences) during the five years before election day.
  - Have been convicted of a corrupt or illegal practice by an election court.
  - Are subject to the notification requirement of or under Part 2 of the Sexual Offences Act 2003.

## Election and Term of Office

4. The term of office for a councillor is four years and starts on the fourth day after being elected and finishes on the fourth day after the date of the next election.
5. The usual elections of the whole council for both South Oxfordshire and Vale of White Horse District Council normally take place on the first Thursday in May every four years.
6. By-elections are held, as required, to fill casual vacancies which occur if a councillor fails to accept their office, dies, resigns, ceases to be a councillor for non-attendance at meetings for six months without dispensation from the full Council, or is otherwise disqualified by law.
7. Unless they resign or become disqualified, the Chairman and Vice-Chairman of the Council and the Leader of the Cabinet are in those posts until their successors are appointed at the annual meeting of the council even if, in an election year, they are not re-elected at that election.

## Responsibilities

8. All councillors, acting together at full Council, are responsible for taking the important decisions about the direction and objectives of the councils, for deciding on the overall **policy framework** and **budget**, and carrying out a number of strategic and corporate management functions.
9. Additionally, all councillors are expected to:
  - Bring views of their communities into the council's decision-making processes;

- Effectively represent the interests of their ward and of individual constituents;
- Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Respond to constituents' enquiries and representations, fairly and impartially;
- Participate in the governance and management of the council;
- Be available to represent the council on other bodies; and
- Be involved in decision making.
- Hold the Cabinet to account as either a member of the full Council or as a councillor sitting on any of the Scrutiny committees or sub-committees;
- Promote good community relations, ensure greater public / stakeholder participation, and take and encourage steps to reduce crime and eliminate inequality of opportunity and unlawful discrimination;
- Promote the economic, social, and environmental well-being of the councils area
- Develop and maintain a working knowledge of the councils services, management arrangements, powers, duties, and constraints
- Focus on service improvement and efficiency at a strategic and political level and not become involved in detailed operational or managerial issues;
- Engage with the media in accordance with agreed council protocols

### **Conduct and Ethical Standards**

10. Councillors are required to maintain the highest standards of conduct and ethics and adhere to the Code of Conduct for Councillors and co-opted members adopted by the full Council and set out in Part 5 of this Constitution. Councillors must also have regard to the Protocol on Councillor/Officer Relations set out in Part 5.

### **Rights and duties**

11. Councillors will have such rights of access to such documents, information, land, and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
12. In order properly to perform their duties, councillors should attend meetings to which they have been appointed as a member, or appoint a substitute where that is permitted.
13. Councillors are precluded by the Code of Conduct from making 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. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
14. Subject to any interest defined in the Code of Conduct for Members, the common law rule against bias and the Council Procedure Rules, councillors have a right to speak and vote on any item before the full Council and councillors who are members of a committee have a right to speak and vote on any item before that committee.

### **Allowances**

15. Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme as set out in Part 6 of this constitution that have been

determined by the Council after considering a report by an Independent Remuneration Panel (consisting of people who are not councillors).

### **Substitute Members**

16. At the Annual Meeting of the Council, preferred substitutes will be appointed to the appropriate committees. Between Annual Meetings, leaders of political groups may amend the preferred substitute appointments and Council will be updated at the next meeting.
17. Where substitutes are permitted, councillors can appoint their own substitute from within their group, provided they inform Democratic Services prior to the commencement of the meeting.
18. A member wishing to nominate a substitute for a particular meeting is not required to give a reason for his or her proposed absence but should not then attend the meeting in any capacity and a member may only withdraw the nomination of the substitute only with the agreement of the arranged substitute councillor.
19. Substitute members of the Planning Committee, Licensing Committee and its sub-committees must have received appropriate training and will not be permitted to take part unless and until they have completed that training.

# Article 3 - Residents and The Council

## Residents' Rights

1. The council welcomes participation by all residents in their work. Members of the public have the following rights, which are explained in more detail in the Access to Information Rules.
  - (a) Voting - Residents registered to vote are actively encouraged to exercise their vote, as part of their commitment to citizenship and local democracy.
  - (b) Information - Residents have the right to:
    - (i) attend meetings of the Council, its committees and sub-committees (if in existence), except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private. This does not extend to informal working groups or task and finish groups, which will be held in private.
    - (ii) see reports and background papers, and any records of decisions made by the Council and its committees, except where confidential or exempt information is likely to be disclosed, and the meeting is held in private.
    - (iii) obtain a copy of the Constitution which is available online or in hard copy for payment of a reasonable fee.
    - (iv) inspect the Council's accounts, subject to legal limits, and make their views known to the external auditor.
    - (v) request disclosure of information which is not exempt or confidential and which is held by the Council (Freedom of Information Act 2000 and the Environmental Information Regulations 2004).
  - (c) Participation - Residents may:
    - (i) speak or ask a question at meetings of the Council and its committees according to the Council Standing Orders.
    - (ii) participate in consultations;
    - (iii) submit petitions to Councillors or officers about matters that are of local concern according to Council Standing Orders, and
    - (iv) attend and record meetings in accordance with the Openness of Local Government Bodies Regulations 2014.

## Residents Responsibilities

2. Residents are expected to conduct themselves in an appropriate and respectful manner and not to indulge in violent, abusive or threatening behaviour or language to anyone, including councillors and officers of the Council. This is particularly important when attending or addressing meetings where there are likely to be a wide range of views strongly held by different sections of the community where emotions will run high.
3. Residents' rights of participation are dependent upon:
  - (i) refraining from causing damage to property
  - (ii) respecting the diversity and equality of all sections of the community
  - (iii) respecting the integrity of the roles that Members and professional officers of the Council are required to undertake; and



- (iv) avoiding language, making statements or behaviours that are in breach of the Equality Act 2010 or which could be considered to be derogatory or offensive, such conduct can amount to a criminal offence and may also amount to slander or libel.

## **Complaints**

- 4. Residents have the right to complain to:
  - (i) the council itself under its corporate complaints scheme,
  - (ii) the Local Government Ombudsman after exhausting the council's own complaints scheme, and
  - (iii) the Monitoring Officer about a breach of the Councillors' Code of Conduct.

## **Voting and petitions**

- 5. Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a change in the Council's governance arrangements.

# Article 4 - The Full Council

## Functions of the full Council

1. Only full Council will exercise the following functions:

(a) Approve and adopt the policy framework and budget:

**Policy Framework** - means the following plans and strategies:

- Corporate Plan and priorities
- Licensing Authority Policy Statement
- Gambling Statement of Principles
- Plans and alterations which together comprise the Development Plan

**Budget** - includes the calculations required under section 31A, 31B and 36 of the Local Government Finance Act 1992 and in particular

- the calculation of revenue budget requirement
- the original and revised revenue estimates
- the capital programme and the control of capital expenditure and
- the allocation of financial resources to different services and projects,
- proposed contingency funds
- the Council tax base
- setting the Council tax
- the annual investment strategy
- decisions relating to the control of the Council's borrowing requirement
- treasury management functions
- the setting of virement limits.

(b) Adopting and changing the Constitution, including the determination of which of the Council's "Local Choice" functions (as defined in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000) should be executive functions and which should be non-executive functions, save that the Head of Legal and Democratic may make minor changes to reflect changes in staffing and the law; Approving, adopting, amending, modifying, revising, varying, withdrawing or revoking (unless, by law, expressly the responsibility of the Executive, or otherwise authorised by any provision of this Constitution) any plan or strategy which forms part of the policy framework or budget;

(c) Determining, as licensing authority, its policy with respect to the exercise of its licensing functions under the Licensing Act 2003 and revising such policy at such times as it considers appropriate;

(d) Subject to the urgency procedure contained in the Access to Information Procedure Rules or the Budget and Policy Framework Policy Rules, 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 making it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

(e) Appointing the Leader;

- (f) Agreeing and/or amending the terms of reference for committees, deciding on their composition, and making appointments to them;
- (g) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (h) Adopting a members' allowances scheme following a recommendation from the Independent Remuneration Panel;
- (i) Changing the name of the area, conferring the title of honorary alderman or alderwoman;
- (j) Resolving under Section 166 of the Gambling Act 2005 not to issue casino premises licenses;
- (k) Making, amending, revoking, re-enacting, or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (l) Deciding whether to make proposals for a change in governance arrangements, deciding whether the change should be subject to approval in a referendum and passing a resolution to make a change;
- (m) Making an order giving effect to recommendations made in a community governance review;
- (n) Appoint councillors to the Oxfordshire Joint Health Overview and Scrutiny Committee and the Thames Valley Police and Crime Panel;
- (o) Any local choice functions which the Council has decided should be undertaken by itself;
- (p) Adopt the annual Pay Policy Statement under Section 38 of the Localism Act 2011;
- (q) Making determinations in relation severance packages of £100,000 and above;
- (r) Adopting a Code of Conduct for elected and co-opted members of the Council under section 27 of the Localism Act 2011;
- (s) Making or revising a council tax reduction scheme under section 13 A(2) of the Local Government Finance Act 1992;
- (t) Appointment of the Head of the Paid Service, Returning Officer, Electoral Registration Officer and designation of the Monitoring Officer or the Chief Finance Officer (appointed under section 151 Local Government Act 1972) after consideration of the advice, views or recommendations of the Joint Staffing Committee;
- (u) Dismissal of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer (appointed under section 151 Local Government Act 1972) after consideration of the advice, views or recommendations of the Independent

Panel appointed by the Council Meeting, the conclusions of any investigation into the proposed dismissal and the views of the officer concerned; and

- (v) all other matters which, by law, must be reserved to Council.

### **Types of Council Meeting**

2. There are three types of Council meeting:
- the annual meeting
  - ordinary meetings
  - extraordinary meetings
- which will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.
3. In addition, the council may hold ceremonial meetings for the purposes of conferring the title of Alderman or Alderwoman.

### **Responsibility for functions**

4. The Council will allocate responsibilities for and maintain a record in Part 3 of this Constitution setting out the responsibilities for the discharge of:
- (a) the Council's functions which are not the responsibility of the Executive;
  - (b) local choice functions which are not the responsibility of the Executive.

### **Political Balance**

5. Where the Council comprises more than one political group the rules of political balance set out in the Local Government and Housing Act 1989 and Regulations made under it shall apply to membership of all committees appointed by the councils.

# **Article 5 – Chair of Council**

## **Role and Function of the Chair**

1. The Chair and Vice-Chair will be elected by the Council annually. The Chair and, in his/her absence, the Vice-Chair will have the following responsibilities:
  - (a) to uphold and promote the purposes of the Constitution and the values of the council, and to interpret the Constitution when necessary;
  - (b) to preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
  - (c) to ensure that the council meeting is a forum for the debate of matters of concern to the local community and a place at which councillors are able to ask questions of the Leader and the chairs of committees and are able to hold each other to account;
  - (d) to promote public involvement in the council's activities; and
  - (e) to act as the district's first resident and to attend such civic and ceremonial functions as appropriate.

# Article 6 - Scrutiny Committees

## General Role

1. Each council will appoint a scrutiny committee and a joint scrutiny committee to discharge the functions conferred by section 9F of the Local Government Act 2000 and section 19 of the Police and Justice Act 2006.
2. Scrutiny should be carried out in a proactive and constructive way and contribute to the delivery of efficient and effective services that meet the needs and aspirations of local residents, visitors and businesses.
3. Within their terms of reference, the scrutiny committees may:
  - (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the council's functions;
  - (ii) make reports and/or recommendations to full Council and/or the Cabinet in connection with the discharge of any functions including policy development;
  - (iii) make reports and/or recommendations to the full Council and/or the Cabinet on any matter affecting the area or its residents;
  - (iv) exercise (subject to the Scrutiny Procedure Rules) the right to call in key decisions made but not yet implemented by Cabinet, an individual cabinet member or by an officer and to recommend that the decision be reconsidered;
  - (v) arrange for its function under (i) above as regards any decision to be exercised by the full Council;
  - (vi) require members of the Cabinet or officers of the authority to attend a scrutiny committee meeting to answer questions, and invite other persons to attend;
  - (vii) appoint one or more sub-committees and arrange for the discharge of any of its functions by such a sub-committee;
  - (viii) consider matters except 'excluded matters' referred to it by any councillor.

### "Excluded Matters" means

- any matter relating to a planning decision
- any matter relating to a licensing decision
- any matter relating to a person in respect of which that person has a right of recourse or right of appeal conferred by or under any enactment
- any matter that is vexatious, discriminatory or not reasonable to be included on the agenda or to be discussed at a meeting of the scrutiny committee or any sub-committee of that scrutiny committee.

## Specific functions

4. Scrutiny committees may:

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultations in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the Cabinet and chief officers about their views on issues and proposals affecting the area;
- (v) 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;
- (vi) review and scrutinise the decisions made by and performance of the Cabinet and council officers both in relation to individual decisions and over time;
- (vii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (viii) question members of the Cabinet and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (ix) make recommendations to the Cabinet and/or appropriate committee and/or Council arising from the outcome of the scrutiny process; and
- (x) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the scrutiny committee and local people about their activities and performance, and question and gather evidence from any person (with their consent).

## **Reporting**

5. Scrutiny committees may publish reports on their workings and make recommendations for future work programmes and amend working methods where appropriate.

## **Crime and disorder committee**

6. The scrutiny committee will be designated as the Crime and Disorder Committee. Its responsibilities will include:
  - to review or scrutinise decisions or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - to make reports and recommendations to the Council or Cabinet with respect to the discharge of those functions.

“Responsible authorities” include:

- Oxfordshire County Council;
- The Police and Crime Commissioner and Chief Constable of Thames Valley police

“Crime and Disorder Functions” are:

- reducing crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
- combating the misuse of drugs, alcohol and other substances in the area and reduction of re-offending in the area.

### **Proceedings of scrutiny committees**

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

### **Chairs**

8. Chairs of scrutiny committees will receive a standing invitation to attend public meetings of the Cabinet and receive the relevant papers, including parts of the meeting where exempt matters are being discussed.



# **Article 7 - The Cabinet**

1. The Council operates an Executive form of governance. This means that full Council appoints a Leader. The Leader then appoints other councillors who, together with the Leader, form the Cabinet. The Cabinet is part of the council that is responsible for most day-to-day decisions.

## **Role**

2. The Leader, and in turn the Cabinet will have all the functions of the council that are not the responsibility of any other part of the council, whether by virtue of law or this Constitution.

## **Form and composition**

3. The Cabinet will consist of the Leader together with up to nine other councillors appointed by the Leader (one of whom will be appointed by the Leader to act as the Deputy Leader).

## **Leader**

4. The Leader will be a councillor elected to the position of the Leader by full Council and full Council will decide the term of office of the Leader. The Leader's term of office is normally four years, and must expire no later than the day on which the council holds its first annual meeting after the Leader's normal day of retirement as a councillor.
5. The Leader's term of office will also end before that date if:
  - (i) he/she resigns from the office;
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is removed by resolution of Council
6. If there is a vacancy in the office of Leader as a result of a resolution under (iii) above, the Council shall elect another councillor as Leader at the meeting at which the Leader is removed from office or at the next subsequent meeting of the Council.
7. If there is a vacancy in the office of Leader for any other reason, the Council shall elect another councillor as Leader at the first meeting after the vacancy occurs.

## **Deputy Leader**

8. The Leader will appoint one of the members of the Cabinet to act as Deputy Leader. The Leader must give written notice of such appointment to both the person who he/she is appointing as Deputy Leader and the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Cabinet at the earliest opportunity.

9. The Deputy Leader will hold office until the end of the Leader's term of office unless before that date:
  - (i) he/she resigns from the office; or
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is no longer a member of the Cabinet; or
  - (iv) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and to the Monitoring Officer.
10. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of the Deputy Leader and the Leader will report any such removal to the Council and the Cabinet at the earliest opportunity.
11. Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place. The Leader must give written notice of such appointment to both the person he/she is appointing as Deputy Leader and to the Monitoring Officer. The appointment of the Deputy Leader will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and the Leader will report the appointment to Council and the Cabinet at the earliest opportunity.
12. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader will act in his/her place.
13. If for any reason the Leader is unable to act, or the office of Leader is vacant; and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant the Cabinet as a whole must act in the Leader's place, or arrange for a Cabinet member to act in his/her place.

### **Other Cabinet members**

14. In addition to the Deputy Leader, the Leader will appoint between up to eight other councillors as Cabinet members to hold such portfolios as the Leader shall determine. When appointing a Cabinet member, the Leader must give written notice of the appointment and of the portfolio to both the person who he/she is appointing as a Cabinet member and to the Monitoring Officer.
15. The appointment of the Cabinet member will take effect on receipt of the Leader's written notice by both the person who the Leader is appointing as a Cabinet member and the Monitoring Officer.
16. The Monitoring Officer will keep a written record of the appointment of a Cabinet member and the Leader will report the appointment of a Cabinet member and their portfolio to Council and the Cabinet at the earliest opportunity.
17. A Cabinet member will hold office until the end of the Leader's term of office unless before that date:
  - (i) he/she resigns from the office; or
  - (ii) he/she is no longer a councillor for any other reason; or
  - (iii) he/she is removed by the Leader who must give written notice of such removal to both the Cabinet member and to the Monitoring Officer. The removal of a

Cabinet member will take effect on receipt of the Leader's written notice by both the Cabinet member and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of a Cabinet member and the Leader will report any such removal to Council and the Cabinet at the earliest opportunity.

### **Remits of Cabinet Members**

18. Within the above framework and any statutory requirements, the Leader will determine the detailed remits of Cabinet Members (including the Deputy Leader) and report such detailed remits (and any changes thereto) to the Cabinet Members concerned, the Monitoring Officer, the Council, and the Cabinet at the earliest opportunity.
19. Cabinet members may not be appointed to a scrutiny committee, Planning Committee, or the Joint Audit and Governance Committee.

### **Proceedings of the Cabinet**

20. Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.
21. Cabinet meetings are held at a time and place determined by the Cabinet. Cabinet Meetings are held in public unless the law requires or, where lawfully allowed, Cabinet decides if it is expedient to exclude the press and public.
22. Cabinet meeting agendas are determined by the Leader, in consultation with relevant chief officers.

### **Responsibility for functions**

23. The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the council's executive functions by:
  - (i) the Cabinet as a whole
  - (ii) a Cabinet member
  - (iii) a committee of Cabinet
  - (iv) an officer of the Council
  - (v) an area committee
  - (vi) joint arrangements
  - (vii) another local authority
24. At the annual meeting of the council or when any changes are made, the Leader will present a scheme of delegation of executive functions to council for inclusion in the council's Scheme of Delegation in Part 3 of this Constitution.
25. The scheme of delegation document presented by the Leader will contain details of the nature and extent of any delegation to officers and individual Cabinet members with details of any limitation on that delegation, and the title of the officer to whom the delegation is made in relation to executive functions for the coming year.
26. The Leader may at any time amend the scheme of delegation of executive functions but must report the revised scheme to the Council. Even where executive functions

have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

27. If the exercise of an executive function has been delegated to an individual Cabinet member or a committee of the Cabinet, and a disclosable pecuniary interest or conflict of interest arises, then the function will be exercised by the Cabinet, the Leader or an alternative Cabinet member authorised by the Leader.
28. The Monitoring Officer will maintain a register of the scheme of delegation of executive functions and will record any alterations to the allocation of responsibility for the discharge of executive functions.

#### Substitute Members

29. Substitutes are not permitted for the Cabinet but substitutes are permitted for a committee of the Cabinet. Cabinet members can appoint their own substitute from other members of the Cabinet who are not already members, provided that they inform Democratic Services prior to the commencement of the meeting.
30. A Cabinet member wishing to arrange a substitute for a particular meeting is not required to give a reason for his or her proposed absence but may stand down the substitute if they are able to attend after all.

# Article 8 - Regulatory and other Committees

## Background to Committees

1. Power to appoint - Unless legislation directs otherwise, the Council may appoint a committee or sub-committee of the authority, or the Council with one or more other local authorities may appoint a joint committee of those authorities, and any such committee may appoint one or more sub-committees, for the discharge of any of the Council's functions.
2. Form and functions - The law requires that certain committees must be established and must operate in a particular manner. Those and other committees, where established, are required by law to discharge particular functions and to discharge their functions in particular ways. Council is otherwise free to decide on the size, terms of reference and level of delegation of each committee or sub-committee it establishes. The Council will establish a number of standing committees in order to undertake its functions in a more efficient way or as required. The committees are grouped accordingly.
3. Statutory, Regulatory and Other Committees - These committees regulate the conduct of the Council's business and make decisions in relation to regulatory, administrative, and corporate governance matters. A summary of the functions of each committee is shown below. The detailed terms of reference, functions and powers delegated to each of these committees are more particularly set out in Part 3 – Responsibility for Functions – Terms of Reference Committees of Council.

## Regulatory Committees

4. The Council is obliged to establish the following standing Statutory Committees:
  - Planning Committee
  - Licensing Acts Committee

## Other Committees

5. Full Council will appoint the committees set out below to discharge the functions described in the terms of reference contained in Part 3 – Responsibility for Functions – Terms of Reference Committees of Council):
  - Appeals Committee
  - Climate and Ecological Emergencies Advisory Committee (South only)
  - Climate Emergency Advisory Committee (Vale only)
  - Community Governance and Electoral Issues Committee
  - General Licensing Committee
  - Joint Audit and Governance Committee
  - Joint Staff Committee

## Procedures

6. The Council Meeting Procedure Rules (Part 4) apply to meetings of committees to the extent indicated in **Rule XX** of those rules.

7. Any Councillor may request Democratic Services to place an item on the agenda for a committee subject to giving ten clear days' notice prior to the meeting. The item must relate to the business of the committee and will normally be placed at the end of the agenda.
8. Where a committee is considering a licensing application or appeal, any councillor who is not present throughout the proceedings will not be entitled to participate in the decision.

### **Membership – casual vacancies**

9. Where full Council has determined the allocation to different political groups of seats on committees then, where a casual vacancy occurs, the councillor nominated by the political group entitled to fill that vacancy will become a member of that committee on the day following receipt of notice to that effect by the Chief Executive.

### **Membership – training**

10. Members of the Planning Committee and licensing committees and their sub-committees must have received appropriate training as determined by the Head of Legal and Democratic prior to participating in such committee meetings.

### **Access to Information**

11. All committees will comply with the Access to Information Rules (Part 4).

### **Programme of Meetings**

12. Committee meetings will be held in accordance with a programme of meetings agreed by the Head of Legal and Democratic, and at such other times as the particular committee may reasonably determine.

### **Quorum**

13. Business shall not be transacted at a meeting of a committee unless at least one quarter of the membership is present. Provided that in no case shall the quorum of a committee or sub-committee be less than three members.

### **Substitute Members**

14. Substitutes are permitted for committees. Members can appoint their own substitute from within their group, provided that they inform Democratic Services prior to the commencement of the meeting.
15. A member wishing to arrange a substitute for a particular meeting is not required to give a reason for his or her proposed absence.
16. A notice to the effect that a member will not be able to attend a meeting may be withdrawn only with the agreement of the arranged substitute member (if any).

17. Substitute members of the Planning Committee and the licensing committees and their sub-committees must have received appropriate training as determined by the Head of Legal and Democratic prior to participating in such committee meetings.

# **Article 9 - Ethical Standards Complaints Panel**

## **Standards Panel**

1. The Council meeting will establish a Complaints Panel which will consider Code of Conduct complaints referred to it by the Monitoring Officer under the **Arrangements** adopted for this purpose. The Complaints Panel will be a sub-committee of the Joint Audit and Governance Committee.

## **Composition**

2. The Complaints Panel will be composed as follows:
  - Any three District councillors from the district in which the complaint originates (none of whom may be the leader of the Council, the group leader of the group the subject member is part of (if applicable) and no more than one of whom may be a member of the Cabinet);
  - One Independent Person appointed by the Council.

## **Independent Persons**

3. Independent Persons provide an independent and impartial presence on the Complaints Panel and make a real contribution to the fairness and integrity of the standards process.
4. Independent Persons will be entitled to take part in the meeting and will be invited to provide their viewpoint and advice at any hearing. Independent Persons will be treated as co-opted members and will not be entitled to vote at meetings. One Independent Person will be selected by the Monitoring Officer from a pool approved by full Council.

## **Chairing the Committee**

5. The Joint Audit and Governance Committee will appoint two of the councillors on that committee as Chair and Vice Chair of the Complaints Panel at the annual meeting of council. In the absence of the appointed Chair or Vice Chair, the Complaints Panel will elect a Chair pro tem for that meeting.

## **Quorum**

6. The quorum for the Complaints Panel shall be three, one of whom must be an Independent Person.

## **Role and Functions**

7. The Complaints Panel will undertake the function of dealing with Stage 4 hearings under the Arrangements for dealing with complaints about councillors under the Code of Conduct and in accordance with the procedure set out in the Arrangements.

## **Substitute Members**

8. Substitutes are permitted for the Complaints Panel but must originate from the Joint



Audit and Governance Committee. Councillors can appoint their own substitute from within their group, provided that they inform Democratic Services prior to the commencement of the meeting.

9. A member wishing to arrange a substitute for a particular meeting is not required to give a reason for his or her proposed absence.

# Article 10 - Joint Arrangements

## Establishing joint arrangements

1. The Council may establish joint arrangements with one or more local authorities to exercise functions that are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities. The political balance requirements apply to such appointments if the Council has 3 or more seats on the joint committee.
2. Currently the council is involved in the Five Councils Partnership Corporate Services Joint Committee, the Joint Scrutiny Committee, the Joint Audit and Governance Committee, and the Joint Staff Committee.
3. Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities and the delegation of functions to the joint committee.

## Appointment of members

4. The Leader may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
5. The Leader may appoint members to a joint committee from outside the Cabinet 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 Leader may appoint to the joint committee any councillor who is a member of a ward which is wholly or partly contained within the area;
6. In these circumstances the political balance requirements do not apply to such appointments.

## Access to information

7. The Access to Information Rules in Part 4 of this Constitution apply.
8. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as

that applied to the Cabinet.

9. If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

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

10. The Council may delegate non-executive functions to another local authority.
11. The Council (or an officer with relevant delegated authority) may make arrangements with another local authority to discharge that authority's non-executive functions.
12. The Leader may delegate executive functions to another local authority or the Executive of another local authority.
13. The Leader may make arrangements with another local authority to discharge that authority's executive functions.

### **Contracting out**

14. The Council (for functions which are not executive functions) and the Leader (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, provided there is no delegation of the council's discretionary decision making.

### **Joint Committees**

15. Joint arrangements will include the council's participation in any joint committees.

# Article 11 - Officers

## Management structure

1. The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
2. The council will engage persons, who will be designated Chief Officers and shall include:
  - Chief Executive
  - Deputy Chief Executive Place
  - Deputy Chief Executive Transformation and Operations
  - Deputy Chief Executive Partnerships
3. The Council will designate the following posts as shown:

Post	Designation	Legislation
Chief Executive	Head of Paid Service	Section 4, Local Government and Housing Act 1989
Head of Legal and Democratic	Monitoring Officer	Section 5, Local Government and Housing Act 1989
Head of Finance	Chief Finance (s.151) Officer	Section 151, Local Government Act 1972 & s.114 Local Government Finance Act 1988
Returning Officer		

4. Such posts will have the functions described below.
5. The Head of Paid Service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

## Functions of the Head of Paid Service

6. The Head of Paid Service will report to full council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
7. The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if he/she is a qualified accountant.

## Functions of the Monitoring Officer

8. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for inspection by members, staff, and the public. He/she will also carry out the monitoring and reviewing responsibilities referred to in the scheme of delegation.

9. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
10. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to councillors and to the Joint Audit and Governance Committee. The Council has delegated to the Monitoring Officer the following powers to deal with matters of conduct and ethical standards:
  - (a) To act as the Council's Proper Officer to receive complaints that councillors have failed to comply with the Code of Conduct.
  - (b) To determine, after consultation with the Independent Person and in accordance with the council's Arrangements for dealing with complaints that councillors have failed to comply with the Code of Conduct whether to reject, informally resolve or investigate a complaint.
  - (c) To refer decisions dealing with a complaint against a councillor to the Complaints Panel where appropriate.
  - (d) To arrange for the appointment of an Investigating Officer to investigate a complaint where the Monitoring Officer (in consultation with an Independent Person) determines that a complaint merits formal investigation.
  - (e) To grant dispensations from section 31(4) of the Localism Act 2011 if, having had regard to all relevant circumstances, the Monitoring Officer:
    - considers that without the dispensation the number of persons prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
    - considers that without the dispensation each Member of the Council's Executive would be prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business to be transacted by the Executive; or
    - considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
  - (f) The Monitoring Officer will establish and maintain the Council's Register of Interests of Members and Co-opted Members as required by section 29(1) of the Localism Act 2011 and ensure that it is available for inspection and published on the Council's website as required by the Act.
  - (g) The Monitoring Officer will ensure that:
    - (i) executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly

available as soon as possible in accordance with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; and

- (ii) non-executive decisions taken under delegated powers, together with the reasons for those decisions and background papers, are made publicly available as soon as possible in accordance with the requirements of the Openness of Local Government Bodies Regulations 2014.
- (h) The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (i) The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (j) The Monitoring Officer will determine exemptions under Section 36 of the Freedom of Information Act 2000 relating to information which is prejudicial to the effective conduct of public affairs.
- (k) The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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

11. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to Cabinet in relation to an executive function and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully. The Chief Finance Officer will also make a report under this section if it appears that the expenditure of the authority (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to meet that expenditure.
12. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
13. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
14. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
15. The Council will provide the Head of Paid Service, Monitoring Officer, and Chief Finance Officer with such officers, accommodation, and other resources as are in the opinion of these officers sufficient to allow their duties to be performed.

**Conduct**

16. Officers will comply with the Code of Conduct for Employees set out in Part 5 of this Constitution.

**Employment**

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

# **Article 12 – Decision Making**

## **Responsibility for Decision Making**

1. The council will issue and keep up to date a record of what part of the council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is called the Scheme of Delegation and is set out in Part 3 of this Constitution. The Monitoring Officer will keep the Scheme of Delegation up to date in accordance with delegation decisions made from time to time by full Council, the Cabinet or committees and sub-committees.
2. The Leader of the Council may determine to exercise any of the executive functions of the Council personally, or may arrange for the exercise of any of the council's executive functions by:
  - (i) the Cabinet
  - (ii) a member of the Cabinet
  - (iii) a committee of the Cabinet
  - (iv) an officer of the council;
  - (v) an area committee (a committee with responsibilities for a particular geographical part of the district where constituted by the council).
3. The Monitoring Officer will maintain a register of the delegation of executive functions.

## **Principles of Decision Making**

4. All decisions of the council shall be made in accordance with the following principles:
  - Actions should be proportionate to the desired outcome.
  - Appropriate consultation will be carried out and decisions will take account of its results
  - Decisions will be taken following receipt of due professional advice from officers.
  - Decisions will reflect the spirit and requirements of human rights and equalities legislation.
  - A presumption in favour of openness and transparency.
  - Decisions will be clear about what they aim to achieve and the results that can be expected
  - An assessment of risk and alternative options considered
  - Decisions will seek to be sound in terms of legality and reasonableness, having taken into account all relevant considerations, and having ignored irrelevant considerations.

## **Exclusion of the Public and Press**

5. The councils are committed to openness and transparency and to ensure that all council business and decisions take place in the public domain. However, there will



be rare occasions where members of the press and public will be asked to leave a meeting if it is likely that confidential or exempt information will be disclosed. This will be the exception rather than the rule.

6. Exempt information is information falling into one or more of the categories set out in Schedule 12A of the Local Government Act 1972 (as amended) and relates to information:
  - a. Relating to any individual
  - b. Which is likely to reveal the identity of an individual
  - c. Relating to the financial or business affairs of any particular person (including the authority holding that information)
  - d. 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
  - e. In respect of which a claim to legal professional privilege could be maintained in legal proceedings
  - f. Relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime and
  - g. Which reveals that the authority proposes:
    - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
    - (ii) to make an order or direction under any enactment.

### **Public Interest Test**

7. When considering where any information should be considered exempt, the Monitoring Officer will apply a public interest test - which is that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Restrictions on Certain Types of Decision**

#### Decisions reserved to full Council

8. Decisions relating to the functions listed in Article 4 will be made by full Council unless properly delegated.

#### Key decisions

9. A “key decision” is a decision of the Cabinet, individual Cabinet member or an officer acting under delegated powers which is likely:
  - (a) to incur expenditure, make savings or to receive income (except government grant) of more than £75,000
  - (b) to award a revenue or capital grant of over £25,000; or
  - (c) to agree an action that, in the view of the Chief Executive or the relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.

10. When 'key decisions' are to be made, these are published in the Cabinet work programme insofar as they can be anticipated.
11. A decision maker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules set out in Part 4 of this Constitution.

## **Decision Making**

### Full Council

12. Meetings of the full Council are to follow the Council Standing Orders set out in Section 4 of this Constitution, except where non-mandatory standing orders are waived by a resolution of the meeting.

### Decision making by the Executive

13. Subject to Article 13.8, the Executive will follow the **Cabinet Procedure Rules** set out in Part 4 Section D of this Constitution when considering any matter.

### Decision making by scrutiny committees

14. Scrutiny committees will follow the **Scrutiny Procedure Rules** set out in Part 4 of this Constitution when considering any matter.

### Other Council Committees

15. Committees will follow the **Council Standing Orders**, terms of reference and any particular rules of procedure that apply to them as set out in Section 4 of this Constitution.

### Decisions by Individual Cabinet Members

16. Decisions by individual Cabinet members will be recorded in an individual cabinet member decision notice (ICMD). The decision notice must include:
  - a record of the decision including the date it was made
  - a record of the reasons for the decision
  - details of any alternative options considered and rejected by the member when making the decision
  - a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision and
  - in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

### Officers

17. Decisions made by officers will be based on the principles set out above and will be in accordance with powers delegated to them.
18. In taking a decision that would otherwise have been taken by the full Council, a committee or sub-committee of the Council, but which has been delegated to an officer either (Council function):

- (i) under a specific express authorisation; or
- (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
  - grant a permission or licence;
  - affect the rights of an individual; or
  - award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position, which is taken to mean expenditure in excess of £100,000.

### **Decision Making at Regulatory Meetings**

- 19 Where a quasi-judicial function is being carried out which may have an impact on the civil rights and obligations or the criminal responsibility of any person it shall follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.
- 20 Subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting in a regulatory capacity is permitted, when all evidence has been submitted and speakers (if any) have finished, to hold discussions and take advice in private. Decisions will then normally be announced to those present in a summary form before a decision is issued in writing.

# Article 13 - Finance, Contracts and Legal Matters

## Financial management

1. 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.

## Contracts

2. Contracts will comply with the Contract Procurement Rules set out in Part 4 of this Constitution.

## Legal proceedings

3. The Head of Legal and Democratic is authorised to institute, defend, negotiate, and seek to settle and / or participate in any legal proceedings where such action is necessary to give effect to decisions of the council or in any case where the Head of Legal and Democratic considers that such action is necessary at his/her discretion to protect the council's interests.

## Authentication of documents

4. Where any document is necessary to any legal procedure or proceedings on behalf of the council, it will be signed by the Head of Legal and Democratic or some other person duly authorised unless any enactment otherwise authorises or requires.
5. Any contract with a value exceeding £30,000 entered into on behalf of the council in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by two duly authorised officers of the authority or made under the common seal of the Council attested by an authorised officer.
6. Any contract with a value exceeding £75,000 must be made under the Common Seal of the Council attested by an authorised officer.

## Common Seal of the Council

7. The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic.
8. 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 Head of Legal and Democratic or any person authorised by her/him should be sealed.
9. The affixing of the Common Seal will be attested by the Head of Legal and Democratic or some other person authorised by him/her for that purpose.

# **Article 14 - Review and Revision of the Constitution**

1. 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.
2. 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 to better achieve the purposes set out in Article 1.
3. In undertaking this task, the Monitoring Officer may:
  - (i) observe meetings of different parts of the member and officer structure;
  - (ii) examine the audit trail relating to a sample of decisions;
  - (iii) record and analyse issues raised with him/her by members, officers, the public, and other relevant stakeholders; and
  - (iv) compare practice in this authority with those in other comparable authorities, or national examples of best practice.
4. Before making any recommendations to the full Council to amend the Constitution the Monitoring Officer will consult the Joint Constitution Review Task Group.

## **Changes to the Constitution**

5. Changes to the Constitution will be approved by the full Council in accordance with the Council Procedure Rules.
6. The Monitoring Officer can make amendments to the Constitution to reflect organisational and legislative changes. The Monitoring Officer may also make other minor amendments to correct errors and inconsistencies on the basis that the amendments do not materially affect the import of the Constitution.

## **Change to another form of governance**

7. If the Council wishes to change form of governance, it must take reasonable steps to consult with local electors and other interested persons in the district when drawing up proposals and must hold a referendum.

# **Article 15 – Suspension, Interpretation and Publication of the Constitution**

## **Suspension of the Constitution**

1. The Articles of this Constitution may not be suspended. The Rules specified below may be suspended to the extent permitted within those Rules and the law.

## **Rules capable of suspension**

2. The Council Procedure Rules may be suspended in accordance with any stipulation or restriction set out in those rules.

## **Procedure to suspend**

3. The procedure to suspend rules is set out in **Rule X** of the Council Procedure Rules in Part 4 of the Constitution. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved.

## **Interpretation**

4. The ruling of the Monitoring Officer on the interpretation of the Constitution shall be final.
5. In relation to proceedings of full Council, the ruling of the Chair (having taken advice from the Monitoring Officer) as to the construction or application of this Constitution shall not be challenged at any meeting of the Council.

## **Publication**

6. The Monitoring Officer will provide a copy of this Constitution to each member of the council upon request as soon as practicable after the delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the council.
7. The Monitoring Officer will ensure that the Constitution is available for inspection by members of the public.
8. The Monitoring Officer will ensure that the Constitution is accessible via the council's website and is updated as necessary.

## **Scheme of Delegation Part 3 (c)**

### **RESPONSIBILITY FOR FUNCTIONS / TERMS OF REFERENCE - COMMITTEES**

#### **Composition, Terms of Reference and Business of Committees**

1. Full Council is responsible for the exercise of all the functions that are designated by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (The Regulations) as not to be executive functions.
2. Certain decisions have been expressly reserved to a meeting of full Council (Article 4), beyond this, to operate more effectively as an organisation, the council has arranged for the discharge of all its other functions to a committee, a sub-committee, or an officer of the authority. (In certain cases, council may delegate its functions to another local authority or public body). In some cases, the law requires the council to establish a committee and dictates the way it operates. In most cases, however, the council decides on the size, terms of reference and membership of its committees and are established pursuant to sections 101 and 102 of the Local Government Act 1972.
3. This section deals with those council functions which have been delegated to a committee.
4. Article 8 of this Constitution lists the standing committees and sub-committees (where applicable) of the council, which are grouped as Regulatory and Other committees. Each of these has a different set of functions as set out below. The committees in turn may reserve certain decisions to themselves or to a sub-committee that might be established. Committees may also delegate tasks to specific officers.
5. Committees shall only establish further sub-committees where there is a compelling reason to do so to facilitate the conduct of the committee's business and only as may be approved by Council.
6. The business and conduct of committee and sub-committee work shall be conducted in accordance with council Standing Orders at Part 4 of this Constitution. Unless the committee is advisory in nature, the agenda shall only include those items of business that require a decision, relate to budget or performance monitoring or which are necessary to discharge the overview and scrutiny function.
7. Described below are the committees that the Council has established, their terms of reference and details of their membership and approach. The powers and duties that are delegated, listed under the various committees' terms of reference, are across road functional descriptions and include powers and duties under all legislation, present and future, within those descriptions and all powers and duties including any statutory re-enactment or modification of the legislation referred to or associated with those functions.

## **Working Groups Involving Members**

8. Working groups and advisory groups may be established by a committee from time to time to develop recommendations or investigate issues of interest or concern. They shall be for specific purposes may be time limited and will not have decision making powers. The terms of reference and purpose are to be specified by the relevant committee or by Cabinet. They usually fall into one of the following categories:

- **Panels or groups relating to policy development**

Usually established to advise about an issue or subject area. The relevant committee shall specify terms of reference and membership, which may include invited persons holding relevant expertise or knowledge and members who are not members of the parent committee.

- **Task and Finish Groups**

Small groups of members appointed by a committee for the purpose of advising the committee about either:

- an in-depth policy review
- performance monitoring or
- responding to a major policy consultation

## **Member Champions**

9. The council may designate the role of member champion to take on a specific role and who may become a focus for the council, partners, stake holders and communities. For the avoidance of doubt, a member champion fulfils their role as a representative member of the council and has no individual decision making powers or authority. The role is intended to:

- (i) Raise the profile of that highlighted area of the councils functions, and in conjunction with the relevant member(s), officers and partner(s), support community engagement activities and other related publicity campaigns
- (ii) Liaise with members, public sector partners and other stakeholders to promote key initiatives (as appropriate and required)
- (iii) Act as an advocate for that highlighted area and be required to familiarise themselves with related matters;
- (iv) With officer assistance, seek out and share best practice from other areas of the UK
- (v) Periodically present reports to Council or Cabinet or other committees (as necessary and requested) setting out the actions taken and how those actions have contributed to the success and promotion of that highlighted area

## **Appointment**



10. The Council will designate member champions who will then be appointed by the Leader.

### **Standing Member Champions**

11. The Council has designated the following member champions to the following roles –  
**set out existing champion roles**

### **Committee Terms of Reference**

#### **STATUTORY, REGULATORY AND OTHER COMMITTEES**

##### **Regulatory**

1. Appeals Panel (Vale)
2. Community Governance and Electoral Issues Committee (Vale)
3. Community Governance and Electoral Issues Committee (South)
4. General Licensing Committee (Vale)
5. General Licensing Committee (South)
6. Planning Committee (Vale)
7. Planning Committee (South)
8. Licensing Act Committee (South)
9. Licensing Acts Committee (Vale)
10. Scrap Metal Licensing Panel (Vale)
11. Scrutiny Committee (Vale)
12. Scrutiny Committee (South)

##### **Sub Committees**

1. General Licensing Panel (Vale)
2. Licensing Acts Panel (Vale)
3. Licensing Panel (South)
4. Taxi Licensing Panel (Vale)
5. Taxi Licensing Panel (South)
6. Code of Conduct Complaints Panel (Vale)
7. Code of Conduct Complaints Panel (South)

##### **Joint Committees**

1. Five Councils Partnership Corporate Services Joint Committee
2. Joint Audit and Governance Committee
3. Joint Scrutiny Committee
4. Joint Staff Committee
5. Joint Sub Committees

##### **Advisory Committees**

1. Climate and Ecological Emergencies Advisory Committee (South)
2. Climate Emergency Advisory Committee (Vale)
3. Didcot Garden Town Advisory Board (**Is this South and Vale?**)
4. Independent Persons Panel

### **Area Committees (Vale only – non operational at present)**

1. Abingdon and North East Area Committee
2. Faringdon Area Committee
3. Wantage Area Committee

### **Outside Bodies / Partnerships**

1. Future Oxfordshire Partnership
2. Future Oxfordshire Partnership Scrutiny Panel
3. Oxfordshire Electric Vehicle Infrastructure Steering Group
4. Oxfordshire Health Improvement Board
5. Oxfordshire Joint Health Overview and Scrutiny Committee
6. Oxfordshire Local Environment Partnership (South only?)
7. Safer Oxfordshire Partnership Oversight Committee
8. Thames Valley Police and Crime Panel

## **Joint Staff Committee Procedure Rules**

### **Purpose of the committee**

1. South Oxfordshire and Vale of White Horse district councils (the councils) have appointed this committee to undertake those non-executive functions relating to the employment of officers in the shared management structure.

### **Terms of reference**

2. Establish the framework and procedure for recruitment and appointment of the chief executive (head of paid service), deputy chief executives, monitoring officer and chief finance officer
3. Determine the terms and conditions of service to apply to the chief executive
4. Act as the appointment panel for interviewing for the chief executive, deputy chief executives, monitoring officer and chief finance officer
5. Appoint deputy chief executives and in the case of the chief executive, monitoring officer and chief finance officer to make recommendations on appointments to the councils
6. Consider any proposed redundancy dismissals of the chief executive, deputy chief executives, monitoring officer or chief finance officer, and to make recommendations on redundancy dismissals to the councils
7. Determine any proposed efficiency retirement of the chief executive subject to proposals for enhanced benefits being determined by the Joint Audit and Governance Committee save that any relevant settlement package over £100k must be approved by the councils
8. Approve the sign off of any probationary period for the chief executive

9. Review the objectives and targets set by the leaders for the chief executive and review the formal performance and development reviews undertaken by the leaders
  10. Deciding upon the salaries of the chief executive, deputy chief executives, monitoring officer and chief finance officer
  11. Receive a report from the chief executive within six months of any change to the senior management arrangements being implemented by the chief executive at his/her discretion. This report should include the number of officers that have been authorised to carry out work for another local authority, if such authorisations have been made.
12. Make appointments to the Independent Person panel
13. Appoint panels to suspend the chief executive, deputy chief executives, monitoring officer and chief finance officer under the procedures set out in the JNC Chief Executives Handbook.
14. Appoint panels to take disciplinary action against and to make recommendations to the employing council on matters relating to the dismissal of the chief executive, monitoring officer and chief finance officer in accordance with the procedures set out in the officer employment procedure rules.
15. Appoint panels to take disciplinary action and dismiss a deputy chief executive in accordance with the procedures set out in the employment procedure rules
16. Appoint panels to determine appeals against disciplinary action short of dismissal against the chief executive, monitoring officer and chief finance officer and all disciplinary action against deputy chief executives in accordance with the procedures set out in the officer employment procedure rules.

## Membership

17. The committee will comprise:
  - South Oxfordshire District Council – Leader and four councillors (politically balanced unless otherwise agreed by Council with no-one voting against).
  - Vale of White Horse District Council – Leader and four councillors (politically balanced unless otherwise agreed by Council with no-one voting against).
18. The leader may be substituted by another Cabinet member and it must be noted that for disciplinary matters at least one cabinet member from each council must be a member of the committee.
19. Other members of the committee may be substituted by any other member of the council (cabinet or non-cabinet and from any political group). **The chair or the vice-chair of council** shall not act as chair or vice-chair of the committee.

## Appointment of sub-committees

### Investigation and Disciplinary Sub-Committee

20. The committee may appoint on a standing basis an investigation and disciplinary sub- committee with powers to:
  - (a) consider disciplinary and capability matters relating to the chief executive, deputy chief executives, monitoring officer or chief finance officer
  - (b) take disciplinary action against and to make recommendations to the (employing) council on matters relating to the dismissal of the chief executive,

monitoring officer, chief finance officer in accordance with the procedures set out in the employment procedure rules

- (c) suspend the chief executive, deputy chief executives, monitoring officer, chief finance officer pending an investigation
  - (d) appoint an independent investigator to investigate allegations of misconduct or capability relating to the chief executive, deputy chief executive, monitoring officer or chief finance officer
  - (e) appoint an independent investigator to investigate grievances relating to the chief executive, deputy chief executives, monitoring officer, chief finance officer.
  - (f) consider grievances relating to the chief executive
21. The sub-committee will be politically balanced and comprise five members of the joint staff committee (three members from the employing council and at least one member of the cabinet from each council).

### **Appeals Sub-Committee**

22. The committee may appoint on a standing basis an appeals sub-committee with power to consider appeals against any decisions made by the investigation and disciplinary sub-committee with the exception of a recommendation of dismissal against the chief executive, monitoring officer or chief finance officer which must be considered by council.
23. The sub-committee will be politically balanced and comprise five members of the joint staff committee (three members from the employing council and at least one member of the cabinet from each council).
24. No councillor who was a member of the investigation and disciplinary sub-committee making the decision which is the subject of the appeal may be a member of the appeals sub-committee.

### **Independent Persons Panel**

25. The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the Statutory Officers in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001. The role of the panel is to advise the council where there is a proposal to dismiss a statutory officer.
26. The advice of the panel must be sought in accordance with the Officer Employment Procedure Rules where the investigation and disciplinary sub-committee proposes to recommend the dismissal of a statutory officer.
27. The advice of the panel may (but need not) be sought by the investigation and disciplinary sub-committee at any other point in an investigation or as part of the disciplinary process.
28. For the avoidance of doubt, the panel may commission and have access to external legal and professional advice.

## Membership

29. The panel must be convened at least 20 working days before the council meeting convenes to consider a recommendation of dismissal and the council meeting may not take place within 10 working days of the panel having been convened.
30. The panel must consist of a minimum of two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the council considers appropriate.
31. It shall be for the monitoring officer to invite the Council's current Independent Persons to take part and the investigation and disciplinary sub-committee will confirm appointments to the panel. In the event the disciplinary action is against the monitoring officer, the chief executive will invite independent persons to form the panel.
32. The panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:
  - (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area
  - (b) any other Independent Person who has been appointed by the authority
  - (c) an Independent Person who has been appointed by another authority or authorities.

# **OFFICER EMPLOYMENT PROCEDURE**

## **RULES Part 4 (9)**

### **Appointment of Officers**

1. The council may appoint such officers as it thinks necessary for the proper discharge of such of its (or another authority's) functions as falls to it or is agreed to be discharged by it<sup>1</sup>.
2. Every appointment of a person to a paid office or employment by the council must be made on merit<sup>2</sup>.
3. The employment, appointment, designation, or engagement of all staff will follow the law and any policies and procedures of the council.
4. There are regulations establishing various mandatory standing orders (procedure rules) giving effect to obligations or restrictions on delegation of authority to bring these principles into effect. These rules are set out below<sup>3</sup>.

### **Statutory Chief Officers, Chief Officers, Deputy Chief Officers, and Other Officers**

5. Local government employment rules differentiate between categories of officers, including<sup>4</sup>:
  - Chief Executive (Head of Paid Service)
  - Statutory Chief Officers (Chief Finance Officer / Section 151 Officer & Monitoring Officer)
  - Non-Statutory Chief Officers (Deputy Chief Executives)
  - Deputy Chief Officers (Heads of Service)
  - Proper officers
6. The statutory officers in a district council are:
  - Chief Executive (Head of Paid Service)
  - Monitoring Officer
  - Chief Finance Officer
7. The statutory officers have significant additional statutory employment protection due to the nature of their roles, including the involvement of an independent third-party in any proposed disciplinary investigation<sup>5</sup>.

---

<sup>1</sup> Local Government Act 1972, s112

<sup>2</sup> Local Government and Housing Act 1989 s7

<sup>3</sup> Local Authorities (Standing Orders) Regulations 1993 and Local Authorities (Standing Orders) (England) Regulations 2001

<sup>4</sup> Local Government and Housing Act 1989 s2

<sup>5</sup> Local Authorities (Standing Orders) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

8. Deputy chief officers are people who report directly or are directly accountable to one or more of the statutory or non-statutory chief officers, i.e., the deputy chief executives in South Oxfordshire and Vale of White Horse District Councils.

### **Proper Officers**

9. Proper officers are officers appointed by the council to discharge particular statutory functions but are not necessarily chief officer posts in their own right (see Part 3 (F)).

### **Who Makes the Decision?**

10. Where, as here, executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a function exercised on behalf of Council, or by Council. This means that these decisions are either taken by Council itself, a committee, or a named officer, although there are a number of exceptions to this, as outlined below<sup>6</sup>.

### **Role of Council Members**

11. The appointment or dismissal of the chief executive (Head of Paid Service) may only be made by a meeting of Council, which may either be direct or as confirmation of a recommendation from a committee or sub-committee of the Council.
12. Council has delegated this authority to the Joint Staff Committee in respect of statutory officers and deputy chief executives (see Part 3 C – Committee terms of reference), which is reflective of the wider best practice.
13. As required by legislation, delegated authority is granted to the chief executive for the appointment, dismissal, determining any capability issue and taking any disciplinary action taken in respect of all other staff positions below deputy chief executive, although in practice. Here the chief executive authorises other appropriate officers to carry out this function as it is an essential component of a line managers role and this is the model supported by Unison as part of our collective agreement.
14. Unlike the chief executive, there is no statutory requirement for Council to approve the appointment of statutory posts, but this is common practice in respect of the monitoring officer and chief finance officer posts across many authorities, including South Oxfordshire and Vale of White Horse, and is a requirement in this constitution (see Part 3 C).
15. Dismissal of the monitoring officer or chief finance officer may only be made by a meeting of Council, which may either be direct or as a confirmation of a recommendation from a committee or sub-committee of Council (see section 10 below).

### **Involvement of the Leader and Cabinet**

16. The Leader and Cabinet are involved in decisions to appoint or dismiss statutory officers and deputy chief executives in two distinct ways:

---

<sup>6</sup> Local Authorities (Functions and Responsibilities) (England) Regulations 2000

- (a) where a committee or a sub-committee of Council is discharging, on behalf of the authority, the function of appointment or dismissal, at least one member of the Cabinet must be a member of that committee or sub-committee.
  - (b) before an offer of appointment or notice of dismissal is issued, Cabinet members must be informed of the prospective decision and the Leader may make representations concerning their 'material and well founded' objection to the decision maker.
17. Appointment or dismissal is a different matter from the award or removal of a delegation to undertake statutory functions. All statutory officers can, at their sole discretion, grant or revoke authorisations in respect of their statutory responsibilities at any time.

### **Role of Chief Executive (Head of Paid Service)**

18. The chief executive undertakes three distinct roles in this process:
- (a) decision maker on posts other than statutory officers and deputy chief executives (and the responsible officer concerning the grant and supervision of exemptions from political restriction).
  - (b) principal advisor on staffing matters to the council and/or the appropriate committee or sub-committee (except where there would be a conflict of interest in respect of their own pay and conditions of service).
  - (c) at their discretion, responsible for issuing a formal 'section 4' report, informing the council of proposals concerning:
    - (i) the manner in which the discharge by the authority of its different functions is co-ordinated and delivered
    - (ii) the number and grades of staff required by the authority for the discharge of its functions
    - (iii) the organisation of the authority's staff; and
    - (iv) appointment and proper management of the authority's staff, which includes setting of their day to day priorities, their targets, their organisation, and the method of delivery of the outcomes set for the chief executive by Council.
19. Subject to paragraphs 6 and 13, the functions of appointment and dismissal of, and taking disciplinary action against, an officer of the council below deputy chief executive must be discharged, on behalf of the authority, by the chief executive, or by an officer authorised by him/her and not by members of the council.
20. The chief executive may authorise at his/her discretion deputy chief executives and heads of service to carry out the functions of appointment and dismissal of and taking disciplinary action against officers within their line management.
21. Paragraph 18 shall not apply to the appointment or dismissal of, or disciplinary action against the:
- (a) Chief Executive (Head of Paid Service)
  - (b) Deputy chief executives



- (c) Monitoring officer
- (d) Chief finance officer
- (e) Consideration of grievance and disciplinary appeals relating to statutory officers and deputy chief executives in cases of dismissals that arise out of disciplinary or capability proceedings.

## **Recruitment and Appointment of Officers**

### **Declarations**

- 22. The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing member or officer of the council, or of the partner of such persons.
- 23. No candidate so related shall be appointed without the authority of the chief executive.
- 24. Seeking support for appointment
  - (a) Subject to paragraph (c) below, the council will disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council.
  - (b) Subject to paragraph (c) below, no member will seek to support any person for appointment with the council.
  - (c) Nothing in this rule will prevent a member from giving a personal written reference for a candidate for submission in connection with an application for appointment, but that must not relate to their performance or activity as an officer, as that can only be provided or offered by their line manager.

### **Requirements for Recruitment of Statutory Officers, Deputy Chief Executives and Heads of Service**

- 25. Where the council proposes to appoint a statutory officer, a deputy chief executive or a head of service, and it is not proposed that the appointment will be made exclusively from among their existing officers, the council will:
  - (a) Draw up a statement specifying:
    - (i) the duties of the post
    - (ii) any qualifications or qualities required
  - (b) Arrange 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
  - (c) Arrange for a copy of the statement mentioned in paragraph 8.1(a) to be sent to any person on request.
- 26. Where a post has been advertised as provided in paragraph 8.1(b), the council, via the appropriate senior officer(s), shall:
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.

27. Where no suitably qualified person has applied, the post may be re-advertised in accordance with paragraph 8.1(b).
28. When a statutory officer (other than the Head of Paid Service), a deputy chief executive ceases to hold that post or is likely to be absent for any length of time and has not appointed a deputy acceptable to the chief executive, the chief executive, after consultation with the Leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid having regard to the wider pay policy of the councils.
29. Similarly, the chief executive may, after consultation with the Leaders, appoint an interim senior manager to undertake a specific role that does not currently exist in the establishment and determine the rate of remuneration for that role, having regard to the wider pay policy of the councils.

### **Appointment or Dismissal of Statutory Officers**

30. No offer of an appointment or notice of dismissal may be made to a statutory officer or a deputy chief executive until:
  - (a) Council, the Joint Staff Committee (or other responsible body or officer) has notified the monitoring officer of the name of the person to be offered the appointment or given notice of dismissal and any other particulars the committee considers relevant
  - (b) that information has been sent by the monitoring officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer or issuing of the notice can be made by the Leader
  - (c) the monitoring officer has confirmed that the date and time for objection by the Leader has elapsed and either:
  - (d) in the case of a statutory officer, Council has confirmed the appointment or dismissal after consideration of any such objection and resolving that it is not material or not well-founded or
  - (e) in all other cases, no such objection has been made or the Joint Staff Committee has considered any such objection and has resolved that the objection is not material or not well-founded.

### **Dismissal of a Statutory Officer<sup>7</sup>**

31. No dismissal may be taken in respect of a statutory officer unless the procedure set out below is complied with.
32. The investigation and disciplinary sub-committee will be responsible for proposals to dismiss the chief executive, monitoring officer and chief finance officer. Any dismissal of one of the statutory officers must be approved by Council, following a decision of the investigation and disciplinary sub-committee and consideration by the independent persons panel and must be based only on matters that are of direct relevance to the issue under consideration.
33. Any disciplinary action short of dismissal, which includes a decision to suspend,

---

<sup>7</sup> The disciplinary process for all officers under this procedure will be carried out in accordance with the JNC Chief Executives handbook which can be viewed [here](#)

against the chief executive, deputy chief executives, monitoring officer or chief finance officer will be the responsibility of the investigation and disciplinary sub-committee, who will duly consider the advice and report of the relevant officer, usually the senior HR officer of the council.

34. The investigation and disciplinary sub-committee will appoint an advisory committee called the Independent Persons panel which will be “the panel” for the purposes of the Regulations<sup>8</sup>.
35. The sub-committee must invite two relevant independent persons<sup>9</sup> to be considered for appointment to the independent persons panel, with a view to appointing a minimum of two such persons to the panel<sup>10</sup>, who have accepted an invitation in accordance with the following priority order:
  - a relevant independent person who has been appointed by the council and who is a local government elector
  - any other relevant independent person who has been appointed by the council
  - an independent person who has been appointed by another authority or authorities.
36. The independent persons panel must be appointed at least 20 working days before the relevant meeting of council and council shall not meet to consider whether to approve the proposal of the investigation and disciplinary sub-committee to dismiss the officer until 10 working days has elapsed from the appointment of the independent persons’ panel.
37. The following procedure applies if the investigation and disciplinary sub-committee proposes disciplinary action involving the dismissal of the chief executive, monitoring officer or chief financial officer.
38. The investigation and disciplinary sub-committee will provide the independent persons panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the investigation and disciplinary sub-committee considers appropriate or that the Panel may reasonably require.
39. The investigation and disciplinary committee may invite the independent persons panel to attend any disciplinary or capability hearing.
40. The independent persons panel will meet to consider what, if any, advice, views, or recommendations to give to the council.
41. The council may pay remuneration, allowances or fees to an independent person appointed to the panel as it thinks appropriate having due regard to the level of fees payable to that independent person in their role as Independent person under the Localism Act 2011.

---

<sup>8</sup> Local Authorities (Standing Orders) (England) Regulations 2001/3384

Schedule 3 - Provisions to be incorporated in standing orders in respect of disciplinary action

<sup>9</sup> An authority is not required to appoint more than two relevant independent persons but may do so.

<sup>10</sup> Localism Act 2011 s28

42. Before Council takes a vote at a meeting on whether or not to approve dismissal, it must take into account, in particular:
  - (i) any advice, views, or recommendations of the independent persons panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the statutory officer.
43. Council will abide by the recommendations of the sub-committee unless there are exceptional reasons to justify departing from them at all times being aware of the council's duty to obtain best value.
44. If Council approves the recommendation of the sub-committee, then notice of dismissal can be issued. Where Council does not approve the recommendation, it shall indicate how it wishes to proceed.
45. A statutory officer may only be dismissed on the vote of two-thirds of **all** the members of Council, i.e. not just those present and voting and members may not be politically whipped or compelled by any Group rules.
46. All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect. If this is not possible, then the need for continued suspension should be considered after two months.

## **Appeals**

47. Any sanction short of dismissal applied against a statutory officer may be appealed to the appeals panel which will be constituted of members of the Joint Staff Committee for that purpose.
48. If a decision to dismiss an officer is taken by the council, it will not be possible to provide an internal appeal process against the dismissal. Instead, the officer may appeal to an appeals panel formed from a non-conflicted neighbouring local authority under sharing arrangement in accordance with s.101 Local Government Act 1972.
49. Any appeal by a statutory officer or a deputy chief executive must be lodged with the chief executive or in the case of a disciplinary against the chief executive, deputy chief executive for transformation and operations within 10 working days of written confirmation to the officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.
50. Appeal hearings shall be considered by the appeals sub-committee in the case of all employees (except statutory officers appealing dismissal) and shall not include members involved in the decision to take disciplinary action.

## **Dismissal of Deputy Chief Executives**

51. The process above applies to the dismissal of a deputy chief executive save that the final decision shall be made by the sub-committee for all disciplinary outcomes including dismissal with an appeal to the appeals panel.
52. For the avoidance of doubt any action taken is without prejudice to the ability of the

chief executive to revoke any authorisations granted.

## **South Oxfordshire and Vale of White Horse District Councils Officer Code of Conduct (Section 5(2))**

### **Introduction**

1. Residents are entitled to expect the highest standards of conduct from the council's employees. The purpose of this code is to help officers (referred to in this code as officers) support the councils aims, which are to provide quality services to all residents. Members have their own code of conduct and there is also protocol which outlines how members and officers work together. (Sections 5(1) and 5 (4)).
2. This code applies to all officers of the council including agency workers, contractors and their staff whilst working for, or on behalf of, the authority. It outlines, amongst other things, the conduct expected of officers, conflicts of interests, gifts and hospitality and political restrictions. Officers should also refer to the Employee Conduct Policy for further information.
3. The code sits alongside all other council policies and outlines standards for employees to follow in their day-to-day work, it reproduces points of principle which have applied in local government for very many years but it also deals with challenges that officers might face.
4. It is the responsibility of officers to work in accordance with this code and managers' responsibility to ensure that the code is fairly and consistently applied. A breach of this code may be regarded as a disciplinary offence and may be considered in any performance appraisal.
5. This code also explains how employees are expected to deal with conflicts of interest, confidential matters and offers of gifts or hospitality and, where necessary, examples and explanations have been given, however it is important to note that this is not an exhaustive list and if officers are unsure, they should consult their head of service or the monitoring officer.
6. Officers who become aware of any breach of this code should raise this with their line manager. Officers should also refer to the Whistle Blowing policy (see Paragraph 11 below).

### **Organisational Ethics**

7. Local government is justifiably proud of its high standards of official conduct and is committed to them being maintained. Officers have a part to play in ensuring that these high standards continue to be met and are expected to give the highest possible standard of service to residents. This includes, where it is part of their duties, providing appropriate advice to members and fellow officers with impartiality.
8. It is recognised that an officer may also be a resident of the district. However, they need to be aware that the actions they take as a resident could potentially be seen as acting against the council and should avoid any action which may have the

potential to bring the council into disrepute, harm public perception or cause reputational damage to the council.

9. The council needs to ensure its decisions and operations are open, transparent, accountable and in line with recognised ethical standards. Officers are required to be aware of and act in accordance with the Seven Standards of Public Life (Nolan Principles), which are:

**Selflessness** - Officers should act solely in terms of the public interest

**Integrity** - Officers should avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work

**Objectivity** - Actions and decisions should be taken impartially, fairly and on merit using the best evidence and without discrimination

**Accountability** - Officers are accountable to the public and submit themselves to any reasonable scrutiny necessary to ensure this

**Openness** - Actions and decisions should be taken in an open and transparent manner and information should not be withheld from the public unless there are clear and lawful reasons for doing so

**Honesty** - Officers should be truthful, any suspicion of a lack of honesty even if unfounded can damage the reputation of the council and an officer's personal credibility.

**Leadership** - Officers should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Personal Conduct**

10. The council expects all officers to:

- promote and maintain high standards of personal conduct to sustain the good reputation of the council and its services
- perform their duties to the highest possible standards, with honesty, integrity and impartiality, and be accountable for their own actions
- treat others with respect, fairness and dignity at all times and to work to resolve differences where these exist
- ensure that policies relating to equalities, diversity and inclusion are complied with in addition to the requirements of the law.
- recognise that all members of the local community, residents and colleagues, have a right to be treated with fairness, dignity, equity and respect.
- communicate to the appropriate manager any concerns about the quality of service provided, as this will assist the council to ensure that service standards are achieved, and areas for improvement identified

- apply the principles of this code to their use of work related social media and where an officer identifies themselves as an employee of the council on their personal social media sites
- comply with lawful written and oral instructions
- ensure that a consistent approach is taken across the council in relation to procurement of goods and services, people management activities and financial management.
- observe a standard of personal appearance which is appropriate to the nature of the work undertaken and which portrays a professional approach which the public will have confidence in.

## **Health and Safety**

11. The council has a legal duty of care for the health, safety, and welfare of its employees. In addition, all officers must take reasonable steps to protect their own health and safety and that of other people who may be affected by their work. Some officers, particularly managers, have specific responsibilities and these are detailed in the councils policies and procedures.

## **Disclosure of information**

12. In the course of their duties officers will come into possession of information relating to the council, its business, and its employees and they need to be mindful of the requirements of GDPR and other information security considerations.
13. Deliberate unauthorised disclosure of information will constitute a serious breach of trust between officers and the council. Any inappropriate use of information in this manner may constitute a criminal offence. If officers are unsure of what they can or can't do with information that they are processing, they should seek the advice of their manager or the Information Governance team.
14. It is generally accepted that open government is best and the council has openness and transparency as a theme in the corporate plan.
15. The law requires that certain types of information must be available to members, auditors, government departments, residents, public and the media. Under the Local Government Act 1972, the public have the right to access certain information. In most circumstances, these rights are related to committee reports and background documents.
16. However, certain information within the committee process is not public, including confidential information as defined by the Act and information exempted by virtue of Schedule 12A. Any confidential information or exempted information should only be disclosed where required to do so by law or with consent of the monitoring officer. In addition, the council is obliged by law and in accordance with its Access to Information rules (see Part 4(3)) to ensure that information is available upon request subject to limited exemptions.



17. Officers must be aware of which information within their authority is open and which is not and should only give confidential information or documents to those have a legitimate right to them.
18. Officers 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.
19. Information concerning a resident, employee or a members personal affairs should not be divulged without prior approval, except where that disclosure is required or sanctioned by law. It is important that officers take all relevant steps to comply with data protection requirements and ensure that confidential information is kept secure.
20. Employees may only talk to the press or media if they are authorised to do so as part of their duties and responsibilities, or otherwise make public statements on behalf of their service. If officers are contacted by the press or media, they must inform their line manager or a senior manager and refer the matter to the communications team who will deal with it appropriately.
21. Former officers shall not divulge any council information obtained in the course of their employment to any third party except where required by law to do so. This is taken extremely seriously as a serious breach of trust and confidence.

### **Political neutrality**

22. Members are elected to direct the policies and activities of the council whereas officers serve the authority as a whole. They must serve all members and not just those of the controlling group. They must ensure that the individual rights of all members are respected. The Member/Officer protocol contains more detail on this topic and can be found in at section 5(4) of the Constitution.
23. Certain posts within the council are politically restricted by the Local Government and Housing Act 1989 and officers should refer to the relevant HR policy on this subject. Officers contract of employment will tell them whether they hold one of these posts and, if they do, they will be required by law to observe certain restrictions regarding your out of work activities.
24. Whether or not the post is politically restricted, officers must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
25. Officers are not eligible to stand for office as a member of either council. If their post has been assessed as being politically restricted, they are prevented from taking part in certain political activities outside their work, of which they would have received formal confirmation from Human Resources where this applies. If they have any doubt about their position, they should contact their line manager. The political activities which are restricted for these posts mainly cover the following areas:
  - (a) Standing as a candidate for election to the House of Commons, or a Local Authority (other than a parish council).
  - (b) Holding office with a political party, or a committee or sub-committee member of a party.
  - (c) Canvassing at an election.

- (d) Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.

26. If officers are in any doubt about whether any activity is political activity and covered by these rules they should seek advice from the monitoring officer.

## **Relationships**

### Working Relationships

30. Internal and external relationships with colleagues, residents and contractors should be conducted in a professional, friendly and respectful manner.

### Members

31. Officers should ensure that they comply with the Protocol for Member/Officer Relations (see Part 5 (4)). They may be required to give advice to elected members as part of their job. Mutual respect between officers and members is essential to good local government, but close personal familiarity between officers and individual elected councillors, which goes beyond mere acquaintance can damage the relationship, prove embarrassing to other member and officers, and should therefore be avoided.

32. If officers have previously had or currently have a relationship in a private or domestic capacity with any elected member, they must declare that relationship in writing to their line manager.

### The Local Community and Residents

33. Officers should always remember their responsibility to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

### Contractors

34. All relationships with contractors or potential contractors must be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition and no favouritism should be shown to businesses run by, for example, friends, partners, or relatives. If officers have such an interest, they must not be involved in any way in placing orders or awarding any work.

35. If officers engage or supervise contractors as part of their duties or have an official relationship with contractors or have previously had or currently have a relationship in a private or business capacity, they must declare that relationship in writing to the appropriate manager and ensure they formally declare that personal interest.

36. Officers should comply with the councils procurement rules and be clear on the separation of client and contractor roles within the council. If they are a senior officer who has both a client and contractor responsibility, they must be aware of the need for accountability and openness.

37. Officers must exercise fairness and impartiality when dealing with all residents,

suppliers, other contractors and sub-contractors and must not show any favouritism.

38. If officers are privy to confidential information on tenders or costs for either internal or external contractors, they must not disclose that information to any unauthorised party or organisation

### **Appointment and Other Employment Matters**

39. If officers are involved in the appointment of staff, they must ensure that these appointments are made on the basis of merit. It would be unlawful for officers to make an appointment which was based on anything other than the ability of the candidate to undertake the work.
40. In order to avoid any bias, officers must not be involved in an appointment where they are related to an applicant or have a business or personal relationship outside work with them. Similarly, officers must not canvass on behalf of any applicant.
41. Officers must not line manage nor be involved in decisions related to the appointment, informal/formal discipline, grievance, capability proceedings, promotion or pay adjustments for any other officer who is a 'close associate' – this includes a family member or friend. A family member could include, but is not limited to:
- Husband/Wife/Partner
  - Son/Daughter
  - Parent
  - Sibling
  - In-laws
  - Aunt/Uncle
  - Niece/Nephew
  - Cousin
  - Step-relation
  - Grandparents

### **Declaring Personal Interests and Outside Commitments**

42. All officers must declare:
- Any financial or non-financial interest which might conflict with the council or its interests
  - Involvement with an organisation receiving grant aid from the council
  - involvement with a pressure group or organisation which may seek to influence the councils policies
  - Membership of any other groups, clubs and organisation that an employee believes could be relevant to declare in particular circumstances.
43. Declarations should be made to the head of service who should ensure with Human Resources that a written record is made on the employee's personnel file.
44. Declarations must extend to acknowledging the involvement of a relative or partner of an employee in an organisation in which the council does or seeks to do business, particularly if they are directors, partners or hold senior managerial positions in those

organisations.

45. Officers should be aware of any contractual restrictions on taking outside or secondary employment and should contact HR if in any doubt prior to applying for such employment. In any case, employment should not be undertaken which conflicts with the council's interests.
46. Where employees are in any doubt about whether any personal relationships, interests, or outside commitments should be declared in particular circumstances, they should either declare the information in any case, or else seek further advice from their head of service or HR
47. Should an officer or any close relative or associate submit their own planning development proposal, the officer should take no part in its processing. Furthermore, the officer shall inform in writing both the Head of Development and the monitoring officer of all such proposals as soon as they are submitted.

### **Declaring Related Party Transactions**

48. The council is obliged to fulfil a disclosure requirement to its external auditors in respect of related party transactions. This reporting requirement aims to provide assurance to readers of financial statements that any material transactions entered into between the organisation and those in a position of power to influence its decisions are disclosed and above board.
49. Relevant officers must declare positions of influence they hold within partnerships, companies, trusts or any entities providing services to the council. Officer must also declare any influence they hold (in a personal capacity only) within organisations receiving grant funding from the council.
50. Declarations must extend to a relative or partner of the employee if they have an interest in any such organisation.
51. Officers will be required to declare any related party transactions and complete an annual return.

### **Whistleblowing**

52. Where an officer becomes aware of activities which that they believe to be illegal, improper, unethical or otherwise inconsistent with this code, the employee should report the matter in line with the council's confidential whistleblowing reporting procedure. (see Whistleblowing Protocol Section 5(3)).
53. Officers who make disclosures have specific protections afforded them under the Public Interest Disclosure Act 1998.

### **Corruption**

54. It is unlawful for officers to receive any reward or fee other than the pay and benefits that they are entitled to under their contract of employment
55. It is a criminal offence for officers 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. Officers should at all times ensure compliance with the council's Anti-Fraud, Bribery and Corruption Policy.

56. If an allegation is made against an officer, the burden of proof will fall upon them to show that they have not in any way been influenced by improper motives. For this reason, it is important for the council to set clear guidance for officers. (Members are bound by their own Code in this regard)

### **Gifts, Hospitality, Sponsorship or Endorsements**

57. The public are entitled to demand that local government officers conduct themselves to a high standard. Public confidence in their integrity would be shaken were there the least suspicion that they could in any way be influenced by improper motives.
58. This part of the code is intended to assist officers in making a decision as to whether a gift or hospitality may be accepted. Further guidance will be set out below in terms of sponsorship and / or endorsements.
59. In general, gifts and hospitality should be refused. A gift must not be accepted if it is offered by a person or organisation which has, or is seeking business with, the council or one who has an interest in a council decision.
60. In normal circumstances, only minor gifts of token value, such as promotional material (e.g. calendars, diaries, articles for office use, or a small gift during a courtesy visit to a firm), the receipt of such minor articles, will not be regarded as the acceptance of a gift.
61. More substantial gifts must not be accepted under any circumstances. These may include, for example, cash, vouchers, bottles or cases of wine or hampers. In such circumstances, the gift should be returned in a courteous manner accompanied if appropriate by the following or similar statement:

“Thank you for your kind offer of [insert details of gift]. Unfortunately, the council has a clearly defined policy on receiving gifts or hospitality and I am unable to accept it. I therefore return the gift.”

62. For the purpose of consistency, it is not appropriate to accept gifts and to donate them to a charity.
63. If in doubt, officer should consult their Head of Service before accepting any gift.
64. All gifts and hospitality over £50 – including offers which have been declined - should be properly recorded (see paragraph 13.16) and it is the responsibility of Heads of Service to do this in a register held by Human Resources for this purpose.

### Hospitality

65. Contacts established at a social level can often be helpful if pursuing the council's interests. What is important is to avoid any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence. The extent of the hospitality will be a factor as to its acceptability. It may be more reasonable to join in

hospitality offered to a group than to accept something unique to one person.

66. The same principles which apply to gifts apply to the offer and acceptance of hospitality. Generally, offers of hospitality must be declined. Hospitality must not be accepted when the offer of hospitality is made by any person or organisation seeking business or requiring a decision from the council, or where purchasing decisions may be potentially compromised.
67. Exceptions to this general rule are few, but it may be in order to accept offers of hospitality if there is a genuine need to impart information or to represent the council's wider interest in the community. Officers may, for example, need to attend functions in support of local members. It may also be necessary to participate in a working lunch in order to foster a good working relationship with other organisations. These are examples, therefore, where the acceptance of modest forms of hospitality is acceptable.
68. The following criteria should be applied when deciding whether or not to accept offers of hospitality:
- (a) whether the nature of the hospitality is appropriate - tickets to a major sporting event must invariably be refused, but an invitation to district event which meets the criteria below may be appropriate.
  - (b) whether the council's interest is better served by attendance.
  - (c) whether the scale of the hospitality is appropriate to the circumstance.
  - (d) whether the hospitality is modest and can be considered as part of the normal business process to foster good relations.
  - (e) whether the hospitality is offered by a person or organisation who is not tendering or about to tender for council business.
  - (f) whether members are attending an event which meets these criteria and it is appropriate that they are accompanied by an officer.
  - (g) whether it is more appropriate to bear the expense oneself.
69. Any intention by officers to accept hospitality other than of a minor nature, must be authorised in advance by the relevant head of service. In case of doubt, officers should consult their head of service for guidance.
70. If offers of hospitality are declined, those persons or organisations making the offer should be courteously informed of the procedures and standards operating within the council with, if appropriate, the following or similar statement:
- "Thank you for your kind offer of [insert details of hospitality]. Unfortunately, the council has a clearly defined policy on receiving gifts and hospitality and I am therefore unable to accept."
71. Below are some examples of acceptable and unacceptable hospitality:
- Acceptable
- (a) working lunches, provided their purpose is to continue the work underway in the meeting
  - (b) attendance in an official capacity at functions to which invitations have been sent to other local authorities

#### Unacceptable

- (a) holidays or weekends away
- (b) the use of a company flat or suite
- (c) lunch with a developer who is applying for planning permission
- (d) tickets to a theatre, concerts or sporting events that are offered in order to influence decisions and which you would not attend in an official capacity

#### Recording of Gifts and Hospitality

72. Whether accepted or not, gifts and hospitality, or offers of them, must be recorded in each service's register maintained for such purposes. The council has a prescribed format for the register, which includes the following detail:

- (a) employee' name
- (b) job title
- (c) name of company/organisation making the offer
- (d) relationship with council
- (e) nature of gift/hospitality offered
- (f) date offered
- (g) whether declined or accepted.

73. Registers of gifts and hospitality will be reviewed at least quarterly by the relevant head of Service. The chief executive will review the register of deputy chief executives, who will in turn review the registers of heads of service. All such reviews will be evidenced by signature and date.

#### Legislation in relation to Gifts and Hospitality

74. An outline of the legislation applicable to the acceptance of gifts and hospitality is given below.

#### **Bribery Act 2010**

75. The Bribery Act 2010 reformed criminal law, replacing the Prevention of Corruption Acts 1889 - 1916 by providing comprehensive scheme of bribery offences.

76. The Act covers a wide range of both direct and indirect bribery offences, and includes offences committed by individuals and corporate bodies.

77. Penalties for non-compliance are serious, with a maximum penalty for the most serious cases being ten years imprisonment.

78. The Act created two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive, or acceptance of an advantage

#### **Local Government Act 1972**

79. It is a criminal offence under section 117(2) for council employees to accept any fee or reward other than their remuneration. An offender is liable on conviction to pay a fine.

## Sponsorship and Endorsements

80. Where the council wishes to sponsor an event, no officer must benefit in a direct way without there being full disclosure to an appropriate manager of any such interest. Where the council gives support in the community through whatever means, officers must ensure that there is no conflict of interest.
81. Where an outside organisation wishes to sponsor a council activity, whether by invitation, tender, negotiation, or voluntary, basic conventions concerning acceptance of gifts or hospitality apply. Officers must take particular care when dealing with contractors or potential contractors.
82. Where the council wishes to sponsor an event or service, neither an officer or any partner, spouse or relative must benefit from such sponsorship without there being full disclosure to their line manager of any such interests. Similarly, where the council, through sponsorship, grant aid, financial or other means, gives support in the community, officers must ensure that impartial advice is given and that there is no conflict of interest involved.
83. Officers must exercise caution before providing any statement endorsing the quality or operation of any product or service that may be used for publicity purposes. Such endorsement may put the council at risk of misrepresentation or legal challenge. Officers are therefore advised to seek further advice from their head of service where such circumstances arise.
84. In no circumstances should a statement ever be made in return for personal gift, or money.

## **Use of the Council's Materials, Equipment or Resources**

85. Officers should not make personal use of any council property, facilities, materials, or resources unless properly authorised to do so. Council property and resources should be used solely in respect of the intended work purpose. No improper use should be made of any facility such as vehicles, equipment, stationery, or secretarial services which the council provides for its own business.
86. Officers 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 authority.
87. Officers involved in financial activities and transactions for the council, must follow the Financial rules and any accompanying guidance.

## **Undertaking additional work**

88. Full time officers are expected to devote their whole service to the work of the council, and shall not engage in any other business, including self-employment, or take up any other appointment without the express prior consent of their Head of Service. The council reserves the right to withdraw such consent if it is deemed necessary in the needs of the business.
89. All prospective employees shall, prior to appointment, provide details of any



employment(s) in which they are engaged, giving full details of the employer, job title and the hours worked per week in each job.

90. All officers must declare any other additional employment to their manager to enable the Council to ensure that there is no conflict of interest between such employment and that there is adherence to the Working Time Regulations.
91. Officers should avoid situations whereby their work and personal interests conflict or may appear to conflict. No personal business activity or outside work of any type should be undertaken by an officer during his/her normal working hours.
92. Undertaking unpaid activities outside council's employment may, on occasions, be detrimental to the council's interests. Officers should be mindful of any potential conflict of interests in such situations.

## **PROTOCOL FOR MEMBER / OFFICER RELATIONS**

***“Members and officers are indispensable to one another and mutual respect and communication between them is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective council.***

***Members provide a democratic mandate to the council, whereas officers contribute the professional and managerial expertise needed to deliver the policy framework agreed by members. The roles are very different but need to work in a complementary way”*** <sup>11</sup>

### **Purpose and Status**

1. The purpose of this protocol is to guide members and officers in their relations with one another to ensure the smooth running of the council. The overriding principle is for members and officers to recognise and respect one another’s different roles and responsibilities. It seeks to maintain and enhance the integrity of local government which demands the highest standard of personal conduct.
2. Given the variety and complexity of relations, this protocol does not seek to be prescriptive or comprehensive but instead offers guidance on some of the situations which most commonly arise. The approach it suggests can be adapted to any situation.
3. The protocol reflects the Nolan Principles underlying the Codes of Conduct for members and officers which are, that they are not only followed, but are seen to be followed. The partnership between members and officers should be based upon mutual trust and respect and all should aspire to the highest standards of ethical behaviour. Compliance with this protocol is critical to meeting this aspiration.
4. This protocol, whilst not legally binding, will be relevant in judging compliance with the Codes of Conduct. A breach of the provisions of this protocol may also constitute a breach of the member and officer Codes.
5. Compliance with the protocol will ensure that all members are able to receive objective and impartial advice from politically independent officers who are not subjected to any undue influences.
6. The principles of this protocol apply to all interactions between members and officers, including the use of social media.

---

<sup>11</sup> Local Government Association - A member’s workbook on effective member/ officer relationships  
<https://www.local.gov.uk/publications/councillor-workbook-councillorofficer-relations>

## **The Member/Officer Relationship - General Principles**

7. At the heart of this protocol is the importance of mutual respect, trust and confidence between members and officers of the council. This is essential to good local government and will generate an efficient and unified working organisation.
8. Dealings between members and officers should observe reasonable standards of courtesy and show mutual appreciation of the importance of work / life balance. Neither should seek to take unfair advantage of their position or exert undue influence on the other.
9. Both members and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the council as a whole; their job is to give advice and to carry out the council's work in accordance with the aims and objectives of the council and cabinet.
10. Whilst the duties and responsibilities of members and officers are different, both are bound by the same framework of statutory powers and duties. It is fundamental to the efficient and effective operation of the council that both understand the boundaries of their respective roles and that neither asks the other to step beyond those limits.
11. It is not the role of members to control the day-to-day management of the council and they should not seek to give instructions to officers, other than in accordance with their respective decision making duties, and the requirements of the roles of individual cabinet members and senior officers.
12. Members other than cabinet members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the council.
13. Members and officers must avoid taking in this case, action that is unlawful, financially improper or likely to amount to maladministration. Members have an obligation under the Code of Conduct, when reaching decisions, to have regard to advice given by the Chief Executive, Section 151 Officer and the Monitoring Officer when they are discharging their statutory duties.
14. Members must respect the impartiality of officers and do nothing to compromise it, e.g., by insisting that an officer changes their professional advice or that a report is rewritten in a way to cloud or temper this advice.
15. Members are however not prevented from appropriately discussing issues with officers or promoting a particular point of view. Whilst officers will consider the views / advice of members they are not, in any way, compelled to provide advice which coincides with the member's view or preferred position. Any unreasonable requests by a member to an officer to change their professional recommendation will constitute unacceptable undue pressure which is not permissible and may well be a breach of the Code and an officer would be expected to escalate this via their management chain.
16. All members and officers have certain basic responsibilities and obligations. There are, however, some members and officers who, either because of statute, tradition,

or decisions of the council, have extended roles and additional responsibilities. Some members hold positions of responsibility such as the Leader and Deputy-Leaders, the Chair and Vice Chair of Council, and Chair or Vice-Chair of some Committees. The Statutory Officers are the Chief Executive (Head of Paid Service), the Head of Finance (Section 151 Officer) and the Head of Legal and Democratic (Monitoring Officer). Their roles are defined by statute and within the Constitution.

17. As a matter of general principle, members and officers will:
  - Deal with one another without discrimination.
  - Observe normal standards of courtesy in their dealings with one another.
  - Not take unfair advantage of their position.
  - Promote a culture of mutual respect.
  - Communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings.
  - Work together to convert the councils core values and priorities into practical policies for implementation for the benefit of the districts.
  - Observe any advice relating to publicity during the pre-election period.
  - Refer any observed instances of inappropriate behaviour as necessary.
  - Respect each other's free time.
18. Members must not be personally abusive to, or derogatory of officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Officers will likewise treat members with respect at all times. However, robust and constructive challenge and exchanges between the most senior officers and members is acceptable.
19. Members should not criticise or raise matters relating to alleged conduct or capability of an officer at meetings or any other public forum (including on social media). This is a long standing tradition in public service as an officer has no means of responding to criticisms in public. Such matters should be properly raised via the Leader with the Chief Executive in private.
20. Officers should not raise matters relating to the conduct or capability of another officer or to the internal management of a department in a manner with a member which is incompatible with the overall objectives of this protocol.
21. Nothing in this protocol shall prevent an officer or member making a protected disclosure under the Whistleblowing Policy.
22. If an officer feels that they have been treated improperly or disrespectfully they should raise the matter with the relevant Deputy Chief Executive, or the Chief Executive as appropriate. In these circumstances, the Chief Executive, Deputy Chief Executive will take appropriate action, including approaching the member concerned, and raise the issue with the Leader (if applicable), Group Leader or, where appropriate, referring the matter to the Monitoring Officer where there is a potential breach of the Code of Conduct.
23. Whilst normal, friendly working relationships between members and officers are to be encouraged, close personal familiarity or personal contact of an inappropriate nature between individual members and officers can harm the relationship. This can also prove embarrassing to other members and officers and can damage the public perception of the integrity and objectivity of the organisation so should be avoided.

24. Relationships should never be allowed to become so close or appear to be close that the ability of an officer to deal impartially with other members or political groups is questioned. Both members and officers will need to be aware of the potential for conflicts of interest and take steps to either avoid or mitigate the position. The Monitoring Officer should be consulted in these circumstances.
25. Group leaders should promote a positive atmosphere of trust, respect and understanding between members and officers and must be prepared to deal with and resolve any reported incidents of breaches of this protocol by their group members. This is a core responsibility of a group leader. In the event of a complaint being made to them under this protocol, a group leader will seek to actively consider the complaint and achieve a satisfactory outcome. The outcome must be reported to the officer who notified them of the complaint along with their line manager.

### **Role of members**

26. Collectively, members are the ultimate policy makers determining the core values of the council and approving the policy framework, strategic plans, and budget. Their role is complex, requiring them to act simultaneously in the following capacities:-
27. *As Council / Cabinet members* – Members will provide leadership and take responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity, and overall wellbeing of the organisation as well as having an overview of governance.
28. *As Representatives* – Members are community leaders who interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance. The member represents the interests of their Ward and is an equal advocate for their constituents.
29. *As Politicians* – Members may belong to a political group represented on the council and, if so, may express political values and support the policies of the group to which they belong.
30. Officers can expect members to:-
  - Provide political leadership and direction.
  - Initiate and outline the requirements in the development of policy to be put before the Council, Cabinet or committees.
  - Work in partnership, understanding and supporting their respective roles, workloads and pressures.
  - Take corporate responsibility for policies and other decisions made by the council.
  - Prepare for formal meetings by considering all written material provided in advance of the meeting.
  - Leave day-to-day managerial and operational issues to officers.
  - Adopt a reasonable approach to awaiting officers' timely responses to calls/ correspondence.
  - Not demand urgent responses to correspondence / calls unless the subject matter is deemed by the officer to be urgent. Any dispute as to urgency should be referred to the Deputy Chief Executive or relevant statutory officer.

- Not send emails to multiple officers regarding the same issue, instead utilising one point of contact where possible.
  - Not repeatedly sending emails to the same officer, or different officers, that make the same point or have the same intent.
  - Use their position with officers appropriately and not seek to advance their personal interests or those of others to influence decisions improperly.
  - Respect the dignity of officers and not engage in behaviour which could be reasonably regarded as bullying or harassing in nature.
  - Have regard to the seniority and experience of officers and equally having regard to the potential vulnerability of officers at junior levels.
  - Not request officers to undertake work which has not sanctioned by Cabinet, Council or a decision making committee.
31. It is of course permissible and sensible for members to seek straightforward factual information from officers, and to seek the views of appropriately qualified officers as to technical or professional matters. However, if there is anything contentious or relating to a matter requiring a complex opinion or value judgement, this should be directed to the relevant statutory officer, Deputy Chief Executive or Chief Executive, matters that are complex but predominately operational in nature should first be directed to the relevant Head of Service. Democratic Services are happy to signpost members to the correct area as necessary to ensure that queries are resolved.
32. When serving on the council's Planning Committee, General Licensing Committee or Licensing Acts Committee, members must observe any guidance or protocols adopted.
33. Whilst members should always act in the public interest, there is nothing preventing them as politicians, from expressing the values and aspirations of the political group to which they belong.
34. As a matter of courtesy, it is expected that members involved in an issue in another member's ward will speak with the relevant ward member to inform them of their involvement.

### **Role of Officers**

35. In broad terms officers have the following main roles:
- Set and implement strategies and approaches to deliver council policy and further the council's priorities.
  - Day to day operational management of the organisation.
  - Implement decisions which are lawful and which have been properly approved.
  - Give members advice on issues and the business of the council to enable them to fulfil their roles. In doing so, officers will take into account all relevant factors and demonstrate political sensitivity.
  - Manage the services for which they have been given responsibility within the framework of responsibilities given to them under the Scheme of Delegation and their position as employees.
  - Be accountable for the efficiency and effectiveness of the services in which they work and to demonstrate proper / professional practice in discharging their responsibilities.
  - Provide advice on changes in government policy for which the council is responsible.

- Provide professional advice on innovation and developments which may assist the council in delivering services.
- Provide professional advice on innovations by other councils which may be adopted by the council to improve service delivery.
- Be professional advisors to the council, its political structures and members in respect of their role.
- Initiate policy proposals in line with national government requirements or council agreed priorities as well as implementing the agreed policies of the council.
- Be accountable for the design and of the operational processes and methods through which delivery is achieved
- Ensure that the council always acts in a lawful manner and does not engage in maladministration.
- Officers may only support members in their role within the council and must not engage in actions incompatible with this protocol. In particular, there is a statutory limitation on some officers' involvement in political activities where their post is politically restricted.

36. Members can expect officers to:

- Undertake their role in line with their contractual and legal duty to be impartial.
- Exercise their professional judgement in giving advice and not be influenced by their own personal views and ensure that advice is relevant to South Oxfordshire and/or the Vale of White Horse.
- Have an appreciation of the political environment in which they work and demonstrate political sensitivity.
- Assist and advise all parts of the council equally, officers must always act to the best of their abilities in the best interests of the authority and the residents of the district.
- Be alert to issues which are, or are likely to be, contentious or politically sensitive and to be aware of the implications for relevant members, the media or other sections of the public.
- Maintain due confidentiality.
- Behave in a professional manner and comply with the Employee Conduct Policy.
- Be helpful and respectful to members.
- Respond in a timely manner to telephone calls, emails and correspondence, etc.
- Provide update reports to members to inform them of issues which they need to be aware of

37. Officers are ultimately accountable to the Chief Executive. Line management though, can be vested in the Deputy Chief Executives, Head of Service or Service Manager and whilst officers should always seek to assist any member, they should not go beyond the limit of the authority given to them by their manager and members should not expect, request or encourage them to act in a way that would undermine their manager.

38. In their dealings with the public, officers should be courteous and act with efficiency and timeliness and in line with the councils published response times.

39. In advising members of the council, officers should be able to give honest and impartial advice without fear or favour from members. Officers must serve all

members, not just those of any majority political group / ruling administration and must ensure that the individual rights of all members are respected. The support provided by officers can take many forms, ranging from a briefing an individual member on a particular issue, on occasions, a presentation to the council. Senior Officers are able to make direct reports to Council, should the need arise.

40. Subject to Paragraph 2.14 (Whistleblowing), officers should respect a member's request for confidentiality when dealing with any legitimately delicate matter and members should respect an officer's request that a matter be kept confidential. Where confidentiality is requested, any written reply to a member should not be copied to any other member without the original member's permission, or in order to comply with an unavoidable legal or professional obligation. Irrespective of this, some matters are naturally confidential due to the GDPR rights of residents, businesses or employment and data rights of individual officers.
41. An officer shall not discuss with a member, personal matters concerning him / herself or another individual employee. This does not of course preclude officers or members asking after a colleague's wellbeing. Neither does this prevent an officer as a constituent raising, on a personal basis and in their own time, a private matter with his / her Ward member without using the council email system.

### **Officers Attendance at Political Group Meetings**

42. In order to ensure that political neutrality is not compromised, officers must not, in their capacity as council employees, attend meetings of political groups unless specifically authorised by the Chief Executive. Any request for officer support at such a meeting should be made to the relevant statutory officer, Deputy Chief Executive or the Chief Executive directly, in advance of any meeting. Officers have the right to refuse such requests and will not normally attend a meeting where some of those attending are not members of the council on the basis that the Code of Conduct does not apply to persons other than members.
43. Any support should be made available to all political groups if requested. 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 political group business. Officers must not be present at meetings when matters of political group business are to be discussed. Where a political group shares alternative proposals for advice, e.g. the budget, the officer should treat this as confidential.
44. Where officers provide information and advice to 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 relevant forum when the matter in question is considered. All groups must be advised equally, and the Leader of council must ensure that their own group or administration is not subject to information that is withheld from other members without sound reasons.

### **The Council as Employer**

45. Officers are employed by the council as a whole. Members roles are limited to the appointment of specified senior posts in accordance with the Officer Employment Procedure Rules and should not act outside these roles.



46. If participating in the appointment of officers, members should:
- Remember that the sole criteria is merit.
  - Never canvass support for a particular candidate.
  - Not take part where the candidate is a close friend or relative.
  - Not be influenced by personal knowledge of candidates.
  - Not favour a candidate by providing them with information not available to other candidates.

### **Officer Relationships with Cabinet Members/Chairs/Vice-Chairs, Political Group Leaders**

47. Chairs (and Vice-Chairs in their absence) must:
- Chair meetings impartially.
  - Give all members an equal right to speak.
  - Manage meetings to ensure that the business is transacted efficiently but fairly.
  - Ensure that officers are given every opportunity to give their professional advice to the meeting when required on the basis that meetings are political in nature and should be led by the politicians.
48. The Leader or a committee Chair should routinely be consulted during the process of preparing an agenda for a forthcoming meeting. Chairs must recognise that, in some situations, for example, the statutory officers are under a duty to submit a report on a particular matter and no influence should be exerted on any officer to exclude an item from an agenda.
49. Prior to meetings (unless exceptions apply), the appropriate officers may meet informally with Cabinet or the Chair and Vice-Chair of Council / committee to discuss matters on the agenda. These are informal meetings and no decisions are made, they are intended to deal with anything necessary to ensure the smooth running of the meeting and to enable specific issues to be highlighted for which officers and members may need to prepare prior to the meeting.
50. Senior officers, political group leaders and cabinet members will agree mutually convenient methods of regular contact and will arrange informal meetings when required. Such meetings should respect the roles of the relevant officer and member(s)
51. Senior officers (including the Head of Paid Service, Monitoring Officer and Section 151 Officer) have the right to present reports and give advice to Council, Cabinet or committees.
52. There will be occasions where it will be appropriate for officers to maintain confidentiality with senior members. However, to avoid any perception of impartiality officers must exercise care to ensure that individual members are not provided with information that the officer is not prepared or able to appropriately make freely available to other members.
53. Subject to the rules on access to information set out below, officers shall provide members with the information necessary to enable them to effectively undertake their role.

54. Before any formal decisions are taken members will have regard to professional advice from officers in the form of written reports or other appropriate documents.
55. Officers taking decisions under delegated powers must consider whether the relevant Cabinet member or Ward member should be consulted based on the issue and taking into account political or corporate sensitivities (see below on consultation with Ward members) and the Scheme of Delegation.
56. Officers must also be prepared to justify how decisions taken under delegated powers contribute to the delivery of council policy and priorities when reasonably required to do so.
57. Where officers have delegated authority to take certain actions in consultation with a member, it is the officer who takes the action and is responsible for it.

### **Political Groups and Officers**

58. There is statutory recognition for political groups and it is common practice for these groups to give preliminary consideration to matters of council business in advance of them being considered by the relevant decision making body.
59. Senior officers may properly be asked to contribute to deliberations of matters concerning council business by political groups but must at all times maintain political neutrality and political groups should not try to exert influence on the officer to either change their advice or undertake their role in a particular way.
60. The assistance provided by senior officers can take many forms, for example a briefing meeting with a political group leader or other members prior to a meeting. If assistance is being given to political groups, it is an important principle that assistance is available to all political groups. In their dealings with political groups, officers must treat them in a fair and even-handed manner.
61. Certain points must be clearly understood by members and officers alike who participate in these meetings:
  - Officer assistance must not extend beyond providing information and advice in relation to matters of council business.
  - It must not be assumed that an officer is supportive of a particular policy or view considered by a political group meeting simply because he / she has attended a meeting.
  - Officers must not be involved in advising on matters of party business. Internal group debates and any decisions on position should take place in the absence of officers.
  - Political group meetings are not formal decision making bodies of the council and are not empowered to make decisions on behalf of the council.
  - Where officers provide information and advice to a political group meeting in relation to a matter of council business, this will not be a substitute for providing all necessary information and advice to the relevant council decision making body.
  - The duration of an officer's attendance will be at the discretion of the political group but an officer may leave at any time if he / she feels it is no longer appropriate to be there or at the request of the most senior officer present.

62. Whilst officers will not normally attend political group meetings attended by persons who are not members of South Oxfordshire of Vale of White Horse, if they do so, special care will need to be exercised when providing information and advice. Non-members are not bound by the Code of Conduct, in particular, the provisions concerning the declaration of interests and confidentiality.
63. Officers must respect the confidentiality of any political group discussions they are part of and should not pass on information to other political groups. However, members should be aware that this does not prevent officers from disclosing information to other officers of the council as far as is necessary to perform their duties. If there are any particular cases of difficulty or uncertainty in this area, they should be raised with the relevant statutory officer, Deputy Chief Executive or Chief Executive who will discuss them with the relevant political group leader(s).
64. Officers accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter and must give substantially the same advice to each and must seek agreement of the Chief Executive, who may determine a different officer, or no officer, should attend.
65. No member will refer in public or at meetings to advice or information given by officers to a political group meeting or in any other meeting that is not on the public record.

### **Ward Members and Officers**

66. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process where appropriate and to develop their representative role.
67. This requirement is particularly important:
  - During the initiation and formative stages of policy development, where practicable
  - In relation to significant or sensitive operational matters and
  - Whenever any form of public consultation exercise is undertaken.
  - Where there is a press release or publicity relating to an issue in the members ward.
68. Where issues have a wider impact than a single ward, a number of local members will need to be kept informed.
69. In dealing with town or parish councils, officers should consider whether there is a need for Ward members to be copied into any correspondence for information. Likewise, officers may advise town and parish councils to ensure that Ward members are provided with information relative to their role. This will need to be considered on a case by case basis to avoid creating an unnecessary administrative burden on officers and of course must always consider the requirements of GDPR and appropriate confidentiality.

70. Whenever a public meeting is organised to consider a local issue, all the members representing the wards affected (and adjoining wards where appropriate) should be invited to attend the meeting as a matter of course.
71. If local members intend to arrange a public meeting on a matter concerning some aspect of the council's work, he/she should inform the relevant officer(s). Special care must be exercised during a pre-election period and officers and members must comply with the legal requirements around publicity at all times.
72. Whilst support for members' ward work is legitimate, care should be taken if officers are asked to accompany members to ward surgeries. In such circumstances the surgeries must be open to the general public, and to avoid any perception of impartiality, officers should not be requested to accompany members to surgeries held in the premises of political parties.
73. Save for matters relating to electoral processes, officers must never be asked to attend ward or constituency political party meetings.
74. It is acknowledged that some council staff, e.g., those providing dedicated support to members may receive and handle messages for members on topics unrelated to the council. Whilst these will often concern diary management, great care should be taken to avoid council resources being used for private or party political purposes.
75. In seeking to deal with constituents' queries or concerns, members should assess the priority of the issue, respect the council's procedures and not seek to jump the queue. Officers have many pressures on their time and are required to prioritise their activity in line with operational needs and the requirement of ensuring procedural fairness to all residents and businesses. They may not be able to carry out the work required by members in the requested timescale and may need to seek instructions from their managers.
76. In all cases where a resident wishes to raise a complaint, it is important that they are signposted by the local member to the council's complaints process. Where a member of staff identifies that a ward member has raised an issue that they believe should be regarded as a complaint, they will seek advice from a senior officer, and if required then refer the matter directly to the Complaints Team.

## **Access to Information**

77. Members may approach relevant officers to provide them with such information, explanation and advice about their functions and responsibilities as they may reasonably need in order to assist them in discharging their role as members of the council. This can range from a request for general information about some aspect of the council's activities to a request for specific information on behalf of a constituent.
78. As a starting point members have the same rights to any information held by the council that ordinary members of the public have under the Freedom of Information Act 2000. As regards the specific legal rights of members to inspect council documents, these are covered partly by statute and partly by common law. The common law right of members is based on the principle that any member has a prima

facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member to properly perform his/her duties as a member of the council. This principle is commonly referred to as the "need to know" principle and can only be outweighed, in exceptional cases, on the grounds of demonstrable public interest.

79. The exercise of this common law right depends on the member's ability to demonstrate that he/she has the necessary "need to know". A member has no right to engage in "a roving commission" to go and examine documents. Mere curiosity is not sufficient. The question whether the member has the need to know must initially be determined by the Monitoring Officer in light of current case law and practice. In the event of a dispute, the question falls to be determined by the Chief Executive in consultation with the Leader or Chair of any decision making committee in connection with whose functions the document is held.
80. In most circumstances a member's need to know will generally be presumed by the officer. This presumption can be rebutted if there are reasonable grounds to suspect that the member is seeking to access the information for purposes unrelated to his / her public duties as a member (e.g. for personal gain or solely for party political purposes). In other circumstances (e.g., a member who is not a member of a relevant committee, wishing to access documents containing personal information about third parties or sensitive information about contracts or property transactions) a member will normally be expected to justify the request in specific terms against the "need to know".
81. Access may properly be refused if the reasons for inspecting any documents are considered to be improper, indirect, ulterior, or are inconsistent with the council's interests. Examples of such circumstances are where a member:
  - Has a private, professional or business interest in the information.
  - Has a disclosable pecuniary interest or other registrable or non-registrable interest in the matter to which the document relates; or
  - Has taken up, or is considering taking up, support of a person or body which is hostile to the council in Court proceedings or at Inquiries.
82. Members have a statutory right to inspect any document in the council's possession or control which contains material relating to any business which is to be transacted at a Council, Cabinet, committee or sub-committee meeting. This right does not however apply to documents relating to certain confidential items, although the council's practice is to allow all members, on request, to be supplied with any agenda papers for information.
83. Where a request will require the devotion of a significant amount of staff resources to identify and collate information considered to be of marginal benefit, the request for information may be refused.
84. Any confidential or exempt information provided to a member must only be used by the member for the purpose for which it was provided i.e., in connection with the proper performance of the member's duties. A member must never disclose confidential or exempt information to anyone who is not themselves entitled to that information without the consent of the appropriate person. Improper disclosure of confidential information may constitute a breach of the Code of Conduct.

85. Routine correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where it is necessary to copy the correspondence to another member, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice, or where the matter is relevant to a member of Cabinet in fulfilling their Council role, or where it is to raise a matter with a Group Leader), this should be made clear to the original member. In other words, a system of 'silent' or 'bcc' copies should not be employed.
86. Official letters on behalf of the council should normally be sent in the name of the appropriate officer, rather than in the name of a member. It will, however, be appropriate in certain circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of the Leader. Letters which, for example, convene formal meetings, create legal obligations, give instructions on behalf of the council, or imply or suggest a formal Council policy position should never be sent out in the name of a member other than with the agreement of the relevant senior officer who would normally have been the signatory.
87. When writing in an individual capacity as a ward member, a member must avoid giving the impression that he/she is writing on behalf of the council.
88. In order to properly perform their duties, members are deemed to have the need to remain present during public meetings notwithstanding that such bodies have resolved to exclude the public in order to prevent the disclosure of confidential or exempt information.
89. A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information where to do so is likely to be in breach of GDPR, the Data Protection Act 2018, or where the subject matter is one in which he/she could be viewed as having a disclosable pecuniary interest, or other personal interest as defined in the Code of Conduct.
90. It is an accepted convention that a member of one political group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another political group.
91. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it in writing, or unless required by law to do so.
92. Unless disclosure is required under the Freedom of Information Act 2000, officers will keep members' inquiries and any responses confidential.
93. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **Media Relations**

94. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

95. Press releases by the Council or statements made by officers must be made through the Communications team and should only promote or give information on council policy or services. Any comment will be factual and consistent with council policy. The council cannot lawfully allow press releases to be used to promote a party group, although relevant members may be quoted in press releases.
96. Officers will keep relevant members informed of media interest in the council's activities, especially regarding strategic or contentious matters.
97. If a member is contacted by, or contacts, the media on an issue, he/she should:
- contact the council's communications team for advice
  - If necessary, and always when he/she would like a press release to be issued, seek assistance from the Communications team and/or relevant senior officer(s), except in relation to a statement which is party political in nature.
  - Indicate in what capacity he/she is speaking.
  - Be sure that he/she make it clear that they are speaking in line with agreed council policy or that this is his/her personal view.
  - Be sure of what he/she wants to say or not to say.
  - Consider the likely consequences for the council of his/her statement (e.g. commitment to a particular course of action, image, and allegations/ jumping to conclusions).
  - Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - Consider whether to consult other relevant members.
  - Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist – in these circumstances, no Council resources may be used.

### **Access to Premises**

98. Officers have the right to enter council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
99. Members have a general right of access to council land and premises as required to fulfil their duties unless they have been properly prevented from doing so as a result of a finding of a breach of the Code of Conduct. Members cannot be prevented from attending meetings they are entitled to attend such as Council or Cabinet.
100. When making visits as individual members, members should:
- Whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge, particularly if out of normal office hours.
  - Comply with health and safety, security and other workplace rules including wearing their Council ID badge.
  - Not interfere with the services or activities being provided at the time of the visit and recognise that any staff present will be required to work as normal.
  - Take special care at establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **Use of Council Resources**

101. If any support service is provided to members, it should not be used for private purposes or in connection with party political or campaigning activities. Any such use would be a breach of the Code of Conduct.
102. Accommodation, equipment, and other forms of support will be provided in accordance with approved arrangements. The Chief Executive is authorised to agree reasonable changes in the support provided to reflect changing needs and developments in available equipment and staffing.
103. Any mail sent on a member's behalf will normally be dispatched by second class post.
104. Members should not ask officers to provide resources or support which they are not permitted to give. Examples are:
  - Business which is solely to do with a political party
  - Work in connection with a ward or constituency party political meeting
  - Electioneering
  - Work associated with an event attended by a member in a capacity other than as a member of the council
  - Private personal correspondence
  - Work in connection with another body or organisation where a member's involvement is other than as a member of the council or
  - Support to a member in his/her capacity as a member of another local authority (Including town and parish councils) other than as a representative of the council.

## **Complaints and Allegations of Breaches**

105. Subject to the proviso that attempts should always be made by both officers and members to resolve complaints or concerns informally, if a member wishes to formally complain about the actions or failings of an officer, the member should lodge his or her complaint in writing to the Chief Executive, preferably after raising the matter informally with them via the Leader of the Council.
106. In the event the complaint is against the Chief Executive, it should be lodged with the Deputy Chief Executive – Transformation and Operations, the strategic lead with responsibility for HR, and copied to the Monitoring Officer. The officer to whom the complaint is made will take appropriate action to resolve it and will notify the member of the council who made the complaint of the action which has been, or is intended to be, taken to resolve it.
107. Should an officer have cause to complain about the actions or failings of a member, the officer should draw his/her concern to the attention of their line manager who will consider the matter and, acting through the appropriate senior officer, will seek to resolve the issue with the member concerned or, if this is not possible, the member's political group leader.
108. If the complaint is against a political group leader then it should be referred to the Chief Executive who will decide the best course of action.



109. The member to whom the complaint has been made, will deal with it and will notify the officer making the complaint of the action which has been, or is intended to be, taken to resolve the complaint.

### **Members Acting Against the Council**

110. As part of their constituency work, members will naturally assist their constituents in their dealings with the council. This may include for example, making representations, giving evidence, and or assisting residents with matters such as planning, housing or licensing appeals. This section is intended to cover those rare situations where a member is acting in a professional capacity or in their status as a resident in relation to their dealings with the Council.

111. If a member is about to act, or directly support action, in a professional or private capacity against the council, he/she must notify the Monitoring Officer in writing. This applies to any action by a spouse / partner, associate, employer or by a company in which the member has an interest. This provision also applies to co-opted members for matters which are within the responsibility of the Committee on which they serve.

## **Press and Media Protocol / Officer-Member External Communications Protocol**

### **Summary**

1. How the councils handle their media relations and activities will determine how their key stakeholders (residents, businesses, external partners, and media organisations) perceive and subsequently portray the councils to others. This can therefore have a significant impact on their reputations.
2. This protocol sets out the framework for how officers and members will effectively manage media relations. It is supplementary to the Protocol on Member and Officer Relations in the councils' constitutions and requires both parties at all times to endeavour to work constructively together for the good of the councils and districts.
3. It does not cover all situations in detail as much will depend on the individual circumstances, so it is designed to be flexible while setting out a tried and tested approach.
4. The protocol applies to all members and officers who may be contacted by members of the media.

### **Legal framework**

5. All press releases and media engagement on behalf of the councils will:
  - be in accordance with this protocol
  - be organised and managed by the Communications and Engagement Team, to ensure proactive, effective, and efficient management of the councils' public messaging and reputation
  - focus on matters of council policy, services and democratic decisions
  - not contain anything of a party-political nature
  - be in line with the relevant legislation concerning publicity issued by local authorities, with particular care around the pre-election period.
6. Section 2 of the Local Government Act 1986 states that local authorities:

"...shall not publish any material which, in whole or in part, appears to be designed to effect support for a political party. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters:

  - Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.
  - Where material is part of a campaign the effect which the campaign appears to be designed to achieve."

7. The term 'publicity' is defined in the Act as "any communication in whatever form, addressed to the public at large or a section of the public". Local authorities are also required by section 4(1) of the Act to have regard to the Code of Recommended Practice on Local Authority Publicity contents when coming to any decisions on publicity.

## The Publicity Code

8. The [Code of Recommended Practice on Local Authority Publicity](#) was issued in 2011 by the Ministry of Housing, Communities & Local Government.

9. Under the code there are seven principles that local authorities must follow when carrying out any publicity. It should be:

- **Lawful**  
Publicity should comply with statutory provisions and any paid-for advertising should comply with the Advertising Standards Authority's Advertising Codes.
- **Cost-effective**  
Consideration must be given to the value for money the publicity will achieve. The code acknowledges that in some circumstances this may be difficult to quantify.
- **Objective**  
This requires local authority publicity to be politically impartial. The code acknowledges that councils must be able to explain their decisions and justify their policies, but that this should not be in a way that could be perceived as a political statement or commentary on contentious areas of public policy.
- **Even-handed**  
Publicity can address matters of political controversy but in a fair manner and should not seek to affect support for a single councillor or group. The code does, however, recognise that at times it is acceptable to associate publicity with a single member of the councils.
- **Appropriate**  
Press and media relations and proactive communications should relate to material matters that impact the council or residents directly.
- **Accessible and inclusive**  
Local authorities can positively influence the behaviours and views of local people in relation to health, safety, and other issues where publicity can have a positive impact on the behaviour of the public.

Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

- **Issued with care during periods of heightened sensitivity**

This gives guidance as to how local authority publicity should be treated during elections and referendums, both national and local.

## **Principles**

10. This protocol will ensure the councils manage their media relations effectively and appropriately. It clearly sets out the respective roles of all members and officers in handling media opportunities and queries.
11. The councils value the media as a key communication partner. The councils are committed to being transparent and maintaining positive working relationships with the media and respect their right to report on any given topic and will providing a professional and accurate information service.
12. Following this protocol will ensure our standards are consistent. It will ensure our messaging and information is accurate due to appropriate member and officer input. This will all build and enhance the councils' reputation. In all cases, our approach to the media will reflect the standards set out in our communications strategy.
13. The Communications and Engagement Team is responsible for managing and issuing all press releases, media responses and public statements on behalf of the councils. It will advise on the most appropriate and effective timing, based on the relevant individual circumstances.
14. The team will make every effort to inform officers and members before they are exposed to significant issues through the media. However, in an increasingly fast and pervasive communications environment, particularly given the speed and ease of dissemination on social media this will not always be possible.

## **Spokespeople**

15. For both proactive and reactive press activities, the Communications and Engagement Team attributes quotes to a relevant individual to demonstrate the councils are committed to openness and accountability.
16. The team will usually ask the Cabinet Member relevant to the subject matter to be a spokesperson for their council. The council leader or deputy leader can also speak as a substitute for the Cabinet Member or if a subject is particularly high profile or sensitive.
17. On rare occasions, the team may need to attribute a quote to senior officers – this will only occur for specific reasons or operational issues that require technical or in-depth knowledge, or if:
  - an extremely quick response is required in changing circumstances to maintain the flow of information to the public (like an emergency incident)
  - there is a legal aspect to the comment which would benefit from attribution to a professional officer rather than a member
  - it is during the pre-election period where a factual statement is required.

18. In these circumstances, the nominated officer should never give their views on council policy. They should keep to the corporate line and key messages. Their role is to provide expertise and factual knowledge only, in support of the councils' approved and agreed policies.
19. Often, when none of the options above are available, the team will attribute quotes to an anonymous *spokesperson on behalf of* the relevant council.

### **Proactive Media Approach**

20. The Communications and Engagement Team will prepare proactive press releases and statements to:
  - communicate and promote Cabinet and Council decisions that would impact our communities or are of public interest
  - inform the public about changes to services in line with communications plans agreed with service teams
  - promote the work the councils as a whole are doing to deliver better outcomes for their communities, particularly in line with the Corporate Plans
  - influence and change behaviours to address issues facing the districts, country and the planet.
21. The team will do this by:
  - identifying the desired objectives and outcomes when working with officers and members, and advising on the most effective and appropriate communications channels and timings
  - agreeing the key messages with the relevant subject matter expert and Cabinet Member
  - drafting the content for press releases and other communications materials, including quotes for the relevant Cabinet Member\*
  - circulating draft content to subject matter experts and service manager or head of service for approval
  - circulating approved content to the relevant Cabinet Member\* for comments and for approval of their draft quote.

\*Where a piece of media work is specific to a particular location, the local ward member(s) should be also invited to take part regardless of their political party. Any quote or interview answers should simply reflect the benefit/impact on local residents rather than discussing the council decision or political aspects of the topic.

### **Reactive Media Approach**

22. The Communications and Engagement Team leads on co-ordinating, drafting and preparing responses to ALL media enquiries. It's important that we respond in a timely manner as it gives the councils a greater chance of influencing the story. Failure to reply in time risks the story leading with an opposing point of view or a 'no comment' response being published.

### **Members being contacted by the press**

23. If a member is directly contacted by, or contacts, the media on an issue, they should:

- contact the Communications and Engagement Team and relevant senior officer(s), except in relation to an enquiry that is party political in nature
- avoid speaking to the press until they've been suitably briefed by the Communications and Engagement Team and relevant senior officers before speaking on the council's behalf
- clearly indicate in which capacity they are speaking
- make it clear whether they are speaking in line with agreed council policy or giving their personal view
- consider the likely consequences for the councils of their own statement (e.g. committing to taking specific actions, image, and allegations/jumping to conclusions), particularly relating to subjects that could be an insurance or legal matter
- consider whether to consult other relevant members
- take particular care in what they say in the run-up to local or national elections to avoid allegations of electioneering, unless they have been contacted as an election candidate or political party activist – in these circumstances, the councils cannot provide support.

### **Officers being contacted by the press**

24. If an officer is contacted by the press on an issue, they should immediately refer the enquiry to the Communications and Engagement Team and offer no comments, suggestions, opinions or information to the press contact.

### **Enquiries from non-traditional media outlets**

25. The interactive media landscape is constantly evolving. Alongside traditional newspapers and broadcast media (radio and television), local newsletters, blogs and social media influencers have a significant impact on public opinion, which is only increasing. More and more these groups, individuals and outlets are approaching the councils for comment on important topics. The Communications and Engagement Team will use its expertise, knowledge and understanding of the local media landscape to assess the likely short term and long-term impact of responding or not responding to these types of enquiry, including accounting for the potential future need to build and maintain relationships with them should their influence grow. This will all be balanced against the resources required to provide a response. Decisions on whether to respond, and how to go about it will be made by the Communications Team Leader and/or Manager.

### **How we respond to different types of enquiries**

26. When a question, concern or accusation has been raised about the councils and their work, the Communications and Engagement Team will draft a quote or statement that positively and concisely explains the councils' position, process or decision in relation to the issue at hand.

27. When an enquiry is about an individual or individuals, we would avoid talking about the specific case(s) as a general rule. Instead, we would provide a statement that explains in general terms the relevant process and/or challenges the council faces related to this topic. On rare occasions, when an individual has proactively approached the press, and chosen to discuss their personal matters themselves, the council may choose to provide a specific response about their case. This would be done on a case-by-case basis, and would need to be cleared by our Data Protection Officer and the relevant Head of Service.
28. When the media has misunderstood or misrepresented an issue relating to the councils or their activities, the Communications and Engagement Team will quickly and assertively explain the mistake to the media and seek a correction, clarification and/or right of reply.
29. IF the councils have made a mistake, which can happen on occasion, they will explain the context and any mitigating circumstances, will explain what went wrong and why, and what they are doing to put it right and prevent it from happening again. The councils will not take a defensive stance but instead commit to learning from our mistakes.

#### **No comment!**

30. The councils will never issue or allow a 'no comment' response to subjects that relate to or impact on council services or activities, except potentially in very rare cases where the Communications and Engagement Team has assessed that the outlet making the enquiry would not have a significant enough impact to justify the resources – see the section above about non-traditional media outlets.
31. A key exception to this is where an enquiry relates to a legal or confidential matter or an ongoing investigation or case – in these cases the council will provide a short response to explain or confirm as much as possible and why no further comment is available at this time. For example: "The council can confirm it has received the letter, but as it's currently an ongoing legal matter, will not be commenting further."

#### **Process for media interviews**

32. The Communications and Engagement Team will work to influence the news agenda by offering interviewees or providing case studies to illustrate topical issues. The Communications and Engagement Team will use the processes set out in the councils' Communications and Engagement Strategy to identify opportunities in advance but may still want/have to exploit on-the-day stories particularly when there is breaking news.
33. When this occurs, the Communications and Engagement Team will contact the relevant Cabinet Member, or council Leader/Deputy Leader to ask if they are available to be interviewed and arrange the meeting with the media.
34. A pre-interview briefing can be supplied on request. Media training will be offered to all members and senior officers to assist with this.

## **Publicity in election periods**

35. According to the Local Government Association: “The pre-election period, previously known as ‘purdah’, describes the period of time immediately before elections or referendums when specific restrictions on communications activity are in place. The term ‘heightened sensitivity’ is also used.”
36. In the period between the notice of an election and the election itself we will halt all proactive publicity about candidates or other politicians. This applies to local and national elections.
37. During this period, we would refrain from dealing with controversial issues or reporting views, proposals or recommendations in a way that associates them with individual members or political groups. This is to make sure that no individual member or political party gains an unfair advantage by appearing in corporate publicity.
38. During the pre-election period, where a response is required, we would issue a short factual statement and if a quote is required, the relevant officer may be quoted, in accordance with the guidelines in this protocol.