



Council Meeting

21 October 2015

HASTINGS BOROUGH COUNCIL

Dear Councillor

You are hereby summoned to attend a meeting of the Hastings Borough Council to be held at the Town Hall, Queen's Square, Priory Meadow, Hastings, TN34 1QR, on Wednesday, 21st October, 2015 at 6.00 pm at which meeting the business specified below is proposed to be transacted.

Yours sincerely,

Chief Legal Officer

Aquila House
Breeds Place
Hastings

13 October 2015

AGENDA

1. Apologies for Absence
2. To approve as a correct record the minutes of the Council meeting held on 22 July 2015 and the extraordinary Council meeting held on 23 September 2015
3. Declarations of Interest
4. Announcements from the Mayor and Leader
5. Questions (if any) from:-
 - (a) Members of the public under Rule 11
 - (b) Councillors under Rule 12
6. Motion (Rule 14)
Councillor Chowney to move, seconded by Councillor Forward: -

"As a major employer in the local area, this council welcomes the positive benefits that arise from the relationship that we have with recognised trade unions, and seeks to encourage trade union

membership in its own workforce, as well as promoting the benefits of trade union membership in the town as a whole. However, the council notes that the Trade Union Bill 2015 and associated secondary legislation, if enacted, would:

- Allow agency labour to be used to substitute for striking workers (currently outlawed);
- Introduce very high thresholds for industrial ballots, with an extra threshold in certain public services, without doing anything to improve the ability of workers to participate in ballots;
- Severely restrict the right to picket and peacefully protest, including organising campaigns through social media;
- Potentially reduce trade union facility time and withdraw check off union contributions in the council and other employers in Hastings;
- Require union members to 'contract in' to their union's Political Fund every 5 years.

This council believes that the relationship between employers and their employees in Hastings through their collective representatives would be damaged by the above proposals and calls on the government to scrap the Trade Union Bill and all associated secondary legislation. We instruct the Leader of the Council to write to the Secretary of State for Business, Innovation and Skills stating the council's opposition to the Bill and requesting that government scrap the proposed legislation."

7. Motion (Rule 14)

Councillor Cooke to move:-

"Hastings Borough Council:

1. Welcomes "The Bee Cause" initiative promoted by Friends of the Earth, and supports the principles contained within it of:
 - a) Creating a bee-friendly habitat or installing bee hotels
 - b) Passing a motion or adopting policy to protect bees
 - c) Adopting planning policy to protect or create habitat
 - d) Reviewing pesticide use
 - e) Encouraging businesses and community groups to take action for bees
2. Welcomes the Government's publication of The National Pollinator Strategy as a major step forward in raising the profile of this important issue
3. Commits to using both its influence and its direct action, wherever reasonably practical, to create, protect, and encourage bee-friendly environments, starting its renewed commitment by preparing and creating a new, pollinator-friendly

flower bed in the Alexandra Park this year”

8. Membership of Committees

To give effect to any request received from a political group for a change in their representation on committee(s)

9. Amendments to the council's constitution

(Report of the Chief Legal Officer)

10. Reports of Committees

- (a) To resolve that the public be excluded from the meeting during the discussion of any items considered while the public were excluded by the relevant committee because it is likely that if members of the public were present there would be disclosure to them of “exempt” information as defined in the respective paragraphs of Schedule 12A to the Local Government Act 1972 referred to in the minutes of the relevant committee
- (b) To receive and consider the recommendations and any decisions of the following committees: -

Minute No.	Subject	Cabinet Member / Chair
CABINET – 7 September 2015		
14	Devolution Prospectus for Three Counties South (3SC)	Chowney

Notes:

- (1) The Mayor will call over the minutes and members will rise and indicate those items, which they wish to have discussed
- (2) No discussion shall take place at this stage upon any part II minute covered by the resolution at 8 (a) above. Any such discussion shall be deferred until item 9 on this agenda.

PART II

11. To consider the recommendations and decisions of committees (if any) which the Council has resolved should be discussed after the exclusion of the public from the meeting

Note: Nothing contained in this agenda or in the attached reports and minutes of committees constitutes an offer or acceptance of an offer or an undertaking or contract by the Borough Council

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Agenda Item 2 Public Document Pack

FULL COUNCIL

22 JULY 2015

Present: The Right Worshipful the Mayor (Councillor Bruce Dowling in the Chair), Councillors Rogers, Batsford, Cartwright, Charlesworth, Chowney, Clark, Cooke, Davies, Hodges, Howard, Poole, Pragnell, Roberts, Sabetian, Scott, Sinden, Street, Turner, Webb, Westley, Wincott, Beaver, Lee, Fitzgerald, Beaney, Atkins and Edwards

Apologies for absence were noted for Councillor Forward and Charman

1. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE ANNUAL COUNCIL MEETING HELD ON 20 MAY 2015

RESOLVED – that the minutes of the Annual Council meeting held on 20 May 2015 be signed by the Mayor as a correct record of the proceedings

2. DECLARATIONS OF INTEREST

The following Councillors declared their interest in the minutes indicated: -

Councillor	Committee	Minute	Interest
Hodges	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Prejudicial – Member of East Sussex County Council
Pragnell	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Prejudicial – Member of East Sussex County Council
Pragnell	Cabinet, 6 July 2015	7 – Reducing Health Inequalities	Personal – Chair of the East Sussex County Council Adult Social Care Community Safety Scrutiny Committee
Scott	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Prejudicial – Member of East Sussex County Council
Webb	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Prejudicial – Member of East Sussex County Council
Webb	Cabinet, 6 July 2015	7 – Reducing Health Inequalities	Personal – Member of the East Sussex

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			County Council Health and Wellbeing Board and Vice Chair of Adult Social Care Scrutiny Committee
Westley	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Personal – she is employed by East Sussex County Council
Wincott	Full Council, 22 July 2015	7 – Co-location of ESCC Register Office in Hastings Town Hall and creation of civic facilities within Aquila House	Prejudicial – Member of East Sussex County Council

3. QUESTIONS FROM COUNCILLORS UNDER RULE 12

Questions to the Leader, Deputy Leader and other Lead Members were asked and answered in accordance with rule 12.1 as follows: -

Questioner and Councillor	Subject	Reply Given By Councillor
Atkins	<u>Planning Department</u> residents were disappointed when planning permission for the recent link road extension was withdrawn. Can the Lead Member confirm if the action plan of improvements for the planning department, recommended by Cabinet, has been agreed and implemented? Councillor Poole replied that this matter fell within Councillor Forward's portfolio of responsibilities. A written response to the question would be circulated to members.	Poole
Beaney	<u>Alexandra Park Boating Lake</u> a number of residents would like to see the boating lake in Alexandra Park returned to use, is this still possible now that the new islands have been installed? Councillor Davies replied that it was still possible to use the boating lake for its original purpose, but as yet no one had come forward with a proposition to hire boats or pedalos on the lake. He commented that the park remained one of the town's most popular attractions, achieving an 80% approval rating amongst residents. A consultation was	Davies

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	currently ongoing regarding a potential cycle route within the park.	
Beaver	<p><u>Minimum Wage</u> will the Leader of the Council join with me in welcoming the Government's proposed increase in the minimum wage as a benefit for local residents?</p> <p>Councillor Chowney responded that we would not welcome the proposed increase in the minimum wage, as it was offset by reductions to working tax credit and child tax credit so many households would not see their overall income increase.</p>	Chowney
Edwards	<p><u>Social Lettings Agency</u> with five landlords joining the scheme in the first quarter, what are the prospects of this number increasing over the coming months?</p> <p>Councillor Chowney replied that the council had anticipated that initial take-up of the scheme by landlords would be slow. However, he was confident that an increasing number of landlords would register with the agency over the coming months as the benefits of the scheme became clear. It had not been possible to accept all of the landlords that came forward for the scheme, as the council had set strict conditions on the standard of properties it would accept.</p>	Chowney
Charlesworth	<p><u>Queensway Gateway Planning Application</u> the planning application for Queensway Gateway was due to be submitted to committee in July but has since been withdrawn. When will the application be submitted to Planning Committee?</p> <p>Councillor Chowney replied that the planning application was due to be submitted to Planning Committee in August. The application had been withdrawn from the July meeting to allow more time to revise the report.</p>	Chowney
Pragnell	<p><u>White Rock Trust</u> will the Lead Member join with him in congratulating the White Rock Trust on becoming a Coastal Communities Team, as part of the government scheme and provide details of how the council plans to support the Trust in the future?</p> <p>Councillor Poole congratulated the White Rock Trust on becoming a Coastal Communities Team but explained that she felt the Trust should not have had to bid for this</p>	Poole

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	<p>status. She added that the council was already in contact with the Trust on a range of issues and would meet with them to discuss their new accreditation.</p>	
Clarke	<p><u>High Speed Rail Link</u> what will the council do to support the local Member of Parliament in securing a high speed rail link from Hastings? Councillor Chowney replied that a high speed rail link remained a long term ambition for the town. He added that he continued to meet with the Member of Parliament and would support efforts to bring a high speed rail link to the town.</p>	Chowney
Clark	<p><u>Spending Review</u> does the Leader of the Council agree that the local Member of Parliament should speak out against the government's planned spending review and the impact this could have on public services in the town? Councillor Chowney expressed his disappointment at the government's planned spending review, and the potential impact of reducing public services on this scale could have on the town. Hastings Borough Council would support East Sussex County Council in opposing further budget reductions, whilst continuing to explore alternative means of income generation.</p>	Chowney
Cooke	<p><u>Waste Collection and Streetscene</u> recently, there has been a problem with litter in the streets around the town centre, particularly early in the morning. Will the Lead Member ensure that all residents in these areas are provided with seagull proof sacks and the the council's contractors are taking action to improve the street scene? Councillor Davies agreed that the streetscene in the town required improvement and had already raised this matter with the council's contractor. The council and its contractor were in the process of developing a programme to address issues around litter and fly tipping, particularly in high profile areas of the town, which included re-educating residents on the use of seagull proof sacks.</p>	Davies
Scott	<p><u>Community Engagement</u> how will the council develop its community engagement work in the future?</p>	Chowney

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	Councillor Chowney replied that the council had reduced the level of its community engagement work in recent years due to budget restrictions. He noted that much of the ongoing community engagement work was focused on the town centre, with the hope that this would improve the quality of life of residents in the whole town. Councillor Chowney continued that there may be scope to raise the profile of the council in other areas through existing festivals and events	
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4. MEMBERSHIP OF COMMITTEES

Councillor Chowney proposed a motion regarding the membership of committees, as set out in the resolution below.

RESOLVED – that the council adopt the following arrangements for the membership of committees: -

- 1) **Councillor Terri Dowling be appointed to Licensing Committee in place of Councillor Fitzgerald**

Councillor Atkins proposed a motion regarding the membership of committees, as set out in the resolution below.

RESOLVED – that the council adopt the following arrangements for the membership of committees: -

- 1) **Councillor Clarke be appointed to Overview and Scrutiny Committee for Services, in place of Councillor Lee, and;**
- 2) **Councillor Edwards be appointed to the Country Park Management Forum, in place of Councillor Beaver**

5. ANNUAL AUDIT REPORT 2014/15 TO COUNCIL

The report of the Chief Auditor, from the Audit Committee, on the annual review of the effectiveness of internal audit was submitted. Under regulation 6 of the Accounts and Audit Regulations (England) 2011, local authorities are required to publish a statement of internal control each year, with the authorities' financial statements. The findings of the annual review of the council's internal control had been considered by the Audit Committee. The report set out the review of internal control and assurance gathering process. The council was also working with the Sussex Audit Group on a reciprocating basis to arrange a peer review of internal audit, which would be completed by 31 March 2018.

Under rule 13.3 the report was approved without being called for discussion.

RESOLVED – that the Audit Committee report 2014/15 to Council be accepted

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The reason for this decision was:

Regulation 6 of the Accounts and Audit Regulations (England) 2011 requires relevant bodies to conduct an annual review of the effectiveness of its system of internal audit and of a committee of the body to consider the findings.

6. REPORTS OF COMMITTEES

The Mayor having called over the minutes set out in the agenda, the under mentioned minutes were reserved for discussion.

RESOLVED – under rule 13.3 that the reports and minutes of committees set out in the agenda be received. Minute number 9 of Cabinet on 6 July 2015, which was a matter for Council decision, was approved without being called for discussion. Only those items which were reserved were discussed, as follows: -

Meeting	Minute	Councillor
Cabinet, 6 July 2015	2 – Boundary Review – Council Size	Beaver
Cabinet, 6 July 2015	3 – Amendments to the Council's Constitution	Turner
Cabinet, 6 July 2015	5 - Corporate Plan Retrospective Report on Performance During 2014/15 and Proposed Performance Indicator Targets for 2015/16	Lee
Cabinet, 6 July 2015	6 - Sex Establishment Policy – Review of Numbers and Development of a Policy	Clark
Cabinet, 6 July 2015	7 – Reducing Health Inequalities	Webb
Cabinet, 6 July 2015	EU Funding Project Approval (SHINE)	Westley

Minute number 2 of Cabinet on 6 July 2015 was a matter for Council decision. Councillor Cartwright moved approval of the minute, seconded by Councillor Westley, which was agreed by 21 votes for, 0 against with 8 abstentions.

Minute number 3 of Cabinet on 6 July 2015 was a matter for Council decision. Councillor Cartwright moved approval of the minute, seconded by Councillor Turner, which was unanimously agreed.

Minute number 6 of Cabinet on 6 July 2015 was a matter for Council decision. Councillor Davies moved approval of the minute, seconded by Councillor Clark, which was unanimously agreed.

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No motions for reference to an Overview and Scrutiny Committee or reference back to cabinet were approved in respect of the items reserved for discussion and they were, therefore, received and agreed.

7. CO-LOCATION OF ESCC REGISTER OFFICE IN HASTINGS TOWN HALL AND CREATION OF CIVIC FACILITIES WITHIN AQUILA HOUSE

This item was moved down the agenda with the agreement of the Mayor.

Councillors Hodges, Pragnell, Scott, Webb and Wincott, having declared a prejudicial interest in this matter left the Council Chamber for the duration of this item.

The Right Worshipful the Mayor proposed that the Council should proceed as if it were a committee for this item, in order for Members to take advice from the Assistant Director of Financial Services and Revenues to inform decision making on this matter.

The Assistant Director of Financial Services and Revenues presented the report of the Director of Corporate Services and Governance, which invited Members to agree to lease space within Hastings Town Hall to accommodate the East Sussex County Council Register Office. A refurbished space within Aquila House would accommodate a fully accessible Council Chamber, Committee Rooms, Mayors Parlour and Member facilities in order for the council to transfer its democratic and civic functions from the Town Hall.

Following the relocation of the Register Office from its present location, the council would be able to achieve a capital receipt from the sale of land at Summerfields to Amicus Horizon for a social housing scheme. The council would also receive additional income from the lease of space in Hastings Town Hall to East Sussex County Council.

Councillor Cooke proposed an amendment to one of the recommendations of the report, as follows:

“Council is recommended that the Director of Corporate Services and Governance, be given delegated authority, in consultation with the Leader and the Leader of the Opposition...”

The proposed amendment was accepted by the Leader of the Council.

Councillor Chowney proposed approval of the recommendations, as set out in the resolution below, which was seconded by Councillor Cartwright.

RESOLVED (by 23 votes for, 2 against) that: -

- 1) Council delegate authority to the Director of Corporate Services and Governance, in consultation with the Leader of the Council and the Leader of the Opposition, to:**

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- a) **Agree Heads of terms with East Sussex County Council for the lease of space in the Town Hall for 10 years;**
 - b) **Design and implement a programme of refurbishment to accommodate the civic functions within Aquila House and any other accommodation works as required to facilitate the move, to a maximum cost of £200,000;**
 - c) **Renegotiate the existing Aquila House internal refurbishment work contract to undertake the works, rather than tender the additional works on the grounds of expediency and urgency**
- 2) **That the Council agrees to the replacement of the existing microphone system, and the purchase of new audio visual equipment at an estimated cost of £50,000**

The reason for this decision was:

An opportunity has arisen to achieve a substantial capital receipt for sale of land at Summerfields for affordable housing. This sale has prompted the proposal to co-locate the ESCC Register Office within the Town Hall – providing an income stream, and an opportunity to relocate the council's civic and democratic functions to an efficient, modern, flexible working environment in Aquila House.

PART II

8. **CO-LOCATION OF ESCC REGISTER OFFICE IN HASTINGS TOWN HALL AND CREATION OF CIVIC FACILITIES WITHIN AQUILA HOUSE**

The Director of Corporate Services and Governance submitted a report to advise Members of the commercially sensitive information regarding the sale of land at Summerfields to Amicus Horizon.

Under rule 13.3 the report was agreed without being called for discussion.

RESOLVED – that Members note the report

The reason for this decision was:

To inform the Member decision on the co-location of the East Sussex County Council Register Office in Hastings Town Hall and the creation of civic facilities within Aquila House.

(The Chair declared the meeting closed at. 9.44 pm)

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FULL COUNCIL

23 SEPTEMBER 2015

Present: The Right Worshipful the Mayor (Councillor Bruce Dowling) in the Chair, Councillors Rogers, Batsford, Cartwright, Charlesworth, Chowney, Clark (from 5.30pm), Cooke, Davies, Forward, Hodges (from 5.20pm), Howard, Poole, Pragnell, Roberts, Sabetian, Scott, Sinden, Street, Turner, Webb, Westley, Wincott, Beaver (from 5.10pm), Charman, Lee, Fitzgerald, Beaney, Atkins and Edwards

Apologies for lateness were noted for Councillor Beaver

9. **DECLARATIONS OF INTEREST**

The following Councillors declared their interest in the minutes indicated:

Councillor	Committee	Minute	Interest
Westley	Full Council, 23 September 2015	10 – Hastings Development Management Plan (DMP) Inspector's report and timescale for adoption	Personal - she is employed by East Sussex County Council

10. **HASTINGS DEVELOPMENT MANAGEMENT PLAN (DMP) INSPECTOR'S REPORT AND TIMESCALE FOR ADOPTION**

The report of the Assistant Director for Regeneration and Culture in respect of the Hastings Development Management Plan (DMP) was submitted, together with minute 13 of the Cabinet meeting held on 7 September 2015.

In February 2014, the council had adopted the Hastings Planning Strategy, which provided the overall strategic framework for land use and development in the Borough and set out the key overarching objectives for sustainable growth in Hastings up to 2028. The Hastings Development Management Plan was the second key planning document for the Borough, and provided the greater level of detail necessary to enable development proposals and assess planning applications.

The Assistant Director for Regeneration and Culture's report advised of the outcome of the examination in public of the DMP by the Planning Inspector, which had taken place between October and December 2014. The Inspector found that the proposed DMP came close to achieving the right balance between the often competing economic, social and environmental roles of planning to which the framework (NPPF) refers. Accordingly, eight main modifications were recommended to make the plan sound and legally compliant, and therefore capable of adoption by Council.

The Leader of the Council advised members of corrections to typographical errors required in the DMP written statement, as follows:

FULL COUNCIL

23 SEPTEMBER 2015

1. Page 38: In paragraph 4.35 line 3 the name of the policy against Policy T3 of the Planning Strategy is incorrect. The title name against T3 "Provision of a Strategic Cycle Network" should be deleted and replaced with "Sustainable Transport".
2. Page 39: The above error is repeated again on page 39 in the list of Planning Strategy Policies. The title name against T3 "Provision of a Strategic Cycle Network" should be deleted and replaced with "Sustainable Transport"
3. Page 59: Site FB10 is missing from Figure 6. Figure 6 should be replaced with a corrected version.
4. Page 206: Table 14 final column the tick which appears against site CVO4 (Church Street) should be deleted and replaced with an "x".

Councillor Chowney proposed approval of the recommendations to the report, subject to the correction of typographical errors in the written DMP statement above, which was seconded by Councillor Street.

RESOLVED (by 24 for, 6 against with 2 abstentions) that:

- 1) **Council considered the Inspector's recommendations and proposed main modifications (MMs) to the plan as attached at Appendix A to the Assistant Director for Regeneration and Culture's report;**
- 2) **Council agrees to the incorporation of the Inspector's 8 main modifications in the DMP, as recommended by Cabinet;**
- 3) **Council adopts the Hastings Development Management Plan, including the incorporation of the main modifications together with all minor modifications and the policies map attached at Appendices B, Ci and Cii to the Assistant Director of Regeneration and Culture's report, as recommended by Cabinet;**
- 4) **Council expresses its appreciation to all of those staff responsible for the preparation of the plan and in particular to officers from the Planning Policy team, and;**
- 5) **Council than the Inspector, Richard Hollox, for his efforts and wish him a happy retirement, as recommended by Cabinet**

The reason for this decision was:

In accordance with Section 23(c) of the Planning & Compulsory Purchase Act 2004 (as amended by Section 122 (3) of the Localism Act 2011) to enable the council to adopt its next key planning document (the Hastings Development Management Plan) as part of the Development Plan for the Borough, as encouraged to do so by Government to ensure that a statutory planning framework is put in place at the earliest opportunity to guide investment and growth within Hastings over the plan period to 2028.

(The Chair declared the meeting closed at. 5.40 pm)

Agenda Item 9



Report to: Council

Date of Meeting: 21 October 2015

Report Title: Amendments to the Council's Constitution

Report By: Christine Barkshire-Jones
Chief Legal officer and Monitoring Officer

Purpose of Report

The Council's Constitution is the basis for the Council's Corporate Governance. It is necessary to amend and improve the document on an ongoing basis.

Recommendation(s)

- 1. That Council approve the changes to the Council's Constitution as set out in Appendix 1.**
- 2. That Council approve the changes to Part 7 of the Council's Constitution as set out in Appendix 2.**
- 3. That Council approve the changes to Part 8 of the Council's Constitution as set out in Appendix 3.**
- 4. That Council approve the changes to Part 4 of the Constitution, Officer Employment Procedure Rules provision for the proposed procedures of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer in Appendix 4.**

Reasons for Recommendations

The Council's Constitution is the basis for the Council's Corporate Governance. It is necessary to amend and improve the documents on an ongoing basis.

Introduction

1. Background

1.1 The changes to the General Constitution have arisen from the Senior Management restructure and changes in legislation, a refresh of the Protocol for Relationships between Members and Officers and a change in legislation concerning the dismissal of statutory officers.

1.2 The general amendments to the Constitution are to be found at Appendix 1. Appendix 2 and Appendix 3 contain amendments to Part 7 Management Structure and Part 8 Standing Instructions to Authorised Officers. New areas of responsibility have been finalised. Areas of legislation have been checked and cross referenced with Schemes of Delegations to ensure Corporate probity.

1.3 Lastly changes on legislation have affected provisions on the dismissal of statutory officers, those being the Head of Paid Service, the Monitoring Officer and the Section 151 officer, This can be found at Appendix 4.

1.4 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have amended the statutory process to be followed by removing the requirement that a Designated Independent Person (DIP) be appointed to investigate and make a binding recommendation on disciplinary action against the Statutory Officers.

1.5 The regulations require the council to amend its Standing Orders to ensure that disciplinary action against any of the Statutory Officers cannot be taken until comments, views and recommendations are received from a panel consisting of at least two independent persons and including any representations from the officer concerned. The final decision must be made by full council. For the avoidance of doubt, the new process applies to dismissals for any reason other than redundancy, permanent ill-health or infirmity of the mind or body.

1.6 The arrangements in the new Regulations would be subject to any provisions contained in the officers contracts of employment, until such time as the contracts are amended.

2. Provisions contained in the new Regulations

2.1 In the case of a proposed disciplinary action against Statutory Officers, the Council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime introduced under the Localism Act 2011 to form a panel ("the Panel"). The Panel will include two or more independent persons who accept the invitation in the following priority order:

- (a) a relevant independent person who has been appointed by the council and who is a local government elector;
- (b) any other independent person who has been appointed by the council; and
- (c) an independent person who has been appointed by another council or councils

2.2 The authority must appoint the Panel at least 20 working days before the meeting of the council to consider whether or not to approve a proposal to dismiss the relevant officer.

2.3 The proposed procedure to manage a dismissal of a relevant officer is set out in Appendix 4 of the report and will amend the procedure currently set out in Part 4 of the Constitution, Officer Employment Procedure Rules.

2.4 It is suggested that the existing Employment Committee is the correct forum to consider any dismissal of this nature. The independent persons would be invited to attend if such a dismissal were to be considered.

3. Engagement with relevant officers

3.1 The Statutory Officers are aware of the new regulations and the recommendations set out in this paper.

4. Working Arrangements Group.

4.1 Working Arrangements Group met on the 28 September 2015 and approved the recommendations.

Wards Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	No
Anti-Poverty	No

Additional Information

Appendix 1 - General Changes
Appendix 2 - Part 7 of the Council's Constitution
Appendix 3 - Part 8 of the Council's Constitution
Appendix 4 - Officer Employment Rules

Officer to Contact

Christine Barkshire-Jones
cbarkshire-jones@hastings.gov.uk
01424 451731



AMENDMENTS TO THE CONSTITUTION 2015

PART 2 – Articles of the Constitution

Article 11 – Officers

Page 18

Replaced Head of Corporate Services – Monitoring Officer with **Chief Legal Officer – Monitoring Officer**

Replaced Head of Finance – Chief Finance Officer with **One of the Assistant Directors– Chief Finance Officer**

Page 19 – Functions of the Monitoring Officer

- f. deleted first line - Advising whether Cabinet decisions are within the budget and policy framework.

Now reads – **The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.**

Page 23

Changes to the Constitution

- 14.3 Changes to the Constitution will be approved by the Full Council. However, minor changes, not affecting the substance of the Constitution, such as correction of typographical errors or changes in job titles or the management structure, may be made by the Directors with the approval of the Monitoring Officer and in consultation with the Leader of the Council and the Chair of Working Arrangements Group **and the Chair of Working Arrangements Group** (has now been added)

PART 3 – Page 11 – g.(v)

Inserted - Monitoring the effectiveness of the authority's risk management arrangements.

Inserted on Page 13 – w - Scrutiny of the Treasury Management Strategy, Minimum Revenue Provision (MRP) Policy normal and the Investment Strategy and performance throughout the year before their submission to Cabinet and Council.

PART 4 – Rules of Procedure

14 Motions on Notice

Page 16

14.1 Deleted in the first line – Every motion shall be relevant to some matter in relation to which the Council has statutory powers, duties or functions.

Now reads - **Motions must be about matters for which the Council has a responsibility or which affects Hastings and/or its residents. The ruling of the Monitoring Officer in consultation with the Mayor shall be final as to the relevance of the motion.**

Page 24

23.4 Deleted – **No use of visual or audio recording equipment is permitted at meetings of the authority, other than that operated by the Council or another with the consent of the Mayor or chair for the meeting.**

PART 7 – Management Structure

Page 3 and 4

Heads of Service replaced with Assistant Directors Titles

**Hastings Borough Council
Constitution of the Council**

**Part 7
Management Structure**

The Constitution, Part 7
Management Structure

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Assistant Director Housing and Built Environment	3
Assistant Director Regeneration and Culture	4

Hastings Borough Council Management Structure

Hastings Borough Council Directorate Structure

Director of Corporate Services and Governance (Head of Paid Service)

Services:-

Building Management
Contact Centre
Democratic Services
Equalities
Information Technology
Legal Services
Personnel Services including Training and Development
Policy

Assistant Director Financial Services and Revenues

Services:-

Estates
Financial Services
Internal Audit
Investigations
Procurement
Revenues and Benefits
Building Surveyors

Director of Operations

Assistant Director Environment and Place

Services:-

Amenities, Parks and Gardens
Cemetery and Crematorium
Civil Contingencies and Emergency Planning
Community Safety
Environmental Protection
Food Hygiene
Health and Safety
Licensing
Parking and Highways
Travellers
Waste and recycling

Assistant Director Housing and Built Environment

Services:-

Conservation
Development Management
Housing Options
Housing Renewal and Licensing
Housing Strategy and Development
Local Land Property Gazetteer and Land Charges

Assistant Director Regeneration and Culture

Services:-

Community Services

Economic Development and Neighbourhood Services

External Funding

Leisure Development

Marketing, Cultural Regeneration and Communications

Planning Policy (formerly known as Forward Planning)

Regeneration

Seafront Services, Museums and Theatre

Sports Centre

Hastings Borough Council Constitution of the Council

Part 8

Standing Instructions to Authorised Officers

The Constitution, Part 8

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Standing Instructions to Authorised Officers

Adopted by Council on 25 July 2007, revised 23 July 2008, 16 December 2009, 21 March 2012 and 21st June 2012. Amended Council July 2015.

Introduction

1. The Constitution Part 3 sets out delegations from the Council to Committees.
2. These Standing Instructions contain delegations from the Cabinet and Council to Authorised Officers.
3. This is not an exhaustive statement of all their individual duties, which are to be found in the job descriptions, Council and committee resolutions, instructions given or issued by the Directors from time to time, and this Constitution.

Definitions

4. The Chief Finance Officer for the purposes of the Local Government Act 1972 section 151 and the Local Government Finance Act 1988 section 114 is the Assistant Director – Financial Services and Revenues.
5. The Monitoring Officer for the purposes of section 5 Local Government and Housing Act 1989 is the Chief Legal Officer.
6. “Chief Officers” are the Directors.
7. “Authorised officers” are the Chief Officers and Assistant Directors (and their nominees).
8. “Nominees” are officers that the Chief Officers or Assistant Directors have authorised to act on their behalf. Nominees may also be contractors, or officers of another authority acting on behalf of the Council.
9. The Lead member is the Cabinet Member nominated by the Leader of the Council for the purpose either generally or at a specific time or for a specific purpose. In the absence or unavailability of a Lead member, the Leader of the Council may act in place of the Lead member.
10. The discharging of functions means being ultimately accountable for decisions regarding a function under an Act of Parliament. It includes accountability under any Regulations, Statutory Instrument, other subordinate legislation, or byelaw, and any legislation re-enacting or amending the Act.

Assumption of full delegation

11. Authorised Officers discharge the functions delegated to them through appropriately qualified officers.
12. In relation to the delegations set out in these Standing Instructions, it is intended to delegate the Council’s functions fully to Authorised Officers and, through them, to all other officers acting under these Instructions except where otherwise provided in statute, regulations, or this Constitution.
13. For the avoidance of doubt, delegations are particularised for identification purposes only and do not diminish or restrict in any way a general delegation by Council and

Cabinet to Authorised Officers and, through them, to all other officers acting under these Instructions.

14. The powers delegated to Authorised Officers and, through them, to all other officers acting under these Instructions in performance of those functions include, but are not limited to:
- a. The service of notices, including under Section 16 Local Government (Miscellaneous Provisions) 1976.
 - b. Carrying out work in default and recovery of the cost of such works.
 - c. The investigation of alleged offences and prosecution of offenders or issue of a formal caution with the approval of the Chief Legal Officer.
 - d. Exercise of powers of entry.
 - e. Application for warrants of entry.
 - f. Application for court orders with the approval of the Chief Legal Officer.
 - g. Determination of grant entitlement.
 - h. Exercise of any discretion on behalf of the Council.
 - i. The grant, renewal or variation of any licence, consent, permit, registration or other authorisation to be granted by the Council under any Act of Parliament or subordinate legislation, either with or without conditions (including standard conditions), and in accordance with any criteria approved by the Council or the Cabinet.
 - j. The refusal of an application except where there is a legal right for, or the Council policy permits the applicant to make representations in person; or if the application is a caravan site licence unless the Chief Legal Officer agrees.
 - k. Imposing non-standard conditions subject to the Chief Legal Officer approval or waiver of this requirement.
 - l. Any action reasonably required for the investigation or detection of offences or breaches of conditions including the appointment of investigating officers and disclosure officers under the Criminal Procedure and Investigations Act 1996 and the authorisation of directed and covert human intelligence source under Sections 28 and 29 Regulation of Investigatory Powers Act 2000.
 - m. Authorising any legal proceedings under any legislation, subordinate legislation, orders or byelaws in their respective areas of responsibility (including prosecutions and applications for injunctions) with the approval of the Chief Legal Officer.
 - n. Authorising the defence of any appeal to the courts or application for judicial review or the settling any such proceedings with the approval of the Chief Legal Officer.
 - o. Exercising any statutory rights of entry, and statutory rights to seize or impound any goods, food or animals or take samples, including authorising and making applications to magistrates for warrants or authorisations subject to any directions from the Chief Legal Officer.
 - p. Authorising and serving any notice authorised by the legislation in accordance with any guidance given by the Chief Legal Officer
 - q. Authorising other persons (including but not limited to officers) to act as an authorised officer, authorised inspector, inspector or proper officer to carry out any statutory function which the Authorised Officer is authorised to discharge.

- r. Authorising the making of any order (other than a compulsory purchase order) authorised by the legislation after consultation with the Chief Legal Officer and, if the Order confers a statutory right to compensation, with the consent of:
 - i. The Director with responsibility if the total estimated compensation liability is up to £50,000; or
 - ii. The Director with responsibility together with the Chief Finance Officer if the total estimated compensation liability is between £50,000 and £100,000; and
 - iii. The Director with responsibility together with the Chief Finance Officer and in consultation with the relevant Lead member if the total estimated compensation liability is over £100,000.

Limitations on powers to act

15. The power to act of the Directors or any other officer is subject to compliance with:

- a. Council policy and decisions;
- b. Cabinet, Council Committee or Cabinet Committee decisions;
- c. All relevant legal requirements;
- d. The provisions of this Constitution including the Financial Rules.

Urgency provisions

16. In the event of urgency, which shall be determined by the Monitoring Officer, i.e. when due to time constraints it is not possible for the decision on a matter, which:

- a. is reserved to Cabinet under the Financial Rules; or
- b. is not in accordance with Cabinet policy;

to be taken by Cabinet in time, without convening a special meeting of Cabinet, the Director with responsibility or his/her nominee may take the decision, in consultation with the Leader of the Council, relevant Lead Member and Opposition Group Leaders. The decision and the reasons for urgency shall be reported to the next meeting of the Cabinet.

17. The Authorised Officers acting under these Instructions must ensure that the relevant Lead member is made aware of all issues of significant public interest or sensitivity before taking action.

18. The Authorised Officers acting under these Instructions are not obliged to exercise the powers delegated to them under these Instructions and may, whenever they deem it appropriate, consult the relevant Lead member or refer the matter to the Cabinet for decision.

Part 1: Matters Reserved to Council

19. The following matters are reserved to Council and cannot be delegated to Officers:

- a. Changes to major policy decisions of the Council;
- b. Changes to the budget approved by the Council, except as provided for in the Financial Rules;
- c. Changes to this Constitution (save for Part 3 Rule 14.3) of this Constitution.

Part 2: Matters Reserved to the Chief Legal Officer

Statutory Responsibilities

20. The Chief Legal Officer is the Council's Proper Officer and authorised for the following purposes:

Local Government Act 1972:-

Section 83 - Members Declarations of Acceptance of Office
Section 84 - Resignation of Members
Section 88 - Convening meeting of Council to fill casual vacancy in office of Chair
Section 89 - Receipt of notice of vacancy
Section 100B(2) – Designation of reports “not for publication”.
Section 210(6) and (7) - Charity functions
Section 225 - Deposit and safekeeping of documents
Section 229 - Certification of photographic copy documents
Section 234 - Authentication of documents
Section 236 and 238 - Byelaws
Section 248 - Roll of Freeman
Schedule 12 para 4(2)(b) - Summonses for Council meetings
Schedule 12 para 4(3) - Notices of addresses to which Council summons is to be sent
Schedule 14 para 25(7) - Certification of resolutions.

Local Government Act 1974:-

Section 30(5) - Giving Notice about Ombudsman’s Reports.

Local Government (Miscellaneous Provisions) Act 1976:-

Section 41 - Evidence of resolutions and minutes.

Highways Act 1980:-

Section 321 - Authentication of documents.

21. The Chief Legal Officer is the Solicitor to the Council and is responsible for the provision of professional legal services and advice to the Council and the carrying out of the Council’s legal transactions. The Chief Legal Officer is also responsible for the conduct of the Council’s litigation before all courts and including public inquiries, tribunals, arbitration, and mediation.

22. The Chief Legal Officer is responsible for the safekeeping of the Council's Common Seal, its deeds and documents and for the signing and sealing of documents on the Council's behalf.

23. The Chief Legal Officer is responsible for professional legal work and advice in support of all regulatory functions including the conduct of appeals and prosecutions except where such legal work is carried out by or under the control another officer (e.g. collection of Council Tax and non-domestic rates which is the responsibility of the Assistant Director Financial Services and Revenues under the general oversight of the Chief Legal Officer.

24. The Chief Legal Officer has co-extensive authority with the Director of Operations to appoint authorising officers under the Regulation of Investigatory Powers Act 2000.
25. The Chief Legal Officer is designated as the Monitoring Officer under Section 5 Local Government and Housing Act 1989 and the Proper Officer and Authorised Officer for the purposes of the following legislation:

Local Government and Housing Act 1989:-

Section 2 – Lists of Politically Restricted Posts

Section 5 – Monitoring Officer

Sections 15-17 Schedule 1 and Local Government (Committees and Political Groups) Regulations 1990 – Political group and political group balance

Localism Act 2011, Part I and Regulations made under the act:

- a) Code of Conduct advice and deciding arrangements for investigating allegations of breach and action on breach of code including making the usual initial decision on whether complaints should be investigated consulting one of the independent persons as necessary
- b) Establishing, maintaining and publishing register of interests.
- c) Grant of dispensation for relief of interest restrictions.

Other Responsibilities

26. The Chief Legal Officer is responsible as Clerk/Secretary to certain charitable trusts administered by the Council.
27. The Chief Legal Officer or his/her nominee is authorised to take the action on behalf of the Council set out in the following paragraphs subject to the conditions or limitations shown:
- a. Signing and/or sealing any deed or document which is reasonably required to give effect to any decision of the Council, or of a committee or sub committee acting under delegated powers or any officer authorised to discharge the relevant functions on the Council's behalf.
 - b. Sign and/or seal any receipt, discharge or release on the repayment of monies due, the due performance of any contract, bond or obligation, or otherwise as authorised by the Council, a committee or sub committee or an officer authorised to discharge the relevant function on behalf of the Council.
 - c. To take any legal action to recover monies owed to the Council or to recover land or property belonging to the Council including registration of land charges, obtaining orders for possession and/or sale of land or distraint for rent.
 - d. To institute any legal proceedings or to defend any appeal or other proceedings against the Council, and in the case of claims for compensation in respect of which the Council is insured to authorise its insurers to defend such claims on its behalf.
 - e. Enforcing Orders for possession or sale or peaceably re-entering land:
 - i. where premises actually occupied by persons other than trespassers in consultation with the relevant Lead member;
 - ii. in all other cases.
 - f. To direct unauthorised campers to leave land within the Council's area.
 - g. To prosecute for contravention of byelaws.

- h. To be the Senior Responsible Officer in relation to the Regulation of Investigatory Powers Act 2000.
- i. To appoint existing staff to represent the Council before the Magistrates Court, under Section 233 of the Local Government Act 1972,

Part 3: Matters Reserved to Authorised Officers

28. The following Authorised Officers have the regulatory responsibilities, and are authorised to discharge the functions of the Council described in these Standing Instructions to Authorised Officers:
- a. Assistant Director Environment and Place;
 - b. Assistant Director Housing and Built Environment;
 - c. Assistant Director Regeneration and Culture
 - d. Assistant Director Financial Services and Revenue;
 - e.
29. The powers and regulatory responsibilities of the Monitoring Officer, Chief Legal Officer, Chief Finance Officer and the Directors are set out in parts 2, 4 and 5 of these Standing Instructions. The authority of the Director of Operations and the Chief Legal Officer to appoint authorising officers under the Regulation of Investigatory Powers Act 2000 is set out in paragraph 24 of Part 2 of these Standing Instructions and paragraph 85 of Part 5.
30. Authorised officers acting under these Instructions are authorised to discharge any functions on behalf of the Council as set out in paragraphs 10 to 16 of these Instructions.

Part 3a: Assistant Director Environment and Place

Statutory Responsibilities

31. The Assistant Director Environment and Place is the Council's Proper Officer for the purposes of the provisions of the legislation described in these Instructions insofar as it provides for there to be a 'proper officer' or 'authorised officer' authorised to act for the Council including:

- a. Building Act 1984;
- b. East Sussex Act 1981;
- c. Food Safety Act 1990
- d. Prevention of Damage by Pests Act 1949;
- e. Public Health Acts 1936 and 1961;
- f. Public Health (Control of Disease) Act 1984;

32. The Assistant Director Environment and Place, (and certain subordinate staff) are appointed inspectors, authorised officers or duly appointed officers for the purposes of enforcing:

- a. Environmental Protection Act 1990; and
- b. Health and Safety at Work Act 1974.

33. The Assistant Director Environment and Place is responsible for professional work and advice to the Council, the Cabinet, the Directors and Officers on public health, environmental control and regulation issues and the statutory regulation of licensing matters. The Assistant Director Environment and Place is also responsible for professional work and advice to the Council and Cabinet the Directors and Officers on the Council's functions in relation to highways, traffic management and parking whether as agent for the highway authority or as principal authority.

34. The Assistant Director Environment and Place (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function including but not limited to:

A. Regulation of

A.1 Acupuncture, tattooing, ear piercing and electrolysis including:-

Part VIII Local Government (Miscellaneous Provisions) Act 1982
East Sussex Act 1981 (Section 27).

A.2 Animal welfare and management, including:-

Animal Boarding Establishments Act 1963
Breeding of Dogs Act 1973 and 1991
Dangerous Wild Animals Act 1976
Guard Dogs Act 1975
Pet Animals Act 1951
Riding Establishments Acts 1964 and 1970
Slaughterhouses Act 1974

Slaughter of Poultry Act 1967
Zoo Licensing Act 1981.

A.3 Betting, gaming and lotteries including amusements with prizes:-

Gambling Act 2005.

A.4 Boats, including:-

Part IV Public Health (Control Of Disease) Act 1984
Public Health Acts Amendment Act 1907
East Sussex Act 1981 (Section 10(2)).

A.5 Camping and caravan sites, including:-

Public Health Act 1936 (Section 269)
Caravan Sites and Control Of Development Act 1960.
Mobile Homes Act 2014

A.6 Charitable and similar collections, including:-

House To House Collections Act 1939
Police, Factories etc. (Miscellaneous Provisions) Act 1916;
Part III Charities Act 1992;
Charities Act 2006

A.7 Cinemas, including:-

Cinemas Act 1985
Licensing Act 2003.

A.8 Food premises, food production and sale, including:-

Food Safety Act 1990
Official Feed and Food Controls (EC) Regulations 2009
Food Safety and Hygiene (England) Regulations 2013
Regulations (EC) 178/2002
Regulations (EC) No – 852/2004
853/2004
854/2004
882/2004
Food Information Regulations 2014

A.9 Game:-

Game Act 1831

A.10 Late night refreshment houses, including:-

Licensing Act 2003.

A.11 Liquor licensing and regulated entertainment:-

Licensing Act 2003.
Police Reform and Social Responsibility Act 2011

A.12 Public and private entertainment licensing:-

Part IX East Sussex Act 1981
Licensing Act 2003.

A.13 Taxis (hackney carriages) private hire cars and horse drawn omnibuses, including:-

Town Police Clauses Act 1847 And 1889
Part II Local Government (Miscellaneous Provisions) Act 1976
Transport Act 1980 (Section 64)
Transport Act 1985 (Sections 10-16)
Local Services (Operation by Taxis) Regulations 1986
Disability Discrimination Act 1995.

A.14 Scrap metal dealers, including:-

Scrap Metal Dealers Act 2013
Motor Salvage Operators Regulations 2002

A.15 Security of industry, including:-

Licensing Of Door Supervisors
Private Security Industry Act 2001.

A.16 Sex establishments, including:-

Part II Local Government (Miscellaneous Provisions) Act 1982.
Policing and Crime Act 2009

A.17 Street trading, including:-

Part III Local Government (Miscellaneous Provisions) Act 1982
Children and Young Persons Act 1933 (Section 20)
Children and Young Persons Act 1963 (Section 35).

A.18 Sunday trading, including:-

Sunday Trading Act 1994.

A.19 Theatres, including:-

Theatres Act 1968
Licensing Act 2003.

A.20 Miscellaneous Activities, including:-

Self operated laundries and dry cleaners:-

East Sussex Act 1981 (Section 24).

Temporary markets:-

East Sussex Act 1981 (Section 37).

35. The Assistant Director of Environment and Place is authorised to act and to appoint alternative proper officers and authorised officers for the purposes of the following legislation:

Cemetery and Crematorium

All relevant powers, duties and functions including authority for:

Disinfection of premises
Disposal of dead bodies

the approval of works and materials used in the construction of monuments.

the approval of the erection of cemetery monuments which comply with the regulations governing cemeteries.

the exercise of the powers of the Council contained in the regulations relating to the selection or purchase of graves or vaults.

to approve the use of music, flags or banners in cemeteries.

to issue notices to users and authorize works to facilitate maintenance of graves and cemeteries to meet the requirements of the memorial testing regulations

B. Public Health and Environmental Protection

Public Health Acts

Public Health (Control of Disease) Act 1984

National Assistance Act 1948 and National Assistance (Amendment) Act 1951

B.1 Public Health Act 1936 Sections – including:-

Section 45 - Buildings with defective closets
Section 50 - Overflowing and leaking cesspools
Section 51 - Care of water closets/earth closets
Section 52 - Common water closets
Section 78 - Scavenging of common courts and passages
Section 83 - Cleansing filthy or verminous premises
Section 84 - Cleansing or destruction of filthy or verminous articles
Section 85 - Cleansing of verminous persons and clothing
Section 140 - Polluted sources of water supply
Section 268 - Statutory nuisance from use of tents, vans, sheds, etc.

B.2 National Assistance Act 1948 and National Assistance (Amendment) Act 1951:-

removal to suitable premises of persons in need of care and attention and to the Proper Officer also in the case of emergency applications under the 1951 Act.

B.3 Public Health Act 1961, including:-

Section 17 - Defective and stopped-up drains etc.
Section 22 - Cleansing and repairing drains
Section 34 - Accumulations of rubbish
Section 35 - Filthy or verminous premises
Section 36 - Fumigation of premises
Section 37 - Disinfecting or destroying household articles intended for sale.

B.4 Building Act 1984, including:-

Section 59 - Proper provision of drainage
Section 64 - Closets to be provided in buildings
Section 65 - Sanitary conveniences to be provided in workplaces
Section 70 - Food storage accommodation to be provided in houses
Section 72 - Means of escape in case of fire
Section 76 - Carrying out works in default
Section 93 - Requisition for information
Section 113 - Prosecutions.

B.5 Prevention of Damage By Pests Act 1949, including:-

Section 4 - Notice to keep land free of rats and mice
Section 5 - Works in default
Section 6 - Notice to eradicate rats and mice.

B.6 East Sussex Act 1981 Sections, including:-

Section 17 - Dust from building operations
Section 19 - Urgent repairs to water pipes and fittings
Section 20 - Control of rats and mice
Section 21 - Rights of entry under Prevention of Damage by Pest Act 1949
Section 22 - Control of foxes
Section 23 - Control of brown tail moth
Section 32 - Touting, hawking and photographing etc.

B.7 Control of Pollution Act 1974, including:-

Section 60 - Control of noise on construction sites
Section 61 - Prior consent for work on construction sites
Section 62 - Loudspeakers in streets
Section 91 - Rights of entry
Section 93 - Requisitions for information.

B.8 Local Government (Miscellaneous Provisions) Act 1976, including:-

Section 16 - Requisitions for information as to ownership of land
Section 20 - Sanitary facilities to be provided/maintained at places of entertainment
Section 35 - Obstruction of private sewers.

B.9 Public Health (Control Of Diseases) Act 1984.

B.10 Public Health (Infectious Diseases) Regulations 1988:-

Schedule 3 - Notices re typhus or relapsing fever
Schedule 4 - Notices re food poisoning and food borne infection.

B.11 Food and Environment Protection Act 1985 (as Amended).

Environmental Protection

B.12 Environmental Protection Act 1990

Part I Integrated Pollution Control, Air Pollution including:-

Section 6 - To grant or refuse authorisation for prescribed processes and collect fees.

Section 7 - To decide what conditions (other than approved standard conditions) are to apply to individual authorisations.

Section 9 - To receive notices of transfers of authorisations from one holder to another.

Section 10 - To vary conditions on which authorisations have been granted whether following a direction from the Secretary of State or not, and serve variation notices. To give notice advising of requirement for substantial change in manner of carrying out an authorised process.

Section 11 - To issue determinations on proposals to change an authorised process. To refuse applications for the variation of an authorisation or to issue a variation notice.

Section 12 - To revoke a Section 6 authorisation for a prescribed process:

- a. where reason to believe authorised process not carried out at all or at any time during the last 12 months;
- b. upon the direction of the Secretary of State;
- c. in any other case.

Section 13 - To serve enforcement notices for breach of conditions of authorisation or anticipated breach requiring remedial or preventative action to be taken within a set period.

Section 14 - To serve prohibition notices to prevent imminent risk of serious pollution from an authorised process requiring steps to be taken and suspending the authorisation until the notice is partly or wholly withdrawn.

Section 15 - To deal with appeals to the Secretary of State.

Section 16(6) - To appoint suitably qualified persons (including employees or consultants) as Air Pollution Inspectors to advise and carry out the functions of Inspectors under Part I of the Act.

Section 19 - To serve notice requiring specified information to be provided (Requisitions for Information).

Section 20 - To maintain the statutory public register of information about prescribed processes; applications, authorisations, variations, etc.

Sections 22(2) & (4) - To determine whether information provided in support of applications or otherwise obtained is commercially confidential (and should be excluded from the public register) or not.

Section 59 - To require removal of waste unlawfully deposited.

Part IIA Contaminated land

Part III Statutory Nuisances And Clean Air including sections:-

Sections 80/80A - Abatement notices

Section 81 - Abatement notices - supplementary provisions.

Part IV Provisions relating to litter as well as Refuse Disposal (Amenity) Act 1978

Schedule 2 in relation to the Act, and subordinate legislation including:-

Control of Pesticides Regulations 1986
Pesticides (Fees And Enforcement) Regulations 1989.
Clean Neighbourhoods and Environment Act 2005

Food Safety

B.13 Food Safety Act 1990, including:-

Section 7 - Rendering food injurious to health
Section 8 - Selling food not complying with food safety requirements
Section 9 - Inspection and seizure of food
Section 14 - Food not of the quality of substance demanded
Section 19 - Registration and licensing of food premises
Section 27 - Appointment of public analyst
Sections 29 and 30 - Procurement and analysis of samples
Section 32 - Power of entry, seizure etc.
Section 33 - Obstruction of officers.

B.14 Water Industry Act 1991, including:-

Sections 77 to 85 - Sufficiency and wholesomeness of water supply

Clean Air:-

B.15 Clean Air Act 1993.

B.16 Health Act 2006, Part I

Noise – see also Environmental Protection Act 1990 above:-

B.17 Noise And Statutory Nuisance Act 1993.

B.18 Environment Act 1995.

B.19 Noise Act 1996.

B.20 Anti-Social Behaviour Act 2003.

Clean Neighbourhoods and Environment Act 2005.

C. Health and Safety at Work

C.1 Health And Safety At Work Act 1974 (the Act), where the Council is the enforcing authority, including:-

Section 19 - Enforcement
Section 20 - Inspectors powers
Section 21 - Improvement notices
Section 22 - Prohibition notices
Section 25 - Action to deal with cause of imminent danger

Section 33 - Prosecutions
Section 39 - Prosecutions by inspectors.

And all health and safety regulations made under the Act and otherwise.

C.2 Control of Asbestos at Work Regulations 2002.

D. Anti-Social Behaviour

Including:-

Anti-Social Behaviour Act 2003
Anti-Social Behaviour Crime and Policing Act 2014
Counter Terrorism Act 2015
Crime and Disorder Act 1998

D.1 Noisy premises, including:-

Anti-Social Behaviour Act 2003.

D.2 Graffiti and Flyposting, including:-

Town and Country Planning Act 1990
Anti Social Behaviour Act 2003
Clean Neighbourhoods and Environment Act 2005

D.3 Sale of aerosol paints, including:-

Anti-Social Behaviour Act 2003.

D.4 Anti-Social Behaviour, Crime and Policing Act 2014

E. Dogs

E.1 Control of Dogs:-

Clean Neighbourhoods and Environment Act 2005.
Anti-Social Behaviour Crime and Policing Act 2014
Criminal Justice and Public Order Act 1994

E.2 Control of stray dogs

Environmental Protection Act 1990

E.3 Control of Dangerous Dogs, including:-

Dogs Act 1871
Dangerous Dogs Act 1989
Dangerous Dogs Act 1991.
Town Police Clauses Act 1847

F. Civil Contingencies

Civil Contingencies Act 2004

G. Highways, Traffic and Parking

G.1 Regulation and control of use of highways, traffic management, and off street parking where a district council is authorized to act;

Town Police Clauses Act 1847

Highways Act 1980

Road Traffic Regulation Act 1984

Transport Act 1985 (Objections to applications to Traffic Commissioners) (after consultation with the relevant Lead member).

Road Traffic Act 1991

The Traffic Management Act 2004

G.2 Nuisance parking, abandoned vehicles and illegally parked vehicles:-

Clean Neighbourhoods and Environment Act 2005

Control of Pollution (Amendment) Act 1989

H. Seashore and Access

East Sussex Act 1981 including:-

Section 11 - Removal of boats from the highway or where obstructing access to the seashore.

Section 12 – Removal of boats from seashore.

36. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 10 to 16 above.

I. Abandoned Property, Litter and Waste

Including:-

I.1 Refuse Disposal (Amenity) Act 1978

I.2 Clean Neighbourhoods and Environment Act 2005.

I.3 Environmental Protection Act 1990, including:-

Section 33 - Prohibition on unauthorised or harmful deposit etc of waste

Section 34 - Duty of care as respects waste

Section 46 - Receptacles for household waste

Section 47 - Receptacles for commercial and industrial waste

Section 55 - Recycling waste

Section 59 - Removal of waste unlawfully deposited

Section 60 - Interference with receptacles for waste

Section 87 - Offence of leaving litter

Section 88 - Fixed penalty notices

Section 92 - Summary proceedings by litter authorities

Section 93 - Street litter control notices

Section 99 and Schedule 4 - Shopping Trolleys

I.4 Removal and Disposal of Vehicles Regulations 1986

J. Travellers

J.1 To take action for the removal of travelers under Section 77-79 Criminal Justice and Public Order Act, 1994.

Part 3b: Assistant Director Housing and Built Environment

Statutory Responsibilities

37. The Assistant Director Housing and Built Environment is responsible for professional work and advice for the Council, the Cabinet, the Directors and Officers on the provision of the Council's housing services and housing policies and strategies. The Assistant Director Housing and Built Environment is the Council's Proper Officer and Authorised Officer for the purposes of Part XVIII Housing Act 1985.
38. The Assistant Director Housing and Built Environment is responsible for operating the Council's homelessness and housing allocation functions and the enforcement of housing and landlord and tenant legislation relating to dwellings.
39. The Assistant Director Housing and Built Environment or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to:

A. Homelessness and Allocation of Housing

Including:-

Part XVIII Housing Act 1985
Parts VI And VII Housing Act 1996
Homelessness Act 2002
Localism Act 2011
Asylum and Immigration Act 2004

B. Private Sector Housing

B.1 Housing Act 1985, including:-
Section 265 – Demolition Orders
Section 289 – Clearance Areas
Sections 315 to 320 - Enforcement provisions
Section 331 - Overcrowded dwellings - action against landlord
Section 337 – Powers of Entry
Section 338 - Overcrowded dwellings - action against occupier
Section 340 – Powers of Entry
Section 358 - Prosecution - non-compliance with overcrowding notice
Section 364 - Requisition for information where overcrowding notice in force
Section 397 - Warrants of entry.

To charge for and recover the cost of enforcement action under Housing Act 1985 and Housing Grants Construction And Regeneration Act 1996.

B.1.1. Housing Act 2004:-
Part I - Housing conditions
Part II - Licensing of houses in multiple occupation
Part III - Selective licensing of other residential accommodation
Part IV - Additional control provisions in relation to residential accommodation.
Part VII:-
Register of licences and management orders

Enforcement of management regulations
Power to require and enforcement of power to obtain information.
Use of information obtained for certain other statutory purposes
Offence of supply of false or misleading information
Powers of entry and enforcement of the power of entry including prosecution for obstruction
Powers to require documents
Authorisations for enforcement purposes
House in multiple occupation declarations and revocation of declarations.

B.1.2 Public Health Act 1936 including:-
Section 45 - To put defective closets into repair
Section 287 - Notice before entry.

B.1.3 Public Health Act 1961, including:-
Section 17 - Remedying a defect in a stopped up drain, private sewer, water closet, waste pipe/soil pipe.

B.1.4 Local Government (Miscellaneous Provisions) Act 1976 – blocked private sewers

B.1.4 Building Act 1984, including:-
Section 59 - Repair or renewal of defective drainpipe, rainwater pipe etc
Section 76 - Remedying of defective premises
Section 84 - Notice requiring paving and drainage of yards
Section 95 - Notice before entry for the purpose of inspection.

B.1.5 Environmental Protection Act 1990, including:-
Section 80 - Abatement notice
Schedule 3 - Notice before entry.

B.2 Rent Act 1977, including:-
Sections 139 and 150 - Tenants to notify landlord of sublettings
Section 149 - Information for landlords and tenants
Part IX and Section 150 - Unlawful premiums etc.

B3 The Enterprise and Regulatory Reform Act 2013
Sections 83 – 88 – redress schemes: letting and property management agents

B4 Anti-Social Behaviour, Crime and Policing Act 2014

Part 4 – Community Protection
Chapter 1 – Community Protection Notices
Chapter 3 – Closure of premises associated with nuisance or disorder

B5 Prevention of Damage by Pests Act 1949 s.4

B.6 Rent Agriculture Act 1976:-
Section 20 - Unlawful premiums etc.

B.7 Landlord And Tenant Act 1985, including:-
Section 1 - Landlords failure to give name and address
Sections 2,6,7 and 34 - Non-disclosure of names and addresses of directors and secretary of residential landlord company
Sections 3 and 34 - Failure to notify residential tenant of assignment of landlord's interest
Sections 4,5 and 7 - Failure to provide rent book or information required
Sections 21,25 & 34 - Failure of landlord/lessor to provide summary of costs relating to service charges

Sections 22,23,25 and 34 - Failure to provide facilities for inspection of accounts relating to service charges

Sections 23(1), 25 and 34 - Failure of superior landlord to provide information requested re service charges.

B.8 Unlawful eviction and harassment
Protection From Eviction Act 1977 (As Amended)

B.9 Local Government (Miscellaneous Provisions) Act 1976, including:-
Section 33 - Restoration of private tenants' water, gas or electricity supply
Section 16 – Requisition for Information

B.10 East Sussex Act 1981, including:-
Section 19 - Urgent repairs to water pipes and fittings.

B.11 Accommodation Agencies Act 1953, including:-
Section 1 - Illegal commissions and advertisements.

B.12 Local Government (Miscellaneous Provisions) Act 1982 including:-
Sections 29-32 – Protection of buildings

C. Housing grants

Including:-
Housing Grants, Construction and Regeneration Act 1996
Financial Assistance Policy.

D. Renewal Areas
Energy Act 2013

E. Renewal Areas Part VII Local Government and Housing Act 1989

Including:-
Section 93(5) - Financial assistance in renewal area
Section 97 - Powers of entry and penalty for obstruction.

40. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 10 to 16 above.

41. The Assistant Director Housing and Built Environment (the Authorised Officer) is responsible for professional work and advice for the Council, Cabinet, the Planning Committee, the Directors and Officers on town and country planning, building control and engineering.

42. The Authorised Officer or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the Planning legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to the following:

43. Applications:

- a. Planning permission including approval or reserved matters;

- b. Listed buildings consent and conservation area consent;
- c. Consent for the display of advertisements;
- d. Hazardous substances consents;
- e. Approvals required under the Town and Country Planning (General Permitted Development) Order 1995 and determining whether prior approval is required;
- f. Approval of any matters required to be submitted pursuant to conditions imposed on any permission, consent or approval given under the Town and Country Planning Acts;
- g. All applications for prior determination for telecommunications apparatus.
- h. To enter into a Section 106 agreement where the application can be granted under delegated authority and to vary a Section 106 agreement whether or not the original application was determined under delegated authority. Where the original application was determined by the Planning Committee, the Head of Housing and Planning Services is authorised to amend the agreement in consultation with the Chair of the Committee.

44. This authority is subject to the following exceptions:

- a. The application has attracted three or more letters of objection from different households or businesses, or a petition as defined in Standing Orders where the Assistant Director Housing and Built Environment or his nominee intends to recommend permission, consent or approval.
- b. The Chair of the Planning Committee has referred any application to the Planning Committee within 21 days after registration of an application or 21 days after any press advertisement whichever is the later giving clear planning reasons for the referral, or
- c. Any Member of the Council with the consent of the Chair or a Ward member, has given written notice to the Assistant Director Housing and Built Environment within 21 days after registration of an application or 21 days after any press advertisement whichever is the later requiring that application to be considered by the Planning Committee, giving clear planning reasons for the referral, or
- d. The application relates to or affects Council owned land and the application is submitted by or on behalf of the Council and there is one or more objectors to the application, or
- e. The application is submitted by, or on behalf of, a serving Member or officer of the Council where the officer is employed in a politically restricted post and/or within the Council's planning service, or
- f. The Planning Committee otherwise direct in respect of any particular application or reserved matter; or
- g. The Assistant director Housing and Built Environment has referred an application or matter to the Planning Committee within 21 days after registration of an application or 21 days after any press advertisement whichever is the later giving clear planning reasons for the referral, or
- h. Any proposal which has within the previous two years been refused by Planning Committee, including any revision or amendment to a previously refused scheme.

45. Any matters in the application of the:

- a. Town and Country Planning General Regulations 1992;
- b. Town and Country Planning (General Permitted Development) Order 1995;

- c. Town and Country Planning (Development Management Procedure) Order 1995;
- d. Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989;
- e. Town and Country Planning (Assessment of Environmental Effects) Regulations 1988;
- f. Town and Country Planning (Use Classes) Order 1987 including the conduct of appeals in consultation with the Chief Legal Officer.
- g. Town and Country Planning Act 1990.

List of relevant Acts:

Infrastructure Act 2015
 Growth and Infrastructure Act 2013
 Enterprise and Regulatory Reform Act 2013 Localism Act 2011
 Localism Act 2011
 Local Democracy, Economic Development and Construction Act 2009
 Planning Act 2008
 Planning and Compulsory Purchase Act 2004
 Countryside and Rights of Way Act 2000
 Human Rights Act 1998
 Planning and Compensation Act
 Town and Country Planning Act 1990
 Planning (Listed Buildings and Conservation Areas) Act 1990
 Planning (Hazardous Substances) Act 1990
 Environmental Protection Act 1990
 Caravan Sites and Control of Development Act 1960

List of Relevant Statutory Instruments:

The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015
 The Town and Country Planning General (Amendment) (England) Regulations 2015
 The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) (Amendment) Order 2015
 The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015
 The Planning (Hazardous Substances) Regulations 2015
 The Town and Country Planning (Compensation) (England) Regulations 2015
 The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015
 The Town and Country Planning (General Permitted Development) (England) Order 2015
 The Town and Country Planning (Development Management Procedure) (England) Order 2015
 The Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment and Revocation) Rules 2015

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) (No.2) Regulations 2014

The Town and Country Planning (Fees for Applications Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013

The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013

The Planning (Listed Buildings and Conservation Areas) (Amendment No.2) (England) Regulations 2013

The Town and country Planning (Development Management Procedure) (England) (Amendment No.2) Order 2013

The Town and Country Planning (Hearings and Inquiries Procedure) (England) (Amendment) Rules 2013

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

The Town and Country Planning (Environmental Impact Assessment) Regulations 2011

The Planning (Hazardous Substances) (amendment) (England) Regulations 2010

The Community Infrastructure Levy Regulations 2010

The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005

The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002

The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquires Procedure) (England) Rules 2002

The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002

The Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulatons 2002

The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000

The Town and Country Planning (Hearings Procedure) (England) Rules 2000

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

The Town and Country Planning (Inquiries Procedure) (England) Rules 2000

The Hedgerows Regulations 1997

The Units of Measurement Regulations 1995

The Town and Country Planning (Crown Land Applications) Regulations 1995

The Compulsory Purchase of Land Regulations 1994
The Conservation (Natural Habitats) Regulations 1994
The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992
The Town and Country Planning General Regulations 1992
The Planning (Listed Buildings and Conservation Areas) Regulations 1990
The Compulsory Purchase by Non-Ministerial Acquiring Authorities (Inquiries Procedure) Rules 1990
The Town and Country Planning (Applications) Regulations 1988

46. All consents under the Tree Preservation Order Regulations.
47. All certificates of lawfulness of existing use or development or of proposed use or development.
48. To authorise enforcement action under the Town and Country planning legislation except:
 - a. Where the Chair of the Planning Committee has referred the matter to the Planning Committee or any Member of the Council has given written notice to the Head of Housing and Planning Services requiring the matter to be considered by the Planning Committee;
 - b. If the expenditure likely to be incurred by the Council as a consequence of the action is not provided for in the Revenue Budget or authorised in accordance with this instruction.
49. The making of emergency tree preservation orders and confirming them if no objections are received.
50. Service of notices in respect of dangerous trees (Section 23 of the Local Government (Miscellaneous Provisions) Act 1976).
51. The Council's functions in relation to high hedges under Part VIII Anti-Social Behaviour Act 2003.
52. Service of requisitions for information about ownership and planning contravention notices seeking information about breaches of development control.
53. Planning (Listed Buildings and Conservation Areas Act 1990 including building preservation orders and temporary listings.
54. Building control and land drainage: the Council's functions under the following legislation:
 - A.1.1 Building Act 1984, including:-
 - Section 8 - Determination of applications for relaxation of or dispensation with building regulations
 - Section 16 - Passing or rejection of plans
 - Section 18 - Building over sewer
 - Section 19 - Use of short-lived materials
 - Section 20 - Renewal of period for short-lived materials
 - Section 24 - Provision of exits

Section 25 - Provision of water supply
Section 32 - Building plans
Section 35 - Penalty for contravention of building regulations
Section 36 - Removal or alteration of offending work
Sections 77 and 78 - Dangerous structures
Section 79 - Ruinous and dilapidated buildings
Section 81 - Counter notice following notice of demolition
Section 91 – Duties of Local Authorities
Section 95 - Powers of entry
Section 97 – Power to execute work
Section 99 - Prosecutions for non-compliance with notices
Section 113 - Prosecutions for offences

A.1.2 Building Regulations 1991.

A.1.4 East Sussex Act 1981, including:-

Section 35 - Means of access to buildings for Fire Brigade - building plans.

A.1.5 Hastings Borough Council Act 1988, including:-

Sections 4 and 5 - Retaining walls.

A.1.6 Building (Approved Inspectors) Regulations 1985, including:-

Section 8 - Notice of rejection of initial notice.

A.2 Land Drainage and Miscellaneous:-

A.2.1 Land Drainage Act 1991, including:-

Section 25 - Maintaining flow in watercourses.

B. Anti-Social Behaviour Act 2003

Part 8 – High hedges.

C. Local Government (Miscellaneous Provisions) Act 1982

Sections 29-32 – Protection of Buildings

55. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

D. Highways

Towns Improvement Clauses Act 1847 (Street Numbering)

Public Health Act 1925 (naming of streets to be subject to consultation with the relevant lead member)

Part 3c Assistant Director Regeneration and Culture

The Assistant Director Regeneration and culture is the Council's proper officer for the purpose of the provisions of the legislation described in these instructions insofar as it provides for there to be a 'proper officer' or 'authorised officer' authorised to act for the Council including:

List of relevant Acts

- a) Planning and Compulsory Purchase Act 2004
- b) Localism Act 2011
- c) Town and Country Planning (Local Planning)(England) Regulations 2012
- d) The Conservation of Habitats and Species Regulations 2010 (as amended)
- e) Planning (Listed Buildings and Conservation Areas) Act 1990 - special controls in respect of buildings and areas of special architectural or historic interest.
- f) Environmental Protection Act 1990 - to make provision for the improved control of pollution and hazardous substances arising from industrial and other processes
- g) Growth and Infrastructure Act 2013: use of infrastructure, the carrying-out of development, and the compulsory acquisition of land

List of relevant Statutory Instruments

Regulations

- a) The Town & Country Planning (Local Planning) (England) Regulations 2012
- b) The Conservation of Habitats & Species Regulations 2010 (as amended)
- c) The Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2015
- d) The Town and Country Planning (Control of Advertisements) (England) Regulations 2007: is the principal legislative framework that controls the display of advertisements
- e) The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015: raise the size thresholds for screening urban development and industrial estate projects
- f) The Planning (Hazardous Substances) Regulations 2015: amend planning procedures in relation to sites where hazardous substances are held and land near those sites.
- g) The Town and Country Planning (General Permitted Development) (England) Order 2015
- h) The Neighbourhood Planning (General) (Amendment) Regulations 2015: The Localism Act 2011 provided a statutory regime for neighbourhood planning; updates the version published in 2012 in relation to the designation of neighbourhood areas and the submission of neighbourhood development plan proposals to local planning authorities

Part 3d: Assistant Director Financial Services and Revenues

Statutory Responsibilities

56. The Assistant Director Financial Services and Revenues (the Authorised Officer) is responsible for collection of local taxation and for advising the Council, Cabinet, and Directors and other Officers on these issues
57. The Assistant Director Financial Services and Revenues is designated as the Chief Financial Officer under Section 151 Local Government Act 1972 and the Proper Officer and Authorised Officer for the purposes of the following legislation:
- a. Collection of Taxation
 - b. Local Government Finance Act 1992
 - c. Council Tax (Administration and Enforcement) Regulations 1992
 - d. Local Government Finance Act 1988
 - e. Local Government Finance Act 1989
 - f. Non-Domestic Rating (Collection and Enforcement) Regulations 1989
 - g. Housing Benefit Regulations: determining claims for housing benefit; reviewing determination of claims; recovery of overpayments
 - h. Council Tax Benefit: determining claims for benefit.
58. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 10 to 16 above.

Part 4: Matters Reserved to the Assistant Director Financial Services and Revenues as the Chief Finance Officer

Financial Responsibility

59. The Chief Finance Officer has responsibility for the financial administration of the Council's services and activities, and audit of them. For these purposes, the Chief Finance Officer shall be responsible for:
- a. Implementing the Council's financial policies and for coordinating any corrective action necessary to further these policies;
 - b. Ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
 - c. Ensuring that sufficient records are maintained to show and explain the Council's transactions, in order to disclose, with reasonable accuracy, the financial position of the Council at any time;
 - d. The preparation and updating of Financial Rules for approval by the Council;
60. And, without prejudice to any other functions of Directors and employees to the Council, the duties of the Chief Finance Officer include:
- a. The design, implementation and supervision of systems of financial control; and
 - b. The preparation and maintenance of such accounts, certificates, estimates, records and reports as the Council may require for the purpose of carrying out its statutory functions.
 - c. The preparation and up-dating of the Financial Rules for approval by the Council.

Regulatory Responsibilities

61. The Chief Finance Officer has shared responsibility with the Director of Corporate Services and Governance for internal audit as set out in the Financial Rules.

Other Responsibilities

62. The Chief Finance Officer shall be responsible for financial administration and advice for any charities for which the Council has undertaken responsibility for their administration.

Discharge of Functions

63. The Chief Finance Officer is authorised to take action on behalf of the Council as set out below subject to any conditions or limitations shown:
64. Borrowing and Investment, including
- a. Carrying out borrowing of funds on the Council's behalf in accordance with the Council's strategy.
 - b. Management of the Council's investment of funds not required for immediate use in accordance with the Council's Strategy and Treasury Management Practices.
65. Financial Approvals: to decide whether or not to give any approval required under these instructions or Regulations.
66. Mortgage Interest Rates: to fix interest rates for the purposes of Part XIV Housing Act 1985.

67. Benefit fraud investigation: authorising individual officers under Section 110A Social Security Administration Act 1992:

- a. Section 109B and C: power to require information and rights of entry;
- b. Section 111: offence of dishonest representation for obtaining benefit;
- c. Section 112: offence of making a false representation for obtaining benefit;
- d. Section 115A: administrative penalties as alternative to prosecution.

68. Authorising individual officers under Section 110A Social Security Administration Act 1992 to exercise any of the powers set out in Section 109(B) (Power to require information) and 109C (Powers of entry) is delegated to the Chief Finance Officer only.

69. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Chief Finance Officer and his/her nominees as set out in paragraphs 10 to 16 above.

Part 5: General Delegation to the Directors

General Delegation to the Directors and his/her Nominees

70. All matters not reserved to Council, Cabinet, Committees, or other Officers of the Council are delegated to the Directors and their nominees, subject to the provisions of law and this constitution, including the Financial Rules. Whilst the general delegation is to all Directors, acting individually, it is usual that the Director with responsibility for the particular service area or his/her nominee exercises the delegated authority.
71. The Directors have overall executive responsibility for the Council's activities, but shall, as far as reasonably practicable, delegate the detailed responsibilities to others.

Statutory Responsibilities

72. The Director of Corporate Services and Governance is the Council's Head of the Paid Service for the purposes of section 4 Local Government and Housing Act 1989.
73. The Director of Corporate Services and Governance is the Electoral Registration Officer.
74. The Director of Corporate Services and Governance is the Returning Officer and is the proper officer under the Representation of the People Act 1983.

Revenue Spending

75. The Directors and their nominees have full powers to spend money in the revenue budget and revenue reserves as agreed by Council subject to the provisions of the Financial Rules.

Capital Spending

76. The Directors and their nominees are authorised to spend money in a capital budget on schemes and projects subject to the provisions of the Financial Rules.

Contract Administration

77. The Directors and their nominees are authorised to invite and accept tenders and quotations, to place orders and enter into contracts subject to the provisions of the Financial Rules.

Personnel Management

78. All matters pertaining to the management of staff are delegated to the Directors and his/her nominees provided:
- a. Costs are contained within existing budget or authorised budget variations;
 - b. Council approved policies, procedures and guidelines are complied with, though exceptions are authorised in individual cases;
 - c. Matters relating to the terms and conditions of employment of the Directors are referred to the Employment Committee. The responsibility of those officers for the discharge of the authority's functions is referred to Cabinet.

Land and Property Management

79. All matters pertaining to the management of Council owned or managed land, including purchase, disposal by sale or by lease or any other transaction involving land or property, the grant or refusal of requests for consents, licences or waivers with or without conditions, conduct of rent reviews, service of statutory or other notice, reference to arbitration or mediation whether as landlord or tenant, hiring or use of

Council land (including public open space within the statutory limits), is delegated to the Director of Corporate Services and Governance subject to the provisions of the Financial Rules.

Financial and Other Assistance

80. The Directors and their nominees are authorised to give grants, loans or other financial assistance in accordance with Council policy and criteria approved by Cabinet subject to the provisions of the Financial Rules.

Charges for Services

81. The Directors and their nominees are authorised:-

- a. To approve charges to be made by the Council for providing any service or supplying any goods or documents or hire of land and premises or the making of a grant of any application whatsoever where a fee may be charged but is not fixed by law, in accordance with Council policies and any criteria approved by Cabinet, including waiving or reducing charges in particular instances
- b. To approve or respond to consultation on charges made by others under service contracts (e.g. Sport and Leisure Management Contract) in consultation with relevant Lead member.

Protecting Council Property

82. The Directors and their nominees are authorised to prosecute, defend or settle any legal or other action to protect the Council's property or interests or to assert or enforce the Council's rights subject to the following limitations:

- a. Subject to the consent of the Chief Legal Officer.
- b. Settlement of any legal proceedings or threatened legal proceedings by or against the Council where the proposed settlement figure is over £50,000 to be with the consent of the Chief Finance Officer, Chief Legal Officer, relevant Assistant Directors, and in consultation with the relevant Lead member. In cases of urgency the consent of the Chief Finance Officer and Chief Legal Officer only shall be required.

Fixing of Hackney Carriage Fares (Local Government (Miscellaneous Provisions) Act 1976

83. Fixing of hackney carriage fares is delegated to the Director of Operations or his/her nominees subject to:

- a. Where there are no objections, consent of the relevant Assistant Directors and prior consultation with the relevant Lead member;
- b. Where there are objections Cabinet must agree.

Closure Order Under Section 76 Anti-Social Behaviour, Crime and Policing Act 2014

84. Authorising closure of licensed premises is delegated to the Director of Operations and his/her nominees.

Regulation of Investigatory Powers Act 2000

85. The Director of Operations has co-extensive authority with the Chief Legal Officer to appoint authorising officers under the Regulation of Investigatory Powers Act 2000

Responding to outside parties

86. Responding to consultation invitations from outside parties, and commenting on any matters on behalf of the Council.

General

87. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Directors and their nominees as set out in paragraphs 10 to 16 above.

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Part 4 Officer Employment Procedure Rules

Deletion of paragraph 30.8a Disciplinary Action

Replace with paragraph 30.9b Dismissal

Disciplinary Action

- (i) Where an allegation is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Statutory Officers) relating to conduct or capability or some other substantial issue that requires investigation, the matter will be considered by the Employment Committee.
- (ii) The Employment Committee will consider and action suspension, where appropriate to allow for an investigation. Any suspension must not last longer than two months, unless an extension is recommended by a suitably qualified and independent investigator.
- (iii) For the purposes of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Employment Committee will operate as the Panel (including two or more independent persons who have accepted the invitation).
- (iv) The Employment Committee will include two or more independent persons who accept the invitation in the following priority order:
 - (a) A relevant independent person who has been appointed by the council and who is a local government elector;
 - (b) Any other independent person who has been appointed by the council;
and
 - (c) An independent person who has been appointed by another council or councils.
- (v) At the relevant time, the Employment Committee will consider whether potential disciplinary/dismissal issues require investigation and whether the relevant officer should be suspended. In this regard the authority must ensure that the Panel is in place at least 20 working days before the meeting at which it considers whether to approve a proposal to dismiss.
- (vi) The Employment Committee will inform the relevant officers of the allegations, and allow him/her to respond in writing and in person. The Employment Committee will then decide whether no further action is required or that the matter requires an investigation by a suitably qualified and independent person and the Committee will use its best endeavours to agree this person with the officer.
- (vii) The Employment Committee will review the results of the investigation to consider what action if any is appropriate, after hearing the views of the relevant officer and the independent persons, and report its recommendations. The independent persons do not have a vote on whether the relevant person should be dismissed. Full Council must consider whether or not to approve such dismissal.

Dismissal

(viii) Where dismissal is recommended, the Employment Committee will provide advice, views or recommendations to Full Council for the authority to vote on whether it approves the proposal to dismiss. The relevant officer will be provided with all relevant papers and documents in advance of the meeting and allowed to make their representations. Written representations may also be given by the relevant officer in advance of the meeting.

(ix) No notice of dismissal shall be given until the matter has been referred to the Full Council for approval.

(x) The Council's disciplinary, capability and related procedures, as adapted from time to time, allow a right to appeal for all Officers to Members in respect of dismissals. Such appeals will be heard by the Employment Appeals Committee. Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, Chief Finance Officer, Monitoring Officer and Chief Officers except where such involvement is necessary to assist any investigation or inquiry being conducted by a Senior Officer or an independent person into alleged misconduct.

In relation to any further appeal for statutory officers, as Full Council has approved the dismissal, there is no one in the authority who has the power to overturn the dismissal decision. In this respect and as set out above, the relevant officer will have the opportunity to make representations to the Employment Appeals Committee before any dismissal recommendation is made at Full Council.

7 SEPTEMBER 2015

Present: Councillors Chowney (Chair), Forward, Cartwright, Hodges, Poole, Atkins, Cooke and Davies

12. MINUTES OF THE MEETING HELD ON 6 JULY 2015

RESOLVED that the minutes of the meeting held on 6 July 2015 be approved and signed by the chair as a correct record

13. HASTINGS LOCAL PLAN - DEVELOPMENT MANAGEMENT PLAN (DMP) INSPECTOR'S REPORT

The Senior Planner presented the report of the Assistant Director of Regeneration and Culture on the outcome of the examination in public of the Hastings Development Management Plan (DMP) and the process and timescale for the adoption of the plan by the council.

In February 2014, the council had adopted the Hastings Planning Strategy, which identified the overarching objectives for sustainable development of homes and employment space within the Borough up to 2028. It was necessary for the council to adopt a DMP to provide a greater level of detail on its policies in respect of design, amenity, access, ground conditions, pollution, hazards and the protection of the historic and natural environment, which prospective planning applications will be assessed against. The DMP also allocated sites for residential and employment usage, and included specific policies relevant to the development of these sites.

The proposed DMP had been subject to an extensive public consultation, followed by an examination in public by an independent Inspector between October and December 2014. The examination in public comprised a series of formal hearing sessions, when those who had made representations on the Plan were able to attend and give evidence for the Inspector to consider. The final hearing session was held on 16 January 2015, and the Inspector then undertook site visits before drafting his final report.

The Inspector assessed the DMP to examine whether the preparation of the plan was sound and complied with the duty to co-operate and the relevant legal requirements. The Inspector found that the DMP submitted to the Secretary of State came close to achieving the right balance between the economic, social and environmental roles referred to in the framework (NPPF). Accordingly, he recommended eight main modifications, to ensure the plan was sound and legally compliant.

The Inspector's modifications had been incorporated in the revised DMP, which it was proposed to submit to Full Council for adoption at its meeting on 23 September 2015.

Councillor Chowney proposed an additional recommendation to thank the Inspector, Richard Hollox, for his efforts and to wish him a happy retirement.

CABINET

7 SEPTEMBER 2015

Councillor Chowney moved approval of the recommendations to the report, which was seconded by Councillor Poole.

RESOLVED (by 5 votes for, 0 against with 2 absentions) that:

- 1) Cabinet considered the Inspector's recommendations and proposed main modifications (MM's) to the plan, as attached at appendix A to the Assistant Director for Regeneration and Culture's report;**
- 2) Cabinet recommends to Council the incorporation of the Inspector's 8 main modifications into the DMP;**
- 3) Cabinet considered the main modifications as incorporated in the DMP together with all minor modifications and the policies map attached as Appendices B, Ci and Cii to this report and recommends that Council adopt the Hastings Development Management Plan;**
- 4) Cabinet expresses its appreciation to all those staff responsible for the preparation of the plan and in particular officers from the Planning Policy team, and;**
- 5) Cabinet thank the Inspector, Richard Hollox, for his efforts and wish him a happy retirement**

The reason for this decision was:

In accordance with Section 23 (c) of the Planning and Compulsory Purchase Act 2004 (as amended by Section 122 (3) of the Localism Act 2011 to enable the council to adopt its next key planning document (the Hastings Development Management Plan) as part of the development plan for the borough, as encouraged to do so by government to ensure that a statutory planning framework is put in place at the earliest opportunity to guide investment and growth within Hastings over the plan period to 2028.

14. DEVOLUTION PROSPECTUS FOR THREE COUNTIES SOUTH (3SC)

The Director of Operational Services presented a report to inform members about work being undertaken by East Sussex, West Sussex and Surrey County Councils to develop proposals for a combined authority, within the context of devolution in England.

The government has placed an emphasis upon co-operation between public bodies across local areas, by developing combined authorities across public service providers. East Sussex County Council had led work to develop a devolution prospectus for the three counties around the two complimentary work streams of economic growth and enhanced productivity and public service transformation. The work streams identified in the prospectus incorporated proposals in respect of transport links, digital infrastructure, housing and actions to achieve and retain a highly skilled workforce. The prospectus did not currently include Brighton and Hove.

It was essential for the council to take an active role in ensuring that the new structure and programme paid attention to the particular social and economic conditions in Hastings and similar coastal towns. There was also a need to highlight the importance of sustainable growth and regeneration in areas currently outside the high wage /cost economy of much of the rest of the South East. The Chief Executive of

CABINET

7 SEPTEMBER 2015

East Sussex County Council had sought comments on the draft prospectus by 27 August 2015, to enable submission by 4 September 2015. The comments made by the Leader of the Council to the initial consultation had been appended to the Director of Operational Service's report.

Councillor Chowney moved approval of the recommendations to the report, which was seconded by Councillor Hodges.

RESOLVED (unanimously) that:

- 1) **Cabinet confirms its support for the comments attached as an appendix to the Director of Operational Service' report, and;**
- 2) **The council should work to try and ensure that issues of economic and social inclusion form a significant part in the offer finally made to government around a future combined authority**

The reason for this decision was:

To establish a platform on which the council's participation in the devolution agenda can be based.

15. **MINUTES OF THE MUSEUMS COMMITTEE MEETING HELD ON 13 JULY 2015**

The minutes of the Museums Committee meeting held on 13 July 2015 were submitted.

RESOLVED that the minutes of the Museums Committee meeting held on 13 July 2015 be received

16. **MINUTES OF THE CHARITY COMMITTEE MEETING HELD ON 27 JULY 2015**

The minutes of the Charity Committee meeting held on 27 July 2015 were submitted.

RESOLVED that the minutes of the Charity Committee meeting held on 27 July 2015 be received

(The Chair declared the meeting closed at. 6.31 pm)

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