

# Cabinet Agenda

**Monday, 9 April 2018 at 6.00 pm**

Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY

If you are attending the Town Hall for this meeting, please enter the building via the Community Contact Centre entrance.

For further information, please contact Deniz Musa on 01424 451486 or email [dmusa@hastings.gov.uk](mailto:dmusa@hastings.gov.uk)

		Page No.
1.	Apologies for Absence	
2.	Declaration of Interests	
3.	Minutes of the Meeting Held on 5 March 2018	1 - 4
4.	Amendments to the Council's Constitution (Christine Barkshire-Jones, Chief Legal Officer) (Council Decision)	To Follow
5.	Development of a Social Lettings Agency for Hastings (Andrew Palmer, Assistant Director Housing and Built Environment) (Cabinet Decision)	5 - 22
6.	Proposed Revisions to the Local Development Scheme (Victoria Conheady, Assistant Director, Regeneration and Culture) (Cabinet Decision)	23 - 46
7.	Healthy Hastings & Rother Funding Programme Update (Andrew Palmer, Assistant Director Housing and Built Environment) (Cabinet Decision)	47 - 56
8.	Freedom Leisure Capital Investment (Victoria Conheady, Assistant Director, Regeneration and Culture) (Cabinet Decision)	57 - 60
9.	Notification of Additional Urgent Items	
10.	Urgent Items (if any)	

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# Agenda Item 3

## CABINET

5 MARCH 2018

Present: Councillors Chowney (Chair), Forward (from 6:30pm), Batsford, Fitzgerald, Poole, Beaney, Lee and Patmore.

Apologies for absence were notes for Councillor Forward

67. **MINUTES OF THE MEETING HELD ON 8 JANUARY 2018 AND THE BUDGET CABINET MEETING HELD ON 12 FEBRUARY 2018**

**RESOLVED** that the minutes of the Cabinet meeting held on 8 January 2018 and the Budget Cabinet meeting held on 12 February 2018 be approved as a correct record

**RESOLVED** the chair called over the items on the agenda, under rule 13.3 of the council's constitution, the recommendations set out in minute numbers 69 and 71 were agreed without being called for discussion.

68. **HERITAGE STRATEGY**

The Marketing & Major Projects Manager, presented the Hastings Heritage Strategy for 2018 for consideration. The Hastings Heritage Strategy (Appendix 1 to the report) is based on research detailing the heritage strengths of the town, its condition and how it may be protected and enhanced. An asset list was created, and a wealth of heritage assets was identified from planning documents, conservation area assessments and various historic documents.

The Marketing and Major Project Manager advised cabinet of minor presentational changes to this draft strategy which would be carried out prior to publication.

Councillor Chowney proposed approval of the motion, seconded by Councillor Lee.

**RESOLVED** (unanimously) that cabinet endorses the final strategy as set out in Appendix 1

The reason for this decision was:

Hastings Borough Council (HBC) has a commitment to produce a heritage strategy to support the economic and cultural regeneration of the town.

69. **CASH COLLECTION CONTRACT**

## CABINET

5 MARCH 2018

The Assistant Director, Financial Services and Revenues submitted a report on the cash collection contract, as there was a change in cash collection provider which had been actioned under urgency provisions.

The existing cash collection contract had been terminated early and would come to an end on 31 January 2018. The council had received an acceptable proposal from a new contractor for an interim period of 19 months, during which time the requirements for the contract will be reviewed before a full re-tendering exercise is undertaken.

Under Rule 13.3 of the council constitution, this item was agreed without being called for discussion.

**RESOLVED that the cabinet will note the report and the action taken by officers to tender for a new cash collection contract.**

The reason for this decision was:

The constitution of the council requires cabinet to decide on all significant decisions and where decisions are taken by officers for reasons of urgency before informing cabinet, then a report must be submitted to cabinet at the first opportunity. Whilst the cash collection contract is circa £40,000 per annum, it is considered a significant contract.

### 70. HAROLD PLACE REDEVELOPMENT SITE

The Director of Corporate Services and Governance presented a report on the future of the Harold Place Redevelopment Site in the town centre. The site is situated in a prominent location in the town centre, and currently comprises a vacant standalone building. The council has been exploring opportunities to redevelop the site

The Director of Corporate Services and Governance advised that it had not be possible to complete the necessary legal arrangements with the preferred bidder to operate the site as a restaurant, as set out in recommendation 1 of the report. It was therefore recommended that cabinet approve the demolition of the existing building and cover the basement area, as set out in recommendation 2 of the report.

An amendment was proposed by Councillor Lee, and seconded by Councillor Patmore, as follows:

“Recommendations:

DELETE: recommendations 1 and 2 and replace with recommendation for Option 6.

Option 6 to be placed in report on page 87

Option 6

To refurbish and reinstate the toilets in Harold Place. There is a clear need for good toilet facilities in the town centre. Recent works undertaken by the financial services

## CABINET

5 MARCH 2018

team have estimated that a full refurbishment and reinstatement of the facility would cost up to £150,000 which can be met from the capital reserve budget. It is recommended that the upkeep cost of the toilets is offset by the introduction of a turnstile which is estimated to produce £14,600

The proposed amendment was lost by 2 votes for, to 5 votes against.

Councillor Chowney proposed the approval of recommendation 2 to the Assistant Director, Financial Services and Revenues report, as set out in the resolution below, seconded by Councillor Poole.

**RESOLVED (by 5 votes for, to 2 votes against) that**

- 1. Cabinet determine to demolish the site and cover the existing basement area temporarily at a cost estimated at some £105,000**

The reason for this decision was:

The council needs to determine the future of this key area of the town centre.

**71. AN UPDATE - CHART (CONNECTING HASTINGS AND ROTHER TOGETHER) COMMUNITY LED LOCAL DEVELOPMENT (CLLD) - STAGE 2 APPLICATION**

This report was submitted as special urgency item under rule 26.16 of the Access to Information Rules contained in the council's constitution. The council the council received a grant funding agreement on 28 February needs to be approved by Cabinet and signed within 30 days.

The decision cannot be made during purdah and this is the last cabinet prior to purdah.

The Assistant Director for Regeneration and Culture submitted an update on a successful application for funding to Connecting Hastings and Rother Together (CHART) Community Led Local Development and to brief members on the programme. The report sought cabinet approval for to implement the programme.

Since the report was published, a few minor corrections were made, as follows:

Page 8 – para 33, reference to AmicusHorizon needs to be changed to Optivo  
Page 13 – wards – 'Hastings Castle' needs to be changed to Castle

Under Rule 13.3 of the council constitution, this item was agreed without being called for discussion.

**RESOLVED that:**

## CABINET

5 MARCH 2018

1. The council shall sign the legal agreements accepting CHART CLLD funding including commitment to the match for administration and management identified in paragraph 44
2. Delegated approval is given to the Director of Operation Services, or his nominee, in consultation with the lead member for regeneration to:
  - Negotiate and conclude legal agreements with the managing authorities to implement and deliver the programme
  - Negotiate and conclude legal agreements with successful grant applicants once the programme is commenced
  - Submit a bid for projects, on behalf of the council, funded by CHART should this be appropriate; enter in relevant contracts and deliver them if the bid is successful.

### CONFIDENTIAL BUSINESS

Councillor Chowney proposed a motion for the exclusion of the public from the meeting, seconded by Councillor Lee.

**RESOLVED** that the public be excluded from the meeting during the consideration of the items of business listed below 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 paragraphs of schedule 12A to the Local Government Act 1972 referred to in the relevant report.

#### 73. UNIT 1 HASTINGS RETAIL PARK

The Director of Corporate Services and Governance presented a report, advising cabinet on the outcome of the rent review.

Councillor Forward arrived during the debate and could not participate in the vote.

**RESOLVED** (unanimously) that the cabinet note that the review has been settled for the amount set out in the report

The reason for this decision was:  
To note the increased revenue to the council.

(The Chair declared the meeting closed at 6.55pm)

# Agenda Item 4



**Agenda Item No:** 1

**Report to:** Cabinet

**Date of Meeting:** 9th April 2018

**Report Title:** Amendments to the Council's Constitution

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

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## **Purpose of Report**

Cabinet is asked to consider the constitutional amendments.

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## **Recommendation(s)**

- 1. To recommend that the amendments to the Council's Constitution be adopted by Full Council.**

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## **Reasons for Recommendations**

The Council's Constitution is the basis for the Council's Corporate Governance.

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## Introduction

1. The Council's Constitution is the basis for the Council's Corporate Governance. It needs amending on a regular basis either as a result of discussions at Working Arrangement Group and/or changes in legislative provisions or working practices.
2. Working Arrangement Group initially met on 31st January 2018 and again on 14th February 2018 to discuss amendments to Council procedures which were discussed in detail. Amendments that the Chief Legal Officer is bringing to this meeting are minor amendments as set out below. Changes have been made to Parts 1, 2, 4, 5 and 8 of the Constitution.
3. Part 1 - Tidying up. Reference to the Standards Committee has been changed to the Monitoring Officer where appropriate.
4. Part 2 - Articles of the Constitution - Article 9.2 insert "strictly" after 'do not'. Article 13 insert heading "Common Seal of Hastings Housing Company" and insert the following text "The Common Seal of the Hastings Housing Company will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Hastings Housing Company, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised in that regard by the Chief Legal Officer."
5. Part 4 - Rules of Procedure - Para 12.1 insert at end of paragraph "The Chief Legal Officer may reject a question if it is defamatory, frivolous or offensive." Para 26.4 and 26.9 change from Town Hall to "Muriel Matters House". Para 16.4 add "6. the proposer of a motion to Council or item for Council decision will have 5 minutes to propose and 5 minutes for their right of reply. (This would not apply to call over for Cabinet minutes)".
6. Part 5 - Planning Protocol - para 12 (a) remove "where the Assistant Director Housing and Built Environment or his nominee intends to recommend permission, consent or approval" in line with Part 8 of the Constitution.
7. Part 8 - Standing Instructions to Authorised Officers - Part 3b: Assistant Director Housing and Built Environment. Add "Financial penalties for certain housing offences in England" at end of Para B.1.1 Housing Act 2004. Updating of legislation at para 45. Insert "The Conservation of Habitats and Species Regulations 2017". Para 45 add "the Council". Part 5: General Delegation to the Directors insert para 78 "The Directors are responsible for the Council's work on income generation." Renumber accordingly.
8. At the meeting on the 31st January 2018 WAG discussed various ideas that may assist in shortening the length of Council meetings. These were:-
  - Encourage members to debate and discuss Cabinet items at the monthly group - meetings set just before Cabinet.
  - Members use their representative at Council to make their points for them.
  - The opposition attend shadow cabinet meetings.
  - Move the Council meeting from 6pm to the earlier time of 5pm.
  - Reduce Council meetings to 2½ hours with ½ hour contingency.



- Give items allocated time on agenda e.g. 15 minutes, then right of reply stops.
- Allocate speakers for the items and add their name to the agenda sheet.
- Suggest meetings can only be extended for 10/15 minutes.
- Take council decisions, then limit time to call over.
- Allow existing 3 minutes time limit to remain and monitor until November.

It was decided that WAG would review these ideas in November when the new members would have had time to have their training and attended a few council meetings. It was suggested that the Chief Legal Officer hold a cross party seminar so that ideas could be discussed more widely with members. That consultation could then be brought to Working Arrangements Group for members to decide what ideas they wanted to implement.

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### **Wards Affected**

None

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### **Area(s) Affected**

None

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### **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

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### **Background Information**

Parts 1, 2, 4, 5 and 8 of the Constitution.

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### **Officer to Contact**

Officer Name: Chris Barkshire-Jones, Chief Legal Officer and Monitoring Officer  
 Officer Email Address: cbarkshire-jones@hastings.gov.uk  
 Officer Telephone Number: 01424 451731

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# **Hastings Borough Council Constitution of the Council**

## **Part 1**

### **Executive Summary**

## The Constitution, Part 1

### Executive Summary

Contents	Page No
The Council's Constitution .....	3
What is in the Constitution .....	3
How the Council operates .....	3
How Decisions are made .....	4
Overview and Scrutiny .....	4
The Council's Staff .....	4
Citizens' Rights .....	4

## **The Council's Constitution**

1. This constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
2. The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **What is in the Constitution**

3. Article 1 of the Constitution set out its purpose. Articles 2 to 15 explain the rights of citizens and how the key parts of the Council operate. These are:
  - Members of the Council (Article 2)
  - Citizens and the Council (Article 3)
  - The Full Council (Article 4)
  - Chairing the Council (Article 5)
  - Overview and scrutiny committees (Article 6)
  - The Cabinet (Article 7)
  - Regulatory and other committees (Article 8)
  - The Standards Committee (Article 9)
  - Joint arrangements (Article 10)
  - Officers (Article 11)
  - Decision making (Article 12)
  - Finance, contracts and legal matters (Article 13)
  - Review and revision of the Constitution (Article 14)
  - Suspension, interpretation and publication of the Constitution (Article 15)

## **How the Council operates**

4. The Council is composed of 32 councillors, one half elected every other year from May 2004. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
5. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.
6. All councillors meet together as the Council. Meetings of the Council are normally open to the public.

7. The Council appoints the Leader of the Council, whilst the Leader of the Council appoints the Deputy Leader and other Cabinet members and allocates portfolios to Cabinet members.
8. Full Council is the main policy arena for the authority. Whilst the budget and many plans and strategies will be produced by the Cabinet, full Council has complete freedom in deciding whether to accept or amend these proposals, or indeed replace them completely. The Council meeting is also the main setting for holding the Cabinet to account, providing an opportunity for members of the Cabinet to be questioned by councillors or, indeed, members of the public.

### **How Decisions are made**

9. The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader of the Council, the Deputy Leader and between one and eight other members as the Leader shall, from time to time, determine. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. Cabinet meetings are generally open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide, or in accordance with this Constitution.

### **Overview and Scrutiny**

10. There are as many overview and scrutiny committees as the Council shall, from time to time determine, who complement the work of the Cabinet and the Council as a whole. The Overview and Scrutiny Committees allow citizens to have a greater role in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

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

11. The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol (in part 5 of this Constitution) governs the relationships between officers and members of the council.

### **Citizens' Rights**

12. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.
13. Citizens have the right to:
  - vote at local elections if they are registered
  - contact their local councillor about any matters of concern to them

- obtain a copy of the Constitution
  - present a petition to the Council
  - attend meetings of the Council and its committees or boards except where confidential or exempt matters are being discussed
  - petition to request a referendum on a mayoral form of Cabinet
  - ask questions at ordinary meetings of the Council. A period of up to 30 minutes is allowed for questions to be put by members of the public who live or work in the Borough
  - contribute to investigations by overview and scrutiny committees if invited to do so
  - find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or a committee of the Cabinet, and when
  - attend meetings of the Cabinet where key decisions are being discussed or decided
  - see reports and background papers, and any record of decisions made by the Council and Cabinet
  - complain to the Council about the provision of any of its services
  - complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
  - complain to the Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct, and
  - inspect the Council's accounts and make their views known to the external auditor.
14. The Council has a policy of open access to files and other records. The Council also holds as many meetings as possible in public, giving access to agenda, reports and many background documents. Whilst the Council adopts a strong policy of openness, there are safeguards to protect individuals' privacy and in relation to legal, commercial, financial or otherwise sensitive information and so some documents may not be publicly accessible.
15. The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Monitoring Officer, Muriel Matters House, Breeds Place, Hastings, East Sussex TN34 3UY..

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# **Hastings Borough Council Constitution of the Council**

## **Part 2**

### **Articles of the Constitution**

The Constitution, Part 2  
Articles of the Constitution

Contents	Page No.
Article 1 – The Constitution .....	4
Power of the Council .....	4
The Constitution .....	4
Interpretation and Review of the Constitution .....	4
Article 2 - Members of the Council .....	5
Composition and eligibility .....	5
Election and terms of councillors .....	5
Roles and functions of all councillors .....	5
Conduct .....	5
Allowances .....	5
Article 3 – Citizens and The Council .....	6
Citizens' rights .....	6
Article 4 – The Full Council .....	7
Meanings .....	7
Functions of the full Council .....	7
Council Meetings .....	8
Responsibility for functions .....	8
Article 5 – Chairing the Council .....	9
Role and function of the Mayor .....	9
Article 6 - Overview and Scrutiny Committees .....	10
Terms of reference .....	10
General role .....	10
Specific functions .....	10
Proceedings of Overview and Scrutiny Committees .....	11
Article 7 – The Cabinet .....	12
Role .....	12
Form and composition .....	12
Leader and Deputy Leader .....	12
Other Cabinet Members .....	13
Proceedings of the Cabinet .....	13
Responsibility for functions .....	13
Decision Making .....	13
Article 8 – Regulatory and other committees .....	14
Regulatory and other committees .....	14
Composition of the Planning Committee, Environment and Safety Committee and Licensing Committee .....	14
Article 9 – The Standards Committee .....	15
Standards Committee .....	15
Composition .....	15
Role and function .....	15
Article 10 – Joint Arrangements .....	16
Arrangements to promote well being .....	16
Joint arrangements .....	16
Access to information .....	16
Delegation to and from other local authorities .....	16
Contracting out .....	17
Article 11 – Officers .....	18
Management Structure .....	18
Functions of the Head of Paid Service .....	18
Functions of the Monitoring Officer .....	18
Functions of the Chief Finance Officer .....	19

Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer .....	19
Conduct .....	19
Employment .....	19
Article 12 – Decision Making .....	20
Responsibility for decision making .....	20
Principles of decision making .....	20
Types of decision .....	20
Decision making by the full Council .....	20
Decision making by the Cabinet .....	20
Decision making by overview and scrutiny committees .....	20
Decision making by other committees .....	21
Decision making by Council bodies acting as tribunals .....	21
Decision making by ward members .....	21
Call-over .....	21
Article 13 – Finance, Contracts and Legal Matters .....	22
Financial management .....	22
Contracts .....	22
Legal proceedings .....	22
Authentication of documents .....	22
Common Seal of the Council .....	22
Common Seal of Hastings Housing Company .....	22
Article 14 – Review and Revision of the Constitution .....	23
Duty to monitor and review the constitution .....	23
Protocol for monitoring and review of constitution by Monitoring Officer .....	23
Changes to the Constitution .....	23
Article 15 – Suspension, Interpretation and Publication of the Constitution .....	24
Suspension of the Constitution .....	24
Interpretation .....	24
Publication .....	24
Schedule 1: Description of Executive Arrangements .....	25

## **Article 1 – The Constitution**

### **Power of the Council**

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

### **The Constitution**

- 1.2 This Constitution, and all its appendices, is the Constitution of the Hastings Borough Council.

The purpose of the Constitution is to:

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

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

- 1.3 The Council will be guided by the purposes stated above in all its decision making. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **Article 2 - Members of the Council**

### **Composition and eligibility**

- 2.1a Composition. The Council comprises 32 members, otherwise called councillors. Two councillors are elected by the voters of each ward in accordance with an order made by the Local Government Boundary Commission for England.
- b. Eligibility. Only registered voters of the Borough or those living or working there will be eligible to hold the office of councillor.

### **Election and terms of councillors**

- 2.2 Half of all Hastings Councillors will be elected every other year from 2004. The terms of office of councillors is four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

### **Roles and functions of all councillors**

- 2.3a Key roles. All councillors will:
- i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - ii. represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - iii. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - iv. balance different interests identified within the ward and represent the ward as a whole;
  - v. be involved in decision-making;
  - vi. be available to represent the Council on other bodies; and
  - vii. maintain the highest standards of conduct and ethics.
- b. Rights and duties
- i. Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - ii. Councillors will not make public information which is confidential or exempt or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
  - iii. For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

### **Conduct**

- 2.4 Councillors will at all times observe the Members' Code of Conduct and the Protocols set out in Part 5 of this Constitution.

### **Allowances**

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

## **Article 3 – Citizens and The Council**

### **Citizens' rights**

- 3.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:
- a. Voting and petitions. Citizens on the electoral roll for the Borough have the right to vote in elections and to petition a request for a referendum for an elected mayor form of Constitution.
  - b. Information. Citizens have the right to:
    - i. attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
    - ii. attend meetings of the Cabinet when key decisions are being considered;
    - iii. find out from the forward plan what key decisions will be taken by the Cabinet and when;
    - iv. see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
    - v. inspect the Council's accounts and make their views known to the external auditor.
  - c. Participation. Citizens have the right to participate in the Council's question time and may contribute to investigations by overview and scrutiny committees if invited to.
  - d. Complaints. Citizens have the right to complain to:
    - i. the Council itself under its complaints procedure;
    - ii. the Ombudsman after using the Council's own complaints procedure;
    - iii. the Monitoring Officer about a breach of the Councillors' Code of Conduct.

## Article 4 – The Full Council

### Meanings

4.1a Policy Framework. The policy framework means the following plans and strategies:-

- The Corporate Plan;
- Crime and Disorder Reduction Strategy;
- Plans and strategies which together comprise the Local Plan
- Plan and strategies which together comprise the Housing Strategy
- The Pay Policy

Such other plans and strategies as the Council shall, from time to time, determine that shall form part of the policy framework.

b. Budget. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement and the control of its capital expenditure.

### Functions of the Full Council

4.2 Only the Council will exercise the following functions:

- a. adopting and changing the Constitution;
- b. approving and adopting the policy framework and the budget
- c. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with, the budget;
- d. appointing the Leader of the Council;
- e. agreeing and/or amending the terms of reference for committees of Council, deciding on their composition and making appointments to them;
- f. agreeing the mechanism for appointments to outside bodies;
- g. adopting an allowances scheme under Article 2.5;
- h. changing the name of the Borough, conferring the title of honorary alderman or freedom of the Borough;
- i. confirming the appointment and dismissal of the Head of Paid Service, and the dismissal of the Monitoring Officer and Section 151 officer;
- j. making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or bills;
- k. all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- l. all other matters which, by law, must be reserved to Council.

## **Council Meetings**

4.3 There are four types of Council meeting:

- a. the annual meeting;
- b. ordinary meetings;
- c. special meetings such as that to set the annual budget;
- d. extraordinary meetings.

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

## **Responsibility for functions**

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



## **Article 5 – Chairing the Council**

### **Role and function of the Mayor**

- 5.1 The mayor will be elected by the Council annually from amongst the members. The mayor will have the following responsibilities:
- a. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
  - b. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
  - c. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold it to account;
  - d. to promote the Borough and public involvement in the Council's activities;
  - e. in order to promote the Borough, to attend such civic and ceremonial functions as the Council and he/she determines.

## **Article 6 - Overview and Scrutiny Committees**

### **Terms of reference**

- 6.1 At the Annual Meeting the Council shall appoint such Overview and Scrutiny Committees as it sees fit. They will discharge the functions conferred by Section 21 of the Local Government Act 2000.

### **General role**

- 6.2 Within their terms of reference, overview and scrutiny committees will:
- a. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - b. make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
  - c. consider any matter affecting the area or its inhabitants; and
  - d. exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.
  - e. exercise such other functions as shall be allocated to them from time to time by statute or subordinate legislation.

### **Specific functions**

6.3a Policy development and review

Overview and scrutiny committees may:

- i. assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii. conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii. advise the Cabinet on mechanisms to encourage and enhance community participation in the development of policy options;
- iv. question members of the Cabinet and Chief Officers about their views on issues and proposals affecting the area; and
- v. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

b. Scrutiny

Overview and scrutiny committees may:

- i. review and scrutinise the decisions made by and the performance of the Cabinet and council officers both in relation to individual decisions and overtime;
- ii. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii. question members of the Cabinet and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv. make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;

- v. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- vi. question and gather evidence from any person (with their consent).

c. Finance

The Cabinet is required to meet reasonable requests for funding from the Overview and Scrutiny Committee. Funding should be used for specific activities in support of the functions outlined in the Terms of Reference under 6.1. If the Cabinet refuses funding then the Overview and Scrutiny Committee can ask the full Council to determine whether or not the funding should be granted.

d. Officers

Officer support for Scrutiny Project Groups and other Officer support for the overview and scrutiny function will be arranged by the Scrutiny and Democratic Services Manager.

### **Proceedings of Overview and Scrutiny Committees**

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

## Article 7 – The Cabinet

### Role

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

### Form and composition

- 7.2 The Cabinet will consist of the Council Leader (who shall be the Chair of the Cabinet), the Deputy Leader, and at least one, but not more than eight, councillors appointed annually to the Cabinet by the Leader.

The Local Government Act 2000 provides that the political balance rules do not necessarily apply to a cabinet or committees of a cabinet.

### Leader and Deputy Leader

- 7.3 The Leader will be a councillor elected to the position of Leader by the Council at the annual meeting or if there is a vacancy in the position of Leader of the Council, the Council shall, at its next meeting, elect a Leader of the Council. The Leader will hold office:
- a. For a term of office which starts on the day of his/her election as Leader, and ends on the day of the post-election annual meeting which follows his/her election as Leader; or until
    - i. he or she resigns from the office; or
    - ii. he or she is no longer a councillor; or
    - iii. he or she is removed from office by resolution of the Council; or
    - iv. he or she is otherwise disqualified by law or by the Court
  - b. The Leader shall appoint one of the members of the Cabinet to be the Council's Deputy Leader at the post-election annual meeting. The Deputy Leader shall hold office until:
    - i. the end of the term of the Leader; or
    - ii. the Leader removes the Deputy Leader from office giving written notice of the removal to the Chief Legal Officer or
    - iii. he or she resigns from office; or
    - iv. he or she is no longer a councillor; or
    - v. he or she is removed from office by resolution of the Council; or
    - vi. he or she is otherwise disqualified by law or by the Court.
  - c. If for any reason there shall be a vacancy in the position of Deputy Leader, the Leader shall appoint another Deputy Leader from among the members of the Cabinet.
  - d. If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.
  - e. If for any reason the Leader is unable to act or the office of Leader is vacant, and the Deputy Leader is unable to act or the office of Deputy Leader is vacant the

remaining members of the Cabinet must either act collectively in the Leader's place or they must arrange for a Cabinet member to act in the place of Leader.

### **Other Cabinet Members**

- 7.4 Other Cabinet members will be councillors who shall hold office until:
- a. they resign from office; or
  - b. they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
  - c. they are no longer councillors; or
  - d. they are removed from office by the Leader, who must give written notice of the removal to the Chief Legal Officer
  - e. they are otherwise disqualified by law.

### **Proceedings of the Cabinet**

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

### **Responsibility for functions**

- 7.6 The Leader will maintain the list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

### **Decision Making**

- 7.7 Decisions made in Cabinet are made collectively on a vote of a simple majority.

## **Article 8 – Regulatory and other committees**

### **Regulatory and other committees**

- 8.1 The Council will appoint the committees set out in Part 3 of this Constitution under the heading Responsibility for Council Functions to discharge the functions described.

### **Composition of the Planning Committee, Environment and Safety Committee and Licensing Committee.**

- 8.2a A member of the cabinet with portfolio will not be able to serve on the Licensing Committee, Environment and Safety Committee or Planning Committee or any other regulatory committee.
- b. No member of these Committees shall take part in any debate or vote on any matter in relation to which the member has predetermined his/her decision on the matter.
- c. Members whose professional or personal interests might create regular conflict of interest in matters coming before the Planning Committee should not be appointed to the Planning Committee. A member who is about to act in a professional or private capacity in any matter in which the Council has an interest should give notice of such intention to the Monitoring Officer.
- d. The Planning Protocol contained in Part 5 of the Constitution applies to Planning Committee Members.
- e. For all Regulatory Committees, in cases where the Chair or Vice Chair is not available to Chair the meeting (or part of), the Legal Officer will ask for a nomination for Chair for the duration of the meeting (or part of). The nomination must be of a permanent member of that Committee and not a substitute.

## **Article 9 – The Standards Committee**

### **Standards Committee**

9.1 The Council will establish a Standards Committee.

### **Composition**

9.2 Membership.

- a. The Standards Committee will be composed of five members of the Council. At least one independent person will be invited to attend. The Political Balance Rules do not strictly apply to the Standards Committee, but will be applied to the Councillor membership of the Committee. No more than one Councillor member of the Standards Committee may be a member of the Cabinet and that member may not be the Leader of the Council.
- b. The appointment of independent person(s) must be approved by a majority of the members of the Council.
- c. A meeting of the Standards Committee will not be quorate unless at least three members are present for its duration.
- d. Members of the Standards Committee may not appoint substitutes.

### **Role and function**

9.3 The Standards Committee will have the following roles and functions:-

- a. promoting and maintaining high standards of conduct by councillors and co-opted members.
- b. assisting members to observe the Members' Code of Conduct
- c. advising the Council on the adoption or revision of the Members' Code of Conduct
- d. monitoring the operation of the Members' Code of Conduct
- e. granting dispensations to Members from requirements relating to interests set out in the Members' Code of Conduct
- f. hearing and determining complaints made against councillors in accordance with Council procedure.

## **Article 10 – Joint Arrangements**

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

- 10.1 The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:
- a. enter into arrangements or agreements with any person or body;
  - b. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - c. exercise on behalf of that person or body any functions of that person or body.

### **Joint arrangements**

- 10.2a The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b. The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
  - c. Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members may, but need not, reflect the political composition of the local authority as a whole.
  - d. The Cabinet may appoint members to a joint committee from outside the Cabinet if the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;  
  
The political balance requirements may, but need not, apply to such appointments.
  - e. Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **Access to information**

- 10.3a The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
  - c. If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

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

- 10.4a The Council may delegate its functions to another local authority.
- b. The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
  - c. The decision whether or not to accept such a delegation from another local authority shall be reserved to the full Council.



## **Contracting out**

10.5 The Council and the Cabinet may contract out their respective functions to another body or organisation :-

Where

- a. such functions
  - i. may be exercised by an officer; and
  - ii. are subject to an order under Section 70 Deregulation and Contracting Out Act 1994; or
- b. under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles provided there is no delegation of the Council's discretionary decision-making.

## **Article 11 – Officers**

### **Management Structure**

- 11.1a General. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below the level of Corporate Director must be the responsibility of the Head of Paid Service or his/her nominee.
- b. Chief Officers. The Council (by a committee or sub-committee) will engage persons for such posts, as it may from time to time decide, who will be designated Directors, collectively described as “Chief Officers” in this Constitution.
- c. The Council will designate the following posts as:-
- One of the Directors – Head of Paid Service
  - Chief Legal Officer – Monitoring Officer
  - One of the Assistant Directors – Chief Finance Officer
- Such posts will have the functions described in Article 11.2 - 11.4 below.
- d. Structure. The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution. Changes made to this Structure do not constitute amendments to this Constitution.

### **Functions of the Head of Paid Service**

- 11.2a Discharge of functions by the Council. The Head of Paid Service will, from time to time, report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- b. Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer but, if a qualified accountant, may hold the post of Chief Finance Officer.

### **Functions of the Monitoring Officer**

- 11.3a Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- b. Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Cabinet in relation to Cabinet functions, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c. Supporting the Standards Committee. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- d. Conducting investigations. The Monitoring Officer will arrange for investigations into complaints alleging breach of the Code of Conduct in accordance with procedures adopted by the Council.

- e. Proper Officer for access to information. The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- h. Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

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

- 11.4a Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b. Administration of financial affairs. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- c. Contributing to corporate management. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. Providing advice. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- e. Give financial information. The Chief Finance Officer may provide financial information to the media, members of the public and the community.

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

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

## **Conduct**

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

## **Employment**

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

## **Article 12 – Decision Making**

### **Responsibility for decision making**

- 121 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 3 and 8 of this Constitution.

### **Principles of decision making**

- 122 All decisions of the Council will be made in accordance with the following principles:
- a. proportionality (i.e. the action must be proportionate to the desired outcome);
  - b. due consultation and the taking of professional advice from officers;
  - c. respect for human rights (see below for further details);
  - d. a presumption in favour of openness;
  - e. clarity of aims and desired outcomes; and
  - f. explanation of options considered and reasons for decisions taken.

### **Types of decision**

- 123 a Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.

- b Key decisions.

- i. A key decision means a Cabinet decision which is likely to involve expenditure or savings in excess of £250,000 or which is likely to have a significant effect on communities living or working in an area comprising two or more wards.
- ii. A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

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

- 124 Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **Decision making by the Cabinet**

- 125 Subject to Article 12.8, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

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

## **Decision making by other committees**

- 12.7 Subject to Article 12.8, other committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

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

## **Decision making by ward members**

- 12.9 The Council and Cabinet are able to delegate authority to individual ward members to make decisions in relation to matters affecting their ward. Where delegation has been given, the ward member is required to produce a record of decisions, which are accessible by the public for six years. The ward member is required to act in accordance with a protocol agreed by the Council or Cabinet when exercising the power.

## **Call-over**

- 12.10 The Council, Cabinet and committees may operate a call-over process to determine which matters on the agenda are to be discussed and those that are to be agreed without discussion. The Chair may undertake the call-over and all matters which are not called are the subject of a motion from the Chair to agree all matters not called.

## **Article 13 – Finance, Contracts and Legal Matters**

### **Financial management**

- 13.1 The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 9 of this Constitution.

### **Contracts**

- 13.2 Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 9 of this Constitution.

### **Legal proceedings**

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

### **Authentication of documents**

- 13.4 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Legal Officer or other person authorised by the Chief Legal Officer unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

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

- 13.5 The Common Seal of the Council will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised in that regard by the Chief Legal Officer.

### **Common Seal of Hastings Housing Company**

- 13.6 The Common Seal of the Hastings Housing Company will be kept in a safe place in the custody of the Chief Legal Officer. A decision of the Hastings Housing Company, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Legal Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Legal Officer or some other person authorised in that regard by the Chief Legal Officer.

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

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

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

### **Protocol for monitoring and review of constitution by Monitoring Officer**

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

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

### **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.

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

### **Suspension of the Constitution**

15.1a Limit to suspension. The Articles of this Constitution may not be suspended.

- b. Procedure to suspend Standing Orders. The procedure to suspend Standing Orders is set out in Part 4 of this Constitution. The extent and duration of suspensions will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **Interpretation**

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

### **Publication**

15.3a The Monitoring Officer will make available a copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

- b. The Monitoring Officer will ensure that copies are available for inspection at council offices, and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- c. The Monitoring Officer will ensure that the summary of the Constitution is made readily available within the area and is updated as necessary. The Constitution can be found on the Council's Website at [www.hastings.gov.uk](http://www.hastings.gov.uk).



## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Joint Arrangements);
4. Article 12 (Decision Making) and the Access to Information Procedure Rules;
5. Part 3 (Responsibility for Functions).

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# **Hastings Borough Council Constitution of the Council**

## **Part 4**

### **Rules of Procedure**

<b>Contents</b>	<b>Page No.</b>
1. Annual Meeting of the Council .....	6
Timing and business .....	6
2. Ordinary Meetings .....	6
3. Extraordinary and Special Meetings .....	7
Calling extraordinary meetings .....	7
Special Meetings .....	7
4. Appointment of Substitute Members of Committees and Sub-Committees .....	7
5. Time and Place of Meetings .....	8
6. Notice of and Summons to Meetings .....	8
7. Chair of Meeting .....	8
8. Quorum .....	8
9. Duration of Meeting .....	9
10. Petitions Scheme .....	9
Ordinary petitions .....	9
Consultation petitions .....	9
Governance Petitions .....	10
Petitions for Debate .....	10
Petitions to call an officer to account .....	10
E-petitions .....	11
How will the Council respond to petitions? .....	11
Conclusion of the petition process .....	12
Review of steps taken in response to the petition by an Overview and Scrutiny Committee .....	12
11. Public Question Time .....	12
General .....	12
Order of questions .....	12
Notice of questions .....	12
Number of questions .....	12
Scope of questions .....	12
Copies of questions .....	13
Supplementary question .....	13
Written answers .....	13
12. Questions by Members .....	13
Questions on notice at full Council .....	13
Response .....	13
Supplementary question .....	14
Questions to the Leader, Deputy Leader or other Lead Member .....	14
On reports of the Cabinet or Committees .....	14
Ward Members to Speak at any Meeting .....	14
13. Reports and Minutes of Cabinet and Committees .....	14
14. Motions on Notice .....	15
Notice .....	15
Motion set out in agenda .....	16
15. Motions Without Notice .....	16
16. Rules of Debate .....	17
No speeches until motion has been seconded .....	17
Right to require motion in writing .....	17
Seconder's speech .....	17
Content and length of speeches .....	17
When a member may speak again .....	18

Amendments to motions.....	18
Alteration of motion .....	18
Withdrawal of motion.....	19
Right of reply .....	19
Motions which may be moved during debate .....	19
Closure motions .....	19
Point of order.....	20
Personal explanation.....	20
Council proceeding as if in committee.....	20
17. Previous Decisions and Motions .....	20
Motion to rescind a previous decision .....	20
Motion similar to one previously rejected .....	20
18. Voting .....	21
Majority .....	21
Mayor's casting vote.....	21
Show of hands.....	21
Recorded vote .....	21
Right to require individual vote to be recorded .....	21
Voting on appointments.....	21
19. Minutes.....	22
Signing the minutes .....	22
No requirement to sign minutes of previous meeting at extraordinary and special meetings .....	22
Form of minutes .....	22
20. Record of Attendance .....	22
21. Exclusion of Public .....	22
22. Members' Conduct .....	22
Standing to speak.....	22
Mayor standing.....	22
Member not to be heard further.....	23
Member to leave the meeting.....	23
General disturbance .....	23
23. Disturbance by Public .....	23
Removal of member of the public.....	23
Clearance of part of meeting room.....	23
24. Suspension and Amendment of Council Procedure Rules .....	23
Suspension.....	23
Amendment.....	24
25. Application to Committees and Sub-Committees.....	24
26. Access to Information Procedure Rules.....	24
Scope .....	24
Cabinet Arrangements .....	24
Additional Rights to Information .....	24
Rights to Attend Meetings .....	24
Notices of Meeting.....	24
Access to Agenda and Reports before the Meeting.....	24
Supply of Copies .....	25
Access to Minutes etc after the Meeting .....	25
Background Papers.....	25
List of background papers .....	25
Public Inspection of Background Papers .....	25
Summary of Public's Rights .....	26
Exclusion of Access by the Public to Meetings .....	26
Confidential information – Requirement to Exclude Public.....	26
Exempt information – discretion to exclude public.....	26
Meaning of confidential information .....	26

Meaning of exempt information .....	26
Exclusion of Access by the Public to Reports .....	27
Application of Rules.....	27
Procedure Before Taking Key Decisions.....	28
The Forward Plan.....	28
Period of Forward Plan .....	28
Contents of Forward Plan .....	28
General Exception.....	29
Special Urgency .....	29
Report to Council.....	30
When an Overview and Scrutiny Committee can require a Report .....	30
Cabinet's Report to Council .....	30
Half Yearly Reports on Special Urgency Decisions.....	30
Record of Decisions.....	30
Notice of Meeting of the Cabinet .....	31
Overview and Scrutiny Committees Access to Documents .....	31
Rights to copies .....	31
Limit on rights .....	31
Additional Rights of Access for Members.....	31
Material relating to previous business .....	31
Material relating to key decisions.....	31
Nature of rights .....	31
27. Budget and Policy Framework Procedure Rules .....	32
The framework for Cabinet decisions.....	32
Process for developing the framework.....	32
Decisions outside the budget or policy framework .....	33
Urgent decisions outside the budget or policy framework .....	34
In year changes to policy framework.....	34
Call-in of decisions outside the budget or policy framework .....	34
28. Cabinet Procedure Rules .....	36
How the Cabinet operates.....	36
Who can make Cabinet decisions .....	36
Delegation of Cabinet Functions.....	36
Conflicts of Interest .....	36
Cabinet meetings .....	36
Quorum.....	36
The Conduct of Cabinet Meetings.....	37
Chair .....	37
Attendance.....	37
Cabinet business .....	37
Items for the Cabinet agenda .....	37
29. Overview and Scrutiny Procedure Rules .....	39
Arrangements for Overview and Scrutiny Committees .....	39
Overview and Scrutiny Committees .....	39
Membership of Overview and Scrutiny Committees .....	39
Co-optees.....	40
Meetings of the Overview and Scrutiny Committees.....	40
Quorum .....	40
The Chair of Overview and Scrutiny Committee meetings.....	40
Work programme.....	40
Agenda items .....	41
Policy review and development.....	41
Reports from Overview and Scrutiny Committees .....	41
Forward Plan.....	42
Rights of Overview and Scrutiny Committee members to documents .....	42

Members and Officers giving account .....	42
Attendance by others .....	42
Call-in .....	43
Exceptions .....	44
Call-In and Urgency .....	44
The Party Whip.....	44
Procedure at Overview and Scrutiny Committee meetings.....	44
Matters within the remit of more than one Overview and Scrutiny .....	45
Councillor Call for Action (CCFA).....	45
30. Officer Employment Procedure Rules.....	47
Introduction.....	47
Interpretation .....	47
Recruitment and appointment .....	47
Recruitment of Head of Paid Service and Chief Officers .....	47
Appointment of Head of Paid Service .....	48
Appointment of Chief Officers .....	48
Other appointments.....	48
Officers other than Assistants to Political Groups.....	48
Assistants to Political Groups .....	48
Disciplinary action .....	48
Dismissal .....	49
31. Procedural Appendices .....	50
Minute's Silence at Council Meetings.....	50
Honorary Freedom of the Borough.....	50

## **1. Annual Meeting of the Council**

### **Timing and business**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will normally take place in May.

The annual meeting will:

- i. elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii. elect the Mayor of Council;
- iii. elect the Deputy Mayor of Council;
- iv. approve the minutes of the last meeting;
- v. receive any announcements from the Mayor;
- vi. elect the Leader where a vacancy has occurred ;
- vii. receive the Leader's report on the appointment of the Deputy Leader of the Council and number of and the names of the members of Cabinet;
- ix. receive the Leader's report on the cabinet portfolios and their allocation to members of the Cabinet;
- x. appoint at least one overview and scrutiny committee, a Standards Committee a Licensing Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- xi. appoint to those committees except where the appointment is exercisable only by the Cabinet;
- xii. to consider the following motion to be proposed by the Leader of the Council and seconded by the Deputy Leader:-  
  
"That the Council agrees the programme for the ensuing municipal year as proposed by the Leader of the Council" to which no amendment may be moved."

## **2. Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- i. elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii. approve the minutes of the last meeting;
- iii. receive any declarations of interest from members;
- iv. receive any announcements from the Mayor and/or Leader;
- v. receive questions from, and provide answers to, the public;
- vi. deal with any business from the last Council meeting;



- vii. receive reports from the Cabinet and the Council's committees and receive questions and answers on any of those reports;
- viii. receive reports about and receive questions and answers on the business of joint arrangements and external organisations.
- ix. consider motions; and
- x. consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate;
- xi. membership of committees.

### **3. Extraordinary and Special Meetings**

#### **Calling extraordinary meetings**

- 3.1 Those listed below may request the Chief Legal Officer to call Council meetings in addition to ordinary meetings:
- i. the Council by resolution;
  - ii. the Mayor of the Council;
  - iii. the monitoring officer; and
  - iv. any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### **Special Meetings**

- 3.2 Special meetings are set in the programme for meetings at the commencement of the municipal year.
- 3.3 The only business which may be considered at an extraordinary or special meeting is the business for which the meeting was called or set as the case may be.
- 3.4 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

### **4. Appointment of Substitute Members of Committees and Sub-Committees**

- 4.1 There shall be no substitution of members of the Standards Committee, Licensing Committee or the Cabinet. Members of the Cabinet may not be substitutes on Overview and Scrutiny Committees.
- 4.2 The political groups may appoint substitute members in accordance with this Rule on committees and sub-committees. Only Members who have undergone related training may be substituted to Planning Committee, Charity Committee and Environment and Safety Committee. Only members of Cabinet may be substituted to Charity Committee.
- 4.3 Substitute members will have all the powers and duties of any ordinary member of the committee.
- 4.4 Substitute members may attend meetings in that capacity only:

Hastings Borough Council, The Constitution, Part 4  
(October 2017)

- i. to take the place of the ordinary member for whom they are the designated substitute;
- ii. where the ordinary member will be absent for the whole of the meeting or, in the case of the Charity Committee, for such item or items as shall be notified to the Chief Legal Officer under iii. below; and
- iii. after notifying the Chief Legal Officer no later than the commencement of the relevant meeting in the form supplied.

## **5. Time and Place of Meetings**

The time and place of meetings will be determined by the Chief Legal Officer and notified in the summons.

## **6. Notice of and Summons to Meetings**

The Chief Legal Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Chief Legal Officer will send a signed summons by post or electronic mail to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. Chair of Meeting**

The ruling of the Mayor as to the construction or application of any of these rules, or as to any proceedings of the Council, shall be final. Subject to the requirement that the election of Mayor is to be the first item for discussion at Annual Council the Mayor shall have power to adjust the order of items on the agenda where he or she considers that it would be in the interests of the proper conduct of the meeting.

The Mayor may adjourn a meeting of the Council for such period as he or she considers appropriate. In the event of an adjournment, the Mayor may, at the time of the adjournment or subsequently, fix a date and time for the meeting to resume. If no date and time is fixed the outstanding business shall be dealt with at the next ordinary meeting of the Council.

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to committee and sub-committee meetings, references to the Mayor also include the Chair of committees and sub-committees.

If it is necessary to choose a member of the Council to preside in the absence of the Mayor and Deputy Mayor, the proper officer shall call on a member of the Council to move that a member of the Council to be named by that member, other than an executive member, shall take the chair. If discussion arises, the proper officer shall exercise the powers of the person presiding to regulate that discussion, and to maintain order at the meeting. This rule shall apply to committees and sub-committees in the same way except that executive members are not excluded by virtue of this Rule alone.

## **8. Quorum**

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum

present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

The quorum for committees is one quarter of the membership, subject to a minimum of three.

The Standards Committee and Cabinet have their own rules as to quorum. These are set out in Article 9 and in the Cabinet Procedure Rules.

## **9. Duration of Meeting**

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **10. Petitions Scheme**

The Council welcomes petitions and recognises that petitions are one way in which people can bring their concerns to the attention of the Council. The subject of any petition to be presented must relate to a matter for which the Council has powers, duties or functions or which affects the Borough or part of it or its inhabitants. However, the Council will not deal with a petition which in the opinion of the Monitoring Officer is vexatious, abusive or otherwise inappropriate to be considered under this rule.

There are different types of petition as set out below.

### **Ordinary petitions**

- 10.1 These are petitions which relate to matters for which the Council has duties and responsibilities. The Scheme does not relate to petitions alleging misconduct by a councillor or councillors (complaint to Standards Committee), relating to a Council officer or Service (Corporate Complaints Process / Disciplinary), or to matters relating to an individual e.g. a taxi driver's licence application or to petitions relating to a current planning application.

Ordinary petitions should be presented to the Mayor or to the Chief Legal Officer at the Muriel Matters House, Breeds Place, Hastings, TN34 3UY

### **Consultation petitions**

- 10.2 These are petitions compiled in response to consultation by the Council on a proposal such as a planning application, licensing application, or proposed policy or strategy. Such petitions should be returned to the address in the consultation and will be considered by the committee or body with responsibility for making the decision or recommendation.
- 10.3 A petition shall comply with the following:-
1. The wording of the petition will appear at the head of each page of signatures.
  2. The petition shall bear the signatures of ten or more persons who live, work or study in the Borough.

3. The petition presented shall be the original and shall bear the signatures, name and address of each signatory.

## **Governance Petitions**

- 10.4 These petitions are outside the Petitions Scheme. These relate to such matters as a call from electors for the Council to hold a referendum on whether to have an elected mayor or for the establishment of a parish or community council in part of the Council's area. The legislation governing e-petitions has not yet been extended to such petitions.

## **Petitions for Debate**

- 10.5 A petition which can require a debate at a meeting of the Council must comply with rule 10.3 above except that it must have at least 1,500 signatures or more of persons who live, work or study in the Borough.

This rule does not apply where the petition requires that an officer be called to account.

A petition for debate at Council will be reported to the next available ordinary meeting of the Council, when the petition organiser will be given 5 minutes in which to address the Council, followed by questions from Councillors. Council will then discuss the subject of the petition for no more than 15 minutes.

The Council then has the following options:-

- a. where it is a decision on which it can make a decision, to make a decision;
- b. where the decision is one which only Cabinet can make, to refer the matter to Cabinet for consideration with or without Council's recommendations; or
- c. refer the matter to another committee with responsibility, such as an Overview and Scrutiny Committee for investigation and, possibly, further report.

Petitions for debate should be addressed to the Council as for Ordinary Petitions.

## **Petitions to call an officer to account**

- 10.6 There may be exceptional circumstances where a petition is used to call a relevant officer of the Council to account so that he or she is required to attend before the Overview and Scrutiny Committee to give evidence and to answer questions on a particular matter.

The petition must satisfy the requirements of rule 10.3, except that it shall bear at least 750 signatures of persons who live, work or study in the Borough. The petition must also identify the officer to be called to account either by name or job title. The petition must also give grounds for the request which relate to the discharge of functions for which the officer is responsible.

Relevant officers who may be called to account by such a petition are the Chief Officers.

On receipt of such a petition, the Overview and Scrutiny Committee will exercise its powers under Section 21(13) (a) Local Government Act 2000 to require the relevant person to appear before it to answer questions relevant to the petition. It may decide that an officer other than that officer identified in the petition would be more appropriate to attend for questioning and the Head of Paid Service, will be consulted on this before another officer is asked to attend.

Only members of the Committee may address questions to the officer and the Chair may pose questions provided by the petition organiser to the Chief Legal Officer at least three working days before the meeting.

Following such attendance and questioning, the Committee will then make a report or recommendations to the Council or Cabinet, as appropriate, and send a copy of the report or recommendations to the petition organiser.

Petitions to call an officer to account should be addressed to the Council as for ordinary petitions.

## **E-petitions**

- 10.7 The Council also accepts e-petitions. The E-petition facility is facilitated by Modern.Gov and can be accessed using the link on the Hastings Borough Council or East Sussex County Council websites. The minimum number of signatures required by for an e-petition to be considered under this rule is ten for ordinary and consultation petitions, 750 for petitions calling officers to account and 1500 for petitions for debate. The same rules and procedures apply as for paper petitions and the signatories must all live, work or study in the Borough. E-petitions are not accepted for petitions alleging misconduct by a councillor or councillors (complaint to Standards Committee), relating to a Council officer or Service (Corporate Complaints Process / Disciplinary), or to matters relating to an individual e.g. a taxi driver's licence application or to petitions relating to a current planning application.

## **How will the Council respond to petitions?**

- 10.8 An acknowledgement will be sent to the petition organiser within 10 working days of receipt of the petition, notifying how it is intended to deal with the petition and indicating when the petition organiser will be contacted again. This might include setting out the Council's views about the request in the petition

If the Council can do what the petition requests immediately, the Council will acknowledge that it has received the petition and tell the petition organiser that the Council has taken the action requested and the petition will be closed.

Otherwise the Council's response to a petition will depend on what a petition asks for and how many people have signed it. This could include one or more of the following: -

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council's appropriate overview and scrutiny committee
- writing to the petition organiser setting out the Council's views about the request in the petition
- no further action and the petition will be returned to the sender.

If the petitioner is heard at any meeting of the Council they will be given up to 5 minutes in which to address the meeting followed by questions from Councillors (if applicable). Only one member of the delegation presenting the petition should be allowed to speak and must be someone who resides or works in the Borough.

## **Conclusion of the petition process**

- 10.9 Once the petition has been dealt with in accordance with this rule, the petition organiser will be advised in writing within 10 working days of the outcome of the petition if they were not present at the meeting where the petition was discussed.

## **Review of steps taken in response to the petition by the Overview and Scrutiny Committee**

- 10.10 If the petition organiser is not satisfied that the petition has been dealt with properly, the petition organiser may request that the Overview and Scrutiny Committee reviews the adequacy of the steps taken or proposed to be taken in response to the petition.

On receipt of a request for a review, the Overview and Scrutiny Committee shall consider the request at its next available meeting or as soon as practicable thereafter.

The Council shall within 10 working days of the decision on review inform the petition organiser of the outcome of the review.

## **11. Public Question Time**

### **General**

- 11.1 Members of the public who reside or work in the Borough may, in accordance, with these rules ask questions of the Leader and Lead members, including the Chair of Charity Committee, at ordinary meetings of the Council, on any matter within the Borough Council's powers, duties or functions. Public question time will last no longer than 30 minutes. A question asked within the 30 minutes will be answered.

### **Order of questions**

- 11.2 Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

### **Notice of questions**

- 11.3 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Legal Officer no later than five clear working days before the day of the meeting. Each question must give the name and address of the questioner.

### **Number of questions**

- 11.4 At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

### **Scope of questions**

- 11.5 The Chief Legal Officer may reject a question if:

- it is not about a matter for which the local authority has a responsibility or which affects the Borough;
- it is defamatory, frivolous or offensive;

Hastings Borough Council, The Constitution, Part 4  
(October 2017)

- it is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- it requires the disclosure of confidential or exempt information;
- its purpose is not primarily to seek information.
- It is about a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure.

## **Copies of questions**

- 11.6 Copies of all questions with the reply from the Leader or relevant Lead Member will be circulated to all members and will be made available to the public attending the meeting. The question and answer will be taken as read.

## **Supplementary question**

- 11.7 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 11.5 above.

## **Written answers**

- 11.8 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

# **12. Questions by Members**

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

- 12.1 A member may also submit one written question to the Chief Legal Officer five clear working days before the relevant meeting.

A member of the Council may ask:

- the Mayor;
- a Lead member;
- the Chair of any committee or sub-committee

one question on any matter in relation to which the Council has powers or duties or which affects Hastings Borough. The Chief Legal Officer may reject a question if it is defamatory, frivolous or offensive.

## **Response**

- 12.2 An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published

- work, a reference to that publication; or
- c. where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

### **Supplementary question**

- 12.3 A member asking a question on notice may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

### **Questions to the Leader, Deputy Leader or other Lead Member**

- 12.4 At each ordinary meeting of the Council a maximum period of 30 minutes shall be set aside for oral questions by members of the Leader, Deputy Leader or other lead member, including the Chair of Charity Committee.
- 12.5 The Leaders of the opposition group/s are entitled to ask the first question, in order of group size.
- 12.6 All other members may, subject to the time limit, ask a question. The Mayor shall determine the order of these questions. If time permits members may ask a further question.
- 12.7 When asking a question the member shall try to identify the member to whom the question is addressed.
- 12.8 The Mayor may disallow a question on any of the following grounds:-
- it is not relevant to the functions, powers and duties of the Council
  - it is wholly or partly frivolous or derogatory to the dignity of Council
  - it is not put with reasonable brevity
  - it comprises more than one part
  - it is identical or moderately similar to another question put during question time.
- 12.9 No supplementary questions are permitted.

### **On reports of the Cabinet or Committees**

- 12.10 A member of the Council may ask the Leader, Deputy Leader or a Lead member any question without notice upon an item of the report of the Cabinet when that item is being received or under consideration by the Council.

### **Ward Members to Speak at any Meeting**

- 12.11 A member of the Council may speak on an item particularly affecting their ward at any meeting of Council bodies of which he or she is not a member, subject to any limitations imposed by law or this Constitution.

## **13. Reports and Minutes of Cabinet and Committees**

- 13.1 At ordinary meetings of the Council when the appropriate agenda item is reached the Mayor will ask the members to state the numbers of the items on which they wish to speak. This process is known as "call-over". Such items are called "reserved items".



- 13.2 When an item is reserved, any other item before the Council ruled by the Mayor to be related to it shall be deemed to be reserved.
- 13.3 No discussion shall take place on any items which have not been reserved. Items not reserved, including items requiring Council decision, shall be deemed adopted without discussion.
- 13.4 Where the decision to be taken is a decision for the Council, the Leader and Chairs of Committees (starting with the Leader or relevant Cabinet Member) shall move in turn the adoption of the recommendations as set out in the items in the report or minutes of the Cabinet or committee, which have been reserved, in the order which they appear on the agenda, save that reserved matters requiring Council decision will be called first.
- 13.5 In the absence of the Chair of a Committee or relevant Cabinet member, the Vice Chair or another Member nominated by the Chair may move the recommendations.
- 13.6 A motion to adopt the recommendations of Cabinet or Committee need not be seconded.
- 13.7 Where the Cabinet and Overview and Scrutiny Committee are reporting or making recommendations on the same subject matter, their reports or minutes shall be considered together and, if in the opinion of the Mayor, there is a material difference between the recommendations, the Chair of the Overview and Scrutiny Committee (or nominee) shall move its recommendations as an amendment to the recommendations moved under Rule 13.4 as soon as these have been moved. This amendment need not be seconded and shall then be open for debate.
- 13.8 Where the reports or minutes on a reserved item do not contain any recommendations to the Council, the Mayor shall call the member who reserved the item or their nominee to speak first. The Leader or relevant Cabinet member or chair of the committee concerned shall have the right of reply at the end of debate on the reserved item. No motion may be moved in respect of that matter other than to refer it back to the Cabinet for review or to the Overview and Scrutiny Committee for review and report. A motion to refer back a report or minute of the review of a decision previously referred back under this Rule or called-in under Rule 29.15 (unless as part of the call-in process) shall be out of order.

## **14. Motions on Notice**

### **Notice**

- 14.1 Motions must be about matters for which the Council has a responsibility or address the built or natural environment of the Borough of Hastings or address a matter of local, regional or national policy that affects the lives of people in the Borough of Hastings. The ruling of the Monitoring Officer in consultation with the Mayor shall be final as to the relevance of the motion.

Further, a motion may not be tabled in any of the following circumstances:-

- a. any matter relating to an individual or individuals which relates to the application or use of any of the Council's powers, past or present, in respect of that individual, other than in relation to admission to the honorary freedom of the Borough or in relation to an individual as a member holding office in the Council;
- b. a matter which is the subject of legal proceedings or an appeal to a tribunal or to a government minister or an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure;
- c. the appointment, promotion, dismissal, salary or other payments, superannuation or conditions of employment or the conduct or ability of any individual employed by the

Council or the conduct of a member of the Council;

- d. any other matter which would require the disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.

14.2 Except for motions which can be moved without notice under Rule 15, written notice of every motion, signed by at least one member, must be delivered to the Chief Legal Officer not later than 8 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

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

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

14.4 The agenda for each Council meeting, other than the Annual Meeting, shall include all notices of motions which relate to Council functions proposed to be moved at that meeting which have been received in time and have not been withdrawn in writing by the proposer. Motions which are the responsibility of Council will be dealt with in the order upon which they are received.

14.5 If a motion set out in the summons is not moved either by a member who gave notice thereof or by some other member on their behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

14.6 Motions which relate to matters which are not the responsibility of Council (e.g. Cabinet functions) will be referred by the Chief Legal Officer to the responsible body for consideration at its next available meeting. The proposer and seconder (or some other member on their behalf) of the motion are entitled to speak to the motion at the meeting of that body. Only members of that body may move or second a proposition at the meeting of that body.

14.7 No notice of motion, which if adopted, will, in the opinion of the Mayor, rescind, or substantially reverse the effect of a Council resolution made within the previous six months, shall be proposed unless the notice is signed by a majority of the members of the Council.

14.8 The Chief Legal Officer will, if requested, help members with the wording of motions.

14.9 No notice of motion shall be accepted which in the opinion of the Chief Legal Officer relates to a quasi judicial matter before the Council.

## **15. Motions Without Notice**

The following motions may be moved without notice:

- a. to appoint a Chair of the meeting at which the motion is moved;
- b. in relation to the accuracy of the minutes;
- c. to change the order of business in the agenda;
- d. to refer something to an appropriate body or individual;
- e. to appoint a committee or member arising from an item on the summons for the meeting;
- f. to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g. to withdraw a motion;

- h. to amend a motion;
- i. to proceed to the next business;
- j. that the question be now put;
- k. to adjourn a debate;
- l. to adjourn a meeting;
- m. that the meeting continue beyond four hours in duration;
- n. to suspend a particular council procedure rule;
- o. to exclude the public and press in accordance with the Access to Information Rules;
- p. to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
- q. to give the consent of the Council where its consent is required by this Constitution.
- r. questions by members under Rule 12.1;
- s. to move into Committee under Rule 16.14.

## **16. Rules of Debate**

### **No speeches until motion has been seconded**

- 16.1 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded other than a motion to adopt the recommendations of Cabinet or a committee under Rule 13.4.

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

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

### **Secunder's speech**

- 16.3 When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### **Content and length of speeches**

- 16.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed three minutes except:-
- 1. the Mayor's address to the Annual Council;
  - 2. on the motion to adopt a programme for the year when the time limit for speeches by the Leader of the Council and the Leader of each Political Group having three or more Members, shall be 15 minutes;
  - 3. on the motion to approve the capital programme and revenue budget for the next financial year, when the time limit for speeches by the Leader of the Council and the Leader of each Political Group having three or more Members shall be 15 minutes;
  - 4. on a motion to adopt the Corporate Plan when the time limit for speeches by the

Leader of the Council and the Leader of each Political Group having three or more Members, shall be 15 minutes;

5. when the Council (following a vote without debate) allows a Member's speech to continue for one further period of up to one minute.
6. the proposer of a motion to Council or item for Council decision will have 5 minutes to propose and 5 minutes for their right of reply. (This does not apply to call over for Cabinet minutes).

### **When a member may speak again**

- 16.5 A member who has spoken on an item may not speak again whilst it is the subject of debate, except:
- a. to speak once on an amendment moved by another member;
  - b. to move a further amendment if the motion has been amended since he/she last spoke;
  - c. if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
  - d. in exercise of a right of reply;
  - e. on a point of order; and
  - f. by way of personal explanation.

### **Amendments to motions**

- 16.6a An amendment to a motion must be relevant to the motion and will either be:
- i. to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - ii. to leave out words;
  - iii. to leave out words and insert or add others; or
  - iv. to insert or add words
- as long as the effect of ii. to iv. is not to fully negate the motion.
- b. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
  - c. If an amendment is not carried, other amendments to the original motion may be moved.
  - d. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
  - e. After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### **Alteration of motion**

- 16.7a A member may alter a motion of which he/she has given notice with the consent of the meeting and the seconder. The meeting's consent will be signified by a vote without discussion.

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

- d. Where a proposed amendment is acceptable to the proposer of the original motion the consent of the seconder is required.

## **Withdrawal of motion**

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

## **Right of reply**

- 16.9a The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c. The mover of the amendment has no right of reply to the debate on his or her amendment.

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

- 16.10 When a motion is under debate, no other motion may be moved except the following procedural motions:
  - a. to withdraw a motion;
  - b. to amend a motion;
  - c. to proceed to the next business;
  - d. that the question be now put;
  - e. to adjourn a debate;
  - f. to adjourn a meeting;
  - g. that the meeting continue beyond four hours in duration
  - h. to exclude the public and press in accordance with the Access to Information Rules; and
  - i. to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4.

## **Closure motions**

- 16.11a A member may move, without comment, the following motions at the end of a speech of another member:
  - i. to proceed to the next business;
  - ii. that the question be now put;
  - iii. to adjourn a debate; or
  - iv. to adjourn a meeting.

- b. In a motion to proceed to next business, if the Mayor thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c. In a motion that the question be now put, if the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## **Point of order**

- 16.12 A member may raise a point of order at any time. The member must indicate the rule or law and the way in which he/she considers it has been broken. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The ruling of the Mayor, who shall hear the member immediately, will be final.

## **Personal explanation**

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

## **Council proceeding as if in committee**

- 16.14 When the Council is debating some matter requiring a decision by the Council and the Council feels it is appropriate, it may resolve to proceed for all or some of that item as if it were a committee. This will enable the Council to take advice from officers, and such other persons as it sees fit, in order to inform its decision making. On closure of the debate in committee, the Mayor will invite Council to move to a vote on the matter in accordance with Rule 18.

## **17. Previous Decisions and Motions**

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

- 17.1 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by a majority of members.

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

- 17.2 A motion or amendment in the same or similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by a majority of members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **18. Voting**

### **Majority**

- 18.1 Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those members voting at the time the question was put. For the avoidance of doubt, an abstention from voting does not constitute a vote and the majority, or such greater proportion otherwise required by law or this Constitution, shall be calculated from those voting for or against the motion.

### **Mayor's casting vote**

- 18.2 If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction or assumption made on how the Mayor chooses to exercise a casting vote.

### **Show of hands**

- 18.3 Unless a recorded vote is demanded under Rules 18.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **Recorded vote**

- 18.4 If six or more members present at the meeting stand and request it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

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

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

### **Voting on appointments**

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



## **19. Minutes**

### **Signing the minutes**

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

### **No requirement to sign minutes of previous meeting at extraordinary and special meetings**

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

### **Form of minutes**

- 19.3 Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

## **20. Record of Attendance**

A record of attendance shall be kept at every formal council meeting.

## **21. Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

## **22. Members' Conduct**

### **Standing to speak**

- 22.1 When a member speaks at full Council they must stand and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation. The Mayor may excuse a member from standing at his/her discretion.

### **Mayor standing**

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

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

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

## **Member to leave the meeting**

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

## **General disturbance**

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

## **23. Disturbance by Public**

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

- 23.1 If a member of the public interrupts proceedings or behaves in an inappropriate manner the Mayor may warn the person concerned. If they continue to interrupt or behave inappropriately the Mayor may order their removal from the meeting room.

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

- 23.2 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.
- 23.3 Members of the public may not bring placards or banners into a meeting room.

## **24. Suspension and Amendment of Council Procedure Rules**

### **Suspension**

- 24.1 All of these Council Rules of Procedure except Rule 16.6, save to permit all proposals to be considered together when the Council is considering the budget and the corporate plan, and 17.2 may be suspended by motion on notice or without notice if at least two thirds of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

## **Amendment**

- 24.2 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **25. Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of full Council. Rules 9, 10, 12.11, 13.3, 16.1, 16.3, 16.6, 16.7, 16.8, 16.9, 16.10, 18, 19, 20, 21, 22.3, 22.4, 22.5, 23 and 24 apply to Cabinet. Rules 4-10 and 16, 18-21, 22.3, 22.4, 22.5, 23-25 apply to meetings of committees and sub-committees.

## **26. Access to Information Procedure Rules**

### **Scope**

### **Cabinet Arrangements**

- 26.1. These rules apply to all meetings of the Council, overview and scrutiny committee, the Standards Committee and regulatory committees and public meetings of the Cabinet (together called meetings).

### **Additional Rights to Information**

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

### **Rights to Attend Meetings**

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

### **Notices of Meeting**

- 26.4. The Council will give at least five clear days notice of any meeting by posting details of the meeting at Muriel Matters House and on its website.

### **Access to Agenda and Reports before the Meeting**

- 26.5. The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. It will also be circulated to Councillors.

## **Supply of Copies**

- 26.6. The Council will supply copies of:
- a. any agenda and reports which are open to public inspection;
  - b. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - c. if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item
- to any person on payment of a charge for postage and any other costs.

## **Access to Minutes etc after the Meeting**

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

## **Background Papers**

### **List of background papers**

- 26.8.1 Council officers will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- a. disclose any facts or matters on which the report or an important part of the report is based; and
  - b. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 26.10) and in respect of Cabinet reports, the advice of a political advisor.

### **Public Inspection of Background Papers**

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

## **Summary of Public's Rights**

- 26.9. A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Muriel Matters House .  
These rules constitute that written summary.

## **Exclusion of Access by the Public to Meetings**

### **Confidential information – Requirement to Exclude Public**

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

### **Exempt information – discretion to exclude public**

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

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

### **Meaning of confidential information**

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

### **Meaning of exempt information**

- 26.10.4 Exempt information means information falling within the following paragraphs (with Paragraphs 7a-7c being applicable only to the Standards Committee), but subject to the qualifications set out under 8-10 below.
1. Information relating to any individual.
  2. Information which is likely to reveal the identity of an individual.
  3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person: or
  - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
  - a. Information which is subject to any obligation of confidentiality.
  - b. Information which relates in any way to matters concerning national security.
  - c. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of the Localism Act 2011.

**Qualifications:-**

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
  - a. the Companies Act 1985;
  - b. the Friendly Societies Act 1974;
  - c. the Friendly Societies Act 1992;
  - d. the Industrial and Provident Societies Acts 1965 to 1978;
  - e. the Building Societies Act 1986; or
  - f. the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which—
  - a. falls within any of paragraphs 1 to 7 above; and
  - b. is not prevented from being exempt by virtue of paragraph 8 or 9 above,
 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **Exclusion of Access by the Public to Reports**

- 26.11 If the Chief Legal Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 26.10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **Application of Rules**

- 26.12 The Access to Information rules apply to all council committees and the Cabinet.

## **Procedure Before Taking Key Decisions**

- 26.13 Subject to Rule 26.15 (general exception) and Rule 26.16 (special urgency), a key decision may not be taken unless:
- a. a notice (called here a forward plan) has been published in connection with the matter in question;
  - b. at least five clear days have elapsed since the publication of the forward plan; and
  - c. where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 26.4 (notice of meetings).

## **The Forward Plan**

### **Period of Forward Plan**

- 26.14.1 Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **Contents of Forward Plan**

- 26.14.2 The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of Cabinet functions during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- a. the matter in respect of which a decision is to be made;
  - b. where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
  - c. the date on which, or the period within which, the decision will be taken;
  - d. the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - e. the means by which any such consultation is proposed to be undertaken;
  - f. the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
  - g. a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 28 days before the start of the period covered.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## **General Exception**

- 26.15 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 26.16 (special urgency), the decision may still be taken if:
- a. the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
  - b. the Chief Legal Officer has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
  - c. the Chief Legal Officer has made copies of that notice available to the public at the offices of the Council; and
  - d. at least five clear days have elapsed since the Chief Legal Officer complied with b. and c.

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

## **Special Urgency**

- 26.16 If by virtue of the date by which a decision must be taken Rule 26.15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor or, in his/her absence, the Deputy Mayor will suffice.



## **Report to Council**

### **When the Overview and Scrutiny Committee can require a Report**

- 26.17.1 If the overview and scrutiny committee thinks that a key decision has been taken which was not:
- a. included in the forward plan; or
  - b. the subject of the general exception procedure; or
  - c. the subject of an agreement with the Overview and Scrutiny committee Chair, or the Chair/Vice Chair of the Council under Rule 26.16;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Legal Officer who shall require such a report on behalf of the committee when so requested by the Chair or any two members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the overview and scrutiny committee.

### **Cabinet's Report to Council**

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

### **Half Yearly Reports on Special Urgency Decisions**

- 26.17.3 In any event the Leader will submit half yearly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 26.16 (special urgency) in the preceding six months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

### **Record of Decisions**

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

## **Notice of Meeting of the Cabinet**

- 26.19 Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **Overview and Scrutiny Committees Access to Documents**

### **Rights to copies**

- 26.20.1 Subject to Rule 26.20.2 below, the overview and scrutiny committee will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to
- a. any business transacted at a public or private meeting of the Cabinet or its committees; or
  - b. any decision taken by an individual member of the Cabinet.

### **Limit on rights**

- 26.20.2 The overview and scrutiny committee will not be entitled to:
- a. any document that is in draft form;
  - b. any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the committee is reviewing or scrutinising or intends to scrutinise.

## **Additional Rights of Access for Members**

### **Material relating to previous business**

- 26.21.1 All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless (a) below applies:
- a. it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information.

### **Material relating to key decisions**

- 26.21.2 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless Rule 26.21.1a above applies.

### **Nature of rights**

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

## **27. Budget and Policy Framework Procedure Rules**

### **The framework for Cabinet decisions**

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

### **Process for developing the framework**

- 27.2 The process by which the budget and policy framework shall be developed is:
- a. The Cabinet will publicise, by including in the Forward Plan and any other appropriate means depending upon the circumstances, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
  - b. Before a plan/strategy/budget needs to be adopted, the Leader or relevant lead member will publish initial proposals for the budget and policy framework in a manner suitable to the matter under consideration.
  - c. The initial proposals shall be referred to the relevant overview and scrutiny committee for advice and consideration. The views of local stakeholders will also be canvassed. The overview and scrutiny committee shall report to the Cabinet on the outcome of its deliberations. The overview and scrutiny committee shall have four weeks to respond to the proposals of the Cabinet.
  - d. Having considered the report of the overview and scrutiny committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council for consideration.
  - e. The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from any relevant overview and scrutiny committee.
  - f. The Council's decision will be published and a copy shall be given to the Leader to the Council. The notice of decision shall be dated and shall state either that the decision shall be effective immediately, if the Council accepts the Cabinet's proposals without amendment or, if the Cabinet's proposals are not accepted without amendment, that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.
  - g. If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Legal Officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Legal Officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
  - h. The Council meeting must take place within eight working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall

be reconsidered in the light of the objection, which shall be available in writing for the Council.

- i. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public and shall be implemented immediately.
- j. Where before 8 February in any financial year, Cabinet submits to Council for its consideration in relation to the following financial year
  1. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 Local Government Finance Act 1992 ("the calculation");
  2. estimates of other amounts to be used for the purposes of the calculation;
  3. estimates of such a calculation; or
  4. amounts required to be stated in a precept under Chapter IV of Part I Local Government Finance Act 1992

and Council objects to such estimates, Council shall, before it makes the calculation, take the following action. It shall inform the Leader of its objections and require Cabinet to reconsider the estimates and amounts in light of those objections, specifying a period of no less than eight working days, beginning with the date on which the Leader receives the instruction, within which the Leader may

- submit revised estimates or amounts to Council with Cabinet's reasons for the amendments; or
- inform Council of any disagreement Cabinet has with Council's objections and giving its reasons.

At the end of the period for objection, when considering the calculation, Council shall take account of Cabinet's responses.

(This paragraph does not apply to calculations made in accordance with Section 52I, 52J, 52T or 52U Local Government Finance Act 1992.)

- k. In approving the budget and policy framework, the Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rule 27.5. Any other changes to the budget and policy framework are reserved to the Council.

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

- 27.3 a Subject to the provisions of the rules on virement contained in Financial Rules, the Cabinet, committees of the Cabinet, and any officers, or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to

27.4 below.

- b. If the Cabinet, committees of the Cabinet, any officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief finance officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision

would not be in line with the existing budget and/or policy framework, then the decision

must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 27.4 (urgent decisions outside the budget and policy framework) shall apply.

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

- 27.4a The Cabinet, a committee of the Cabinet, individual members of the Cabinet or officers or joint arrangements discharging Cabinet functions may take a decision which is outside the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken if the chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The chair of the relevant overview and scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant overview and scrutiny committee the consent of the Mayor and in the absence of both the Deputy Mayor will be sufficient.

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

## **In year changes to policy framework**

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

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

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

- 27.6a If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Chair of the overview and scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within five days of the request by Chair of the overview and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief finance officer. The Council may either:

- i. endorse a decision or proposal of the Cabinet as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Hastings Borough Council, The Constitution, Part 4  
(October 2017)

or

- ii. amend the council's financial rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

or

- iii. where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the monitoring officer/chief finance officer.

## **28. Cabinet Procedure Rules**

### **How the Cabinet operates.**

#### **Who can make Cabinet decisions**

- 28.1.1 The arrangements for the discharge of Cabinet functions are set out in the arrangements adopted by the Council and explained in Part 3 of the Constitution. The arrangements may provide for executive functions to be discharged by:
- i. the Cabinet as a whole;
  - ii. a committee of the Cabinet;
  - iii. an individual member of the Cabinet;
  - iv. an officer;
  - v. a neighbourhood forum;
  - vi. joint arrangements with another local authority;
  - vii. another local authority.
- 28.1.2 The Council appoints the Leader. The Leader appoints the Deputy Leader and members of the Cabinet. The Leader is also the Chair of Cabinet meetings. The Leader allocates portfolios to Cabinet members.

#### **Delegation of Cabinet Functions**

- 28.1.3 The Cabinet may delegate its functions to a committee of the Cabinet and may delegate decisions on matters of urgency to an individual Member of the Cabinet.
- Where the Cabinet or a committee of the Cabinet is responsible for a Cabinet function, they may delegate further to an officer.

#### **Conflicts of Interest**

- 28.1.4 Any conflict of interest by a member of the Cabinet will be dealt with in accordance with the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **Cabinet meetings**

- 28.1.5 The Cabinet shall meet at Muriel Matters House, Breeds Place, Hastings, TN34 3UY, or another location to be agreed by the Leader.
- Cabinet meetings will be held in public, in accordance with the Council's principles of openness in decision making set out in Article 13 of this Constitution, Part 2. The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

#### **Quorum**

- 28.1.6 The quorum of the Cabinet will be three.



## **The Conduct of Cabinet Meetings**

### **Chair**

- 28.2.1 If present, the Leader will chair the meeting. In his/her absence, the Deputy Leader will chair the meeting. In the absence of the Leader and the Deputy Leader a member appointed to do so by those present shall chair the meeting.

### **Attendance**

- 28.2.2 These details are set out in the Access to Information Rules in Part 4 of this Constitution. Meetings are usually open to the public. A councillor (who is not a member of Cabinet) may speak at meetings of the Cabinet where a decision affects that member's ward. Petitioners also have an opportunity to address Cabinet where the subject of the petition relates to a Cabinet function. Members who have proposed a motion on notice which has been referred to Cabinet, may address Cabinet on their motion. The seconder of the motion may also speak at Cabinet.

### **Cabinet business**

- 28.2.3 At each meeting of Cabinet the following business will be conducted:
- i. consideration of the minutes of the last meeting;
  - ii. declarations of interest, if any;
  - iii. matters referred to Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration by Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
  - iv. consideration of reports from overview and scrutiny committees; and
  - v. matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### **Items for the Cabinet agenda**

- 28.2.4a Agenda items for meetings of Cabinet will be agreed by the Leader of the Council and the Director of Corporate Resources & Governance or, in his/her absence, one of the other Directors. The advice of the Council's Monitoring Officer and Chief Finance Officer will also be relevant in considering what items should be put on the agenda by the Chief Legal Officer.
- b. The Chief Legal Officer will make sure that an item is placed on the agenda of the next appropriate meeting of Cabinet where the overview and scrutiny committee or the full Council have resolved that an item be considered by Cabinet.
  - c. The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Legal Officer to call such a meeting in pursuance of their statutory duties.

- 28.2.5 The conduct of Cabinet meetings is at the discretion of the Chair and the following council procedure rules apply: 9, 10, 12.11, 16.1, 16.3, 16.6, 16.7, 16.8, 16.9, 16.10, 18, 19, 20, 21, 22.3-5, 23 and 24.

## **29. Overview and Scrutiny Procedure Rules**

### **Arrangements for Overview and Scrutiny Committee**

#### **Overview and Scrutiny Committee**

- 29.1 a The Council will have one Overview and Scrutiny Committee: It will perform all overview and scrutiny functions on behalf of the Council.
- b. The terms of reference of the Overview and Scrutiny Committee will be:
- i. the performance of all overview and scrutiny functions on behalf of the Council relating to the service areas specified in Article 6 (The Constitution, Part 2);
  - ii. To agree an annual overview and scrutiny work programme for the Overview and Scrutiny Committee in consultation with the Directors and Chief Legal Officer;
  - iii. To ensure that referrals from overview and scrutiny to the Cabinet, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits set out in this Constitution;
  - iv. in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.
  - v. To receive requests from the Cabinet and/or the full Council for reports from Overview and Scrutiny Committee.
  - vi. To call in decisions of the Cabinet, made but not implemented, where those decisions are within the scope of the Terms of Reference of the Overview and Scrutiny Committee.
  - vii. To review the performance of the Council's departments in delivering services which are relevant to the work of the Overview and Scrutiny Committee.
  - viii. To consider Scrutiny Reviews and make recommendations to the Cabinet and/or Council
  - ix. To appoint elected Members to the Review Groups.
  - x. The Overview and Scrutiny Committee is the Council's crime and disorder committee for the purposes of Section 19 Police and Justice Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.
  - xi. The committee can exercise its function in relation to the Charity Committee, a committee of the Cabinet.

#### **Membership of Overview and Scrutiny Committee**

- 29.2 There will be eleven members on the Overview and Scrutiny Committee. All councillors except members of the Cabinet, the Mayor and Deputy Mayor may be members of the Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

All members appointed to Overview and Scrutiny must commit to be trained in order to perform the specialist role required.

## **Co-optees**

- 29.3 The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

The Hastings and St Leonards Museum Association may appoint persons who are for the time being members of the Association to attend any meeting of an Overview and Scrutiny Committee at which the management of the Hastings Museum Collection is the subject of consideration. These members will be entitled to vote and to speak at the meeting on any question relating to the management of the Collection. The number appointed may be up to 40% of the size of the original Overview and Scrutiny Committee. (These members may not speak, other than at the invitation of the committee chair, or vote on any question other than one relating to the management of the Collection). Attendance by members of the Association at the Overview and Scrutiny Committee will not affect the continuing role of the Museums Committee.

(Reference: Statutory Instrument 2000 No. 2853)

## **Meetings of the Overview and Scrutiny Committee**

- 29.4 There shall be four formal regular public meetings of the Overview and Scrutiny Committee in each year.

There will also be up to five reserve dates for the committee in each year. These reserve dates are for work on policy development discussions, service reviews and training. If required, any of these reserve dates may be used as formal public meetings to deal with the call-in of a Cabinet decision under Rule 26.15 of this part of the constitution.

The decision to use a reserve date as a formal meeting must be taken by the Chair of the Overview and Scrutiny Committee, or by request from any three members of the committee or by the Chief Legal Officer if he/she considers it necessary.

## **Quorum**

- 29.5 The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **The Chair of Overview and Scrutiny Committee meetings**

- 29.6 The Council will appoint the Chair and Vice Chair of the Overview and Scrutiny Committee. Chair and Vice Chair may be minority party members. The rules of political balance will apply to these posts.

## **Work programme**

- 29.7 Shortly after Annual Council there will be an annual public meeting of the Overview and Scrutiny Committee to set a work programme for the overview and scrutiny function for the municipal year and to review the results of the previous year's work programme.

The Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

## Agenda items

- 29.8 Any member of the Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Legal Officer that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the Chief Legal Officer will ensure that it is included on the next available agenda.

The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and if they consider it appropriate, the Cabinet, to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting.

The Chair of a Best Value Project Group can refer that Best Value Review back to the Overview and Scrutiny Committee for further consideration at any point in the Review.

## Policy review and development

- 29.9 a The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c. The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration. The Cabinet is required to meet reasonable requests for funding. Funding should be used for specific activities in support of the functions outlined in the Terms of reference for the Overview and Scrutiny Committee.

## Reports from the Overview and Scrutiny Committee

- 29.10 a Once it has formed recommendations on proposals, the Overview and Scrutiny Committee will prepare a formal report and submit it for consideration by the Cabinet if it is a Cabinet matter. If it is a matter for Council then the Cabinet will be invited to comment before the report goes before the Council.
- b. If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- c. Where the final outcome of a Best Value Review is reported to the Overview and Scrutiny Committee, the Director of that service may produce an Officer response for consideration by Members.
- d. The Council or Cabinet shall consider the report of the Overview and Scrutiny Committee at the next available meeting.

## **Forward Plan**

- 29.11 The Overview and Scrutiny Committee will have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation.

## **Rights of Overview and Scrutiny Committee members to documents**

- 29.12 a In addition to their rights as councillors, members of the Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- b. Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **Members and Officers giving account**

- 29.13 a The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet or one or more of the Directors to attend before it to explain in relation to matters within their remit:
- i. any particular decision or series of decisions;
  - ii. the extent to which the actions taken implement Council policy; and/or
  - iii. their performance
- and it is the duty of those persons to attend if so required.
- b. Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chair of that committee will inform the Chief Legal Officer. The Chief Legal Officer shall inform the member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that report.
- c. Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee, shall in consultation with the member or officer, arrange an alternative date for attendance or for an alternative officer to attend.

## **Attendance by others**

- 29.14 The Overview and Scrutiny Committee may invite people other than those people referred to in Rule 29.13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance cannot be made compulsory.

At each programmed meeting of the Overview and Scrutiny Committee, the appropriate Cabinet Members may be questioned by members of that Committee on key issues and

respond to questions on those issues. If any members of that Committee wish to question a Cabinet Member on a particular issue, it may be helpful to provide the question in advance.

For the purposes of completing service reviews and policy development, any member may be invited by the Chair of the Overview and Scrutiny to participate, although all decisions and reports will be the responsibility of the members appointed to the Overview and Scrutiny Committee by Annual Council.

## Call-in

29.15 Call-in should only be used in exceptional circumstances.

- a. When a decision is made by the Cabinet, a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale.
- b. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days after the publication of the decision, unless the Overview and Scrutiny Committee objects to it and calls it in.
- c. During that period, the Chief Legal Officer shall call-in a decision for scrutiny by the committee if so requested by the chair or any two members of the relevant committee, and shall then notify the decision-taker of the call-in. The meeting will be held within eight working days, where possible after consultation with the chair of the committee.
- d. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. On receipt of the response from the Overview and Scrutiny Committee the Cabinet or Council may decide to proceed with the original decision or make an amended decision.
- e. If, following an objection to the decision, the Overview and Scrutiny Committee does not meet within eight working days of the decision to call-in or does meet but does not refer the matter back to the Cabinet, the decision shall take effect on the expiry of the period, or the date of the overview and scrutiny meeting, whichever is the earlier.
- f. If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the Cabinet, together with the Council's views on the decision. The Cabinet shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- g. If the Council does not meet, or if it does but does not refer the decision back to the Cabinet, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## Exceptions

In order to ensure that call-in is not abused, nor causes unreasonable delay, a written request signed by the Chair or any two members of the Overview and Scrutiny Committee is needed for a decision to be called in. The notice shall specify which part or parts of the decision is/are called in and the reason why it/they should be referred to the committee for consideration.

## Call-In and Urgency

- h. The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

## The Party Whip

- 29.16 The Party Whip is defined here as any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner. Government guidance says that the party whip should not apply on Overview and Scrutiny Committee.

## Procedure at Overview and Scrutiny Committee meetings

- 29.17a The Overview and Scrutiny Committee shall consider the following business:

- i. minutes of the last meeting;
- ii. declarations of interest (including whipping declarations);
- iii. consideration of any matter referred to the committee for a decision in relation to call in of a decision;
- iv. responses of the Cabinet to reports of the Overview and Scrutiny Committee;
- v. the business otherwise set out on the agenda for the meeting.

- b. Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:

- i. that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii. that those assisting the committee by giving evidence be treated with respect and courtesy; and
- iii. that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- c. Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.



## Matters within the remit of Overview and Scrutiny

### Councillor Call for Action (CCFA)

- 29.18 Ward councillors have the power to request a debate and discussion at the Overview and Scrutiny Committee on the subject of neighbourhood concern. The powers are limited to single issues affecting the councillor's ward and are there as a longstop when all other attempts at a resolution have failed. The matter must be a local government matter for which the Overview and Scrutiny Committee has a responsibility, relate to the councillor's ward and not be excluded.

Excluded matters are:

- a. matters relating to a planning or licensing decision;
- b. a matter relating to an individual or entity in respect of which that individual or entity has recourse to a right of appeal conferred by legislation;
- c. any matter which is vexatious, discriminatory or unreasonable.

- 29.19 The process for the consideration of requests is that the ward councillor submits the request by e-mail to [democraticservices@hastings.gov.uk](mailto:democraticservices@hastings.gov.uk). The ward member must specify the exact nature of the issue, what steps have already been taken to resolve it, how the Overview and Scrutiny Committee can assist and what a successful resolution might be. Relevant officers would be requested to comment before consideration of the request by the Chair and Vice-Chair at an agenda planning meeting. The agenda planning meeting would consider whether the matter was appropriate for reference to the Overview and Scrutiny Committee. Having regard to the criteria and exclusions set out in Rule 29.18 where it is decided not to be appropriate to refer the matter to the agenda planning meeting reasons for refusal shall be provided in writing.

- 29.20 At a meeting of the Overview and Scrutiny Committee to consider the matter, the ward member is entitled to address the Committee to present the call for action. Relevant Lead members, officers and partner organisations, where appropriate, will be invited to attend and contribute. The Committee will explore the potential options for resolution and decide on their recommendation for certain action. The Committee might consider any delegated decision making powers the ward member may have and representations from the ward member on why it would be appropriate for the Committee to exercise its powers as Overview and Scrutiny Committee. The Committee will direct its recommendation to the Cabinet or the relevant committee of the Council, or relevant Assistant Director where there is a delegation to officers. The Cabinet, committee, or relevant Assistant Director, in question, is required to report back to the Overview and Scrutiny Committee on actions taken as a result of the reference or the reasons for not taking action. If it decides not to take any action, the Committee shall notify the member of its decision and the reasons for the decision.

- 29.21 Where the Committee makes recommendations to the Council it must provide a copy of the report to:
- a. the member who referred the matter; and
  - b. such of the responsible authorities and co-operating persons and bodies as it shall think appropriate.

When notifying those authorities, persons or bodies of the report recommendations the Committee shall inform them that they are required:

- a. to consider the report and recommendations;

- b. respond indicating what action is proposed; and
- c. have regard to the report or recommendations in exercising their functions.

## **30. Officer Employment Procedure Rules**

### **Introduction**

- 30.1 These rules are intended to give effect to the provisions of the Local Authorities (Standing Orders)(England) Regulations 2001, as amended, and will form the standing orders prescribed regarding employment matters. These rules take effect subject to the provisions of those Regulations.

### **Interpretation**

- 30.2 For the purposes of these rules the following meanings apply:-  
“Head of Paid Service” means the Director of Corporate Resources & Governance
- 30.3 “Chief Officer” means the Directors.

### **Recruitment and appointment**

- 30.4 Declarations
- i. The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing member or officer of the Council; or of the partner of such persons.
  - ii. No candidate related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- b. Seeking support for appointment.
- i. The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - ii. No Councillor will seek support for any person for any appointment with the Council.

### **Recruitment of Head of Paid Service and Chief Officers**

- 30.5 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
- a. draw up a statement specifying:
    - i. the duties of the officer concerned; and
    - ii. any qualifications or qualities to be sought in the person to be appointed;

- b. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c. make arrangements for a copy of the statement mentioned in Rule 30.4a to be sent to any person on request.

## **Appointment of Head of Paid Service**

- 30.6 a The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee of the Council. That Committee must include at least one member of the Cabinet.
- b. The full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

## **Appointment of Chief Officers**

- 30.7 a The Employment Committee of the Council will appoint chief officers of the Council. It must be advised by the Head of Paid Service.
- b. The Committee will not confirm such an appointment if a well-founded objection has been made by any member of the Cabinet or the Head of Paid Service until it has heard the objection.

## **Other appointments**

### **Officers other than Assistants to Political Groups**

- 30.8 a Appointment of officers other than the Head of Paid Service or Chief Officers is the responsibility of the Head of Paid Service or his/her nominee.

### **Assistants to Political Groups**

- b. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **Disciplinary action**

- 30.9 (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.

## **31. Procedural Appendices**

**Minute's Silence at**

**Council Meetings**

**Honorary Freedom of the**

**Borough**

## **Appendix 1**

### **Protocol – Minute's Silence at Council Meetings**

A minutes silence will be held at the next meeting of Full Council following the death of:

- a. A current member of the Council or one who left office within the preceding 4 years.
- b. Former Mayor of the Borough.
- c. Former MP for Hastings and Rye
- d. Member of the Order of 1066
- e. Freeman/woman of Borough
- f. The Monarch or a significant member of the Royal Family.
- g. Any other person who has made a significant contribution to the Borough and its residents, or to the UK as determined by the Mayor in consultation with leaders of all political groups represented on the Council.
- h. A minute's silence will be held at the next meeting of Full Council following a local, national or international disaster, as determined by the Mayor in consultation with leaders of all political groups represented on the Council.

**Where any of the above has been convicted of a criminal penalty, or brought his or herself or office into disrepute the Mayor in consultation with leaders of all political groups represented on the Council may decide to withhold this tribute.**

## Appendix 2

# HONORARY FREEDOM OF THE BOROUGH

## Introduction

1. The Borough Council has power to admit individuals as freemen of the Borough and this is set out in Section 249(5) Local Government Act 1972:-

“the Council of a ....district having the status of a ...borough ...may, by resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the....borough....persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the...borough, but the admission of a person to be an honorary freeman shall not confer on him any such rights as are referred to in Section 248(4) above.”

2. The legislation goes on to provide that the council may spend “such reasonable sum as they think fit for the purposes of presenting an address or casket containing an address to a person upon whom they have conferred the title...”.

3. The title is entirely honorary – there are no rights or privileges arising from the award - and the Council's powers to spend are strictly limited by the section.

## Motion to bestow the Freedom of the Borough

4. In most cases the consideration of the Council admitting a person to the freedom of the Borough will result from a motion to Council.

5. Under the Constitution a motion, which is required to be considered by Council, would normally be included on the agenda of the next ordinary meeting of the Council. The Act, however, refers to meeting of the council specially convened for the purpose.

6. The honour has been bestowed by the Borough on just four occasions since 1972. The individuals honoured and the reasons why the Council considered them as persons of distinction or persons who have, in the opinion of the Council, rendered eminent services to the Borough are as follows:-

1978 William Henry Dyer. For services to the town's old people and encouraging interest in local history.

1986 Victor James Pain. For 60 years work for the Borough of Hastings and as Leader of the Council.

2006 Pam Brown OBE

2008 47 Royal Artillery Regiment. In recognition of the great debt owed to the armed forces, serving at home and abroad.

2011 Michael Foster Member of Parliament for Hastings and Rye.

2016 Maureen Charlesworth. For services as a local Councillor and to voluntary organisations in the Town.



7. The admission to the Freedom of the Borough is an honour that is not to be given lightly, as witnessed by the small number of admissions to the freedom since the introduction of the power and the need for a two-thirds majority of the Council voting thereon at the meeting. Whilst there has been one admission to a group in 2008, the members considering this procedure note considered that the freedom was more appropriate as a means of honouring individuals of distinction.
8. It is important that, if a motion to admit to the freedom is to be considered, that all members will be in possession of sufficient facts in order to make a decision as to whether the honour should be given. Furthermore, there may be instances where there are strongly held views for and against and that these need to be addressed as far as possible in advance of an extraordinary Council meeting called for the purpose. So far as possible Council would want to be meeting with the clear consensus that the person of distinction is to be honoured and not humiliated by the proceedings. A unanimous decision is desirable, but the absence of unanimity cannot prevent the motion coming forward for consideration by Council.

### **Criteria for admission to Freedom of the Borough**

9. It is in the interests of transparency and public confidence that the Council adopts clear criteria for admission to the freedom of the Borough. It is suggested that one or more of the following are used at the criteria for the award:-
  - evidence of exceptional service to the Borough Council whether as a member or an officer;
  - evidence of exceptional charitable service to the Borough, whether a national or locally based charity;
  - evidence of exceptional voluntary service to the Borough or any part of it or community within it;
  - evidence of exceptional commercial service to the Borough;
  - evidence of exceptional service to the public services working for the residents and businesses of the Borough;
  - evidence of exceptional service to the Borough or the nation

### **Procedure on receipt of a motion to admit to the Freedom of the Borough**

10. On receipt of the motion, the Chief Legal Officer will ask the proposer to provide full reasons why the person is considered:
  - a person of distinction; or
  - a person who has rendered eminent services to the Borough
11. When in possession of sufficient information, the Chief Legal Officer will convene a panel of the leaders of the political groups on the Council or their nominees, with relevant officers (the Freedom Panel) to consider:
  - whether they have sufficient information on which to form a view and, if not, to instruct officers to seek further information;
  - once satisfied that they have adequate information, whether there is sufficient support for the matter to go to full Council for decision.

12. In the event that the Freedom panel concludes that it is unlikely that the motion would receive sufficient support, the Chief Legal Officer will advise the proposer of the motion of this conclusion and the reasons for reaching that conclusion. The member would then be given the opportunity to withdraw the motion, though the member would still be entitled to have his/her motion considered by Council.
13. Should the Freedom Panel conclude that there would be likely to be a two thirds majority voting in favour of the motion, the Chief Legal officer will convene an extraordinary meeting of the Council specifically for the consideration of the one item of business. The timing of the meeting will be such as, so far as it practicable, to meet the availability of the individual concerned to attend and to concord with the Council's diary commitments.
14. The subject of the motion will be invited to attend the extraordinary meeting of Council where the motion is to be considered.
15. At the extraordinary meeting of Council, there will be only the one item of business and Officers will present a report setting out the matters considered by the Panel and the recommendation of the Panel to Council to approve the motion.
16. The Mayor will take a vote on the motion and a two-thirds majority of those present and voting is required.

(Note: abstentions do not count as a vote and the required majority will be deduced from the number of members actually voting on the item).

Then the Mayor will then immediately close the meeting.

17. The ceremonial award of the Freedom with scroll or casket will take place at Annual Council as part of the incoming Mayor's announcements and the new Freeman/woman would be given the opportunity to make a short speech (5 minutes) in response.

# **Hastings Borough Council**

## **Planning Protocol**

# Hastings Borough Council

## Planning Protocol

### Introduction

1. This Protocol replaces and updates that which was adopted by Council on 18<sup>th</sup> December 2013.
2. Planning has a positive and proactive role to play at the heart of local government. The planning system works best when Councillors, officers and all other parties essential to its effective operation clearly understand their roles and responsibilities and the context and constraints in which they operate. The purpose of this Protocol is to give clear guidance to Councillors about how they should carry out their duties in relation to planning and development proposals. This Protocol seeks to ensure openness, transparency, fairness and consistency in planning decisions and to ensure that the planning process operates properly, legally and effectively. Planning decisions should be made openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
3. Planning decisions involve balancing:
  - a. the needs and interests of individual constituents and the community, with
  - b. the need to maintain an ethic of impartial decision making on what can be highly controversial proposals.

This Protocol provides guidance on achieving this balance. It reflects the enhanced role for Councillors as champions of their local communities and recognises their ability to participate in discussions prior to the receipt of a planning application on behalf of their communities. Councillors may be contacted by members of the public and asked to advise them how to make representations on planning applications or if they would address the Planning Committee on their behalf in their role as Ward Councillor. This Protocol provides guidance on the role of Councillors and how to avoid predetermination or bias in decision making.

4. This Protocol applies to Councillors at all times when involved in the planning process. This includes taking part in decision making meetings of the Planning Committee, or when involved on less formal occasions, such as meetings with officers or the public. It applies equally to planning enforcement matters or the making of compulsory purchase orders.
5. If in any doubt about the application of this Protocol, take immediate advice from the Monitoring Officer or Deputy Monitoring Officer, preferably well before any meeting takes place.

### The Relationship to the Council's Code of Conduct for Councillors

6. This Protocol is a Council Protocol under Part 5 of the Constitution of the Council. Breach of this Protocol could lead to a complaint being made to the Council's Standards Committee.

7. This Protocol supplements the Council's Code of Conduct for Councillors (the Code). It is unlikely that there will be any conflict between the two but, if there is, the provisions of the general Code of Conduct will take precedence.
8. Councillors must apply both the general Code of Conduct and this Protocol in dealing with all planning issues. Failure to do so may place the Council at risk of legal challenge or a finding of maladministration by the Local Government Ombudsman.

## **The General Role and Conduct of Councillors and Officers**

9. Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Councillors and the Council and carry out the Council's work. They are employed by the Council, not by individual Councillors. It follows that instructions may only be given to officers through a decision of the Council or its Cabinet or a Committee. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust which it underpins, must never be abused or compromised.
10. The Code sets out the requirements on Councillors in relation to their conduct. It covers issues central to the preservation of an ethical approach to Council business, including the need to register and declare interests, as well as appropriate relationships with other Councillors, staff and the public.
11. In planning terms there is a presumption in favour of sustainable development which must be balanced with that of the wider interest. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Councillors should take account of these views, all Planning Committee members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
12. The Council's Standing Instructions to Authorised Officers (Part 8 of the Constitution of the Council) sets out the functions and responsibilities in respect of Planning and lists the circumstances under which applications as specified in Part 3b paragraph 43 of the Standing Instructions are determined by the Planning Committee and not under delegated authority including (but not limited to) where:
  - (a) The application has attracted five or more letters of objection from different households or businesses, or a petition as defined in Standing Orders, or
  - (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.

## **Gifts or Hospitality**

13. Councillors shall not accept gifts or hospitality from developers or from any person involved in or affected by a planning proposal, including pre-application proposals. A gift or hospitality might be considered to influence a Councillor's judgment and it is important that there can be no justifiable grounds for suggesting a decision either has been, or appears to have been, influenced or biased in any way. The Code, in any event, requires that the Councillor must within 28 days of receiving any gift or hospitality over the value of £50, provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality. A gift over £50 will constitute a personal interest and be registerable as such. All details will go on the register of gifts and hospitality, which is open to public inspection and will remain on the register for 3 years. Councillors must consider whether any gift or hospitality over the value of £50 constitutes a prejudicial interest.

## **Registration and Declaration of Interests**

14. The Local Government Act 2000 and the national code place requirements on Councillors on the registration and declaration of their interests, as well as the consequences for the Councillor's participation in consideration of an issue, in the light of those interests.
15. Both Councillors and Officers are required to observe codes of conduct and statutory provisions; the aim of which is to ensure the integrity of the Council and individual Councillors. These require the open disclosure of any personal and/or prejudicial interests in issues being considered by the Council, its Cabinet or any of its Committees. The Code requires that Councillors register their financial or other interests in the Register of Members' Interests held by the Monitoring Officer. This is in addition to the requirement for Councillors to declare any personal interests as defined in the Code. If a Councillor has a personal interest, they should consider whether that interest is prejudicial as defined in the Code.
16. The Council's Monitoring Officer has provided all Members with detailed guidance on the Code and in particular, declaration of interests. This is regularly updated. Members of the Planning Committee must ensure they are familiar with the Code. The requirements must be followed scrupulously and Councillors should review their situation regularly. It is the personal responsibility of individual Members to ensure they comply with the Code and make all appropriate declarations at Planning Committee meetings. Members should take advice early, from the Monitoring Officer or the Deputy Monitoring Officer, and preferably well before any meeting takes place, if they are in any doubt as to their position.
17. The provisions of the Code are an attempt to separate out interests arising from the personal and private interests of the Councillor and those arising from the Councillor's wider public life.
18. The Register of Members' Interests is maintained by the Monitoring Officer and is available for public inspection. An interest can either be personal, prejudicial or pecuniary. The Code defines these terms and should be referred to for the appropriate detail. If Councillors have an interest in any matter, they must disclose the existence and nature of their interest at any relevant meeting, including informal meetings or discussions with Officers and other Councillors. Councillors are advised to disclose their interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. Councillors can still declare an interest which only comes to mind or light after declarations of interest have been considered on the agenda at any point prior to discussion of that particular matter. The obligation to

disclose the existence and nature of an interest applies to **all Councillors attending the Planning Committee meeting, whether sitting as a Member of the Planning Committee or as a Councillor addressing the Planning Committee or sitting in the public gallery**. The responsibility rests with individual Councillors to ensure that they indicate to the Chair that they have an interest to declare.

19. Where a Councillor has a personal interest in a matter they must always declare the existence and nature of their interest. They can participate in the discussion and be involved in making the decision.
20. If a Councillor has both a personal and prejudicial interest in a matter they must always declare the existence and nature of their interest. They cannot participate in any discussion or be involved in making the decision, either formally or informally and must not seek to influence the decision in any way. They must withdraw from the room during discussion of the matter and cannot remain even as a member of the public. This applies to all Members with a prejudicial interest regardless of whether they are members of the Planning Committee, which is making the decision. A prejudicial interest would require withdrawal of the Councillor from the Committee during consideration of that item.
21. If in any doubt about Registration and Declaration of Interests, take immediate advice from the Monitoring Officer or Deputy Monitoring Officer.

### **Predetermination, Predisposition or Bias**

22. In addition to declaring personal or prejudicial interests, members of a Planning Committee need to avoid any appearance of bias or of having predetermined their view before taking a decision on a planning application. A useful test to determine whether a position or view could be considered to be biased is to think about whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias. Predetermination goes beyond predisposition and essentially evades the process of weighing and balancing relevant factors and taking into account other viewpoints.
23. Section 25 of the Localism Act 2011 introduced provisions for dealing with allegations of bias or pre-determination where the Councillor had or appeared to have a closed mind when making the decision. The Councillor is considered not to have a closed mind "just because" they had previously done anything relevant to the decision, that directly or indirectly, indicated what view the Councillor took, or would or might take, in relation to a planning decision.
24. The fact that a Councillor may have campaigned for or against a proposal does not automatically mean that they have a closed mind. Councillors will need to be careful to consider, and ensure that it is apparent that they have considered, all relevant considerations and made their decision in accordance with their statutory duty. Councillors must be prepared to change their view right up to the point of making the decision. Councillors can listen to applicants and objectors, and indicate their view, but must not be biased in their consideration of the issues. Councillors can support or oppose an application and represent the views of their constituents in their role as a Ward Councillor. To do so as a Planning Committee Member MIGHT compromise their role on the Committee and Councillors are advised to seek advice from the Monitoring Officer or Deputy Monitoring Officer.

## **Predisposition**

25. A distinction is drawn by the Courts between a Councillor having clearly expressed an intention to vote in a particular way before a meeting (pre-determination) and a predisposition to an initial view. Where the Councillor is clear they have an open mind and are willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote, there is no predetermination.

## **Predetermination**

26. If a Planning Committee Member has been lobbied by friends or others and wishes to promote or oppose a planning application, they will need to carefully consider whether this has become a personal interest or not. In addition, they also need to consider if their view is likely to be regarded as predetermined. In other words whether they have already made up their mind and are not prepared to listen to the material considerations presented at the Planning Committee before making their decision. If a Councillor has predetermined their position they should not take part in the decision making for that application as to do so will be a breach of the Code of Conduct and leave the decision open to legal challenge by way of judicial review.

## **Bias**

27. Councillors should not participate in the consideration of a planning application if to do so would give the appearance of bias. The test for bias is: "Would the fair-minded observer, knowing the background, consider that there was a real possibility of bias?" It is not the Councillor's view of whether they are biased that is relevant but the view of the independent observer. Perception is important and can lead to judicial challenge in the High Court. If a Councillor believes that their participation would lead a fair-minded observer to consider that there is a real possibility of bias, they should not participate in making the decision and should withdraw from the room. The Courts have held that it is primarily a matter for the Councillor to judge whether to withdraw, but given the scope for challenge the Councillor should always err on the side of caution. Whilst not every application will raise the question of bias, there will be occasions when a member of the public in possession of all the facts might consider that there is a real risk of bias. In these circumstances, the Councillor should seek the advice of the Monitoring Officer or Deputy Monitoring Officer.
28. Councillors do not have to have a personal interest in order to come within the definition of bias. There may not be specific consequences for the Councillor who has failed to acknowledge and respond to their bias, as opposed to failing to declare a personal or prejudicial interest under the Code. Councillors must be aware that in failing to consider the issue of bias there are consequences for the decision, which may be challenged on the grounds of bias in the High Court.
29. If in any doubt about the issue of bias, take immediate advice from the Monitoring Officer or Deputy Monitoring Officer.

## **Development Proposals Submitted by Councillors and Council Development**

30. Planning applications submitted by the Council are considered by the Planning Committee in a public meeting rather than by Officers under delegated authority in accordance with the Council's Standing Instructions to Authorised Officers.
31. Planning applications submitted by Councillors can easily give rise to suspicion of impropriety. Whilst it is perfectly legitimate for such proposals to be submitted it is vital to ensure they are handled in such a way that gives no grounds for



accusations of favouritism. All proposals submitted by Councillors are for this reason determined by the Planning Committee. Current Councillors who submit their own proposals or act as agents for people pursuing planning matters, should not play any part in the decision making process for those proposals.

32. The consideration of a proposal from a Councillor in such circumstances would be considered as a prejudicial interest under the Code, and as such the Councillor would be required to withdraw from any consideration of the matter. The Code also provides that the Councillor should “not seek improperly to influence a decision about the matter”. It is important to emphasise that “improperly” does not imply that a Councillor should have any fewer rights than a member of the public seeking to explain and justify their proposal to an officer in advance of consideration by a Committee.
33. A Councillor submitting a planning application has a prejudicial interest but may address the Planning Committee where members of the public enjoy the same public speaking rights i.e. as the applicant. The Councillor should consider whether it would be wise to address the Planning Committee given all the circumstances of the case, which could include the nature of the prejudicial interest and the relationship of the Councillor with the remainder of the Planning Committee. If the Councillor as an applicant decides to address the Planning Committee they must leave the room once they have made their presentation.

## **Lobbying of and by Councillors**

34. Lobbying of Councillors for or against proposals is a normal part of the planning process. Those who may be affected by a planning decision will often seek to influence it by approaching their elected Ward Councillor or a Member of the Planning Committee. Lobbying can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.
35. It is important in maintaining the integrity of individual Councillors and the Council as a whole that Members of the Planning Committee (or Members who may end up acting as substitutes on the Planning Committee) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, Councillors should:-
  - a. If lobbied, explain that, whilst they can listen to/receive viewpoints from residents or other interested parties, they cannot decide or indicate before the relevant Planning Committee meeting which way they intend to vote as it would prejudice their impartiality. They should also explain that it is necessary for them to hear all the arguments both for and against the proposal before making up their mind.
  - b. Avoid giving members of the public planning advice except in relation to general planning procedures and often it may be wise to direct any such request to an appropriate Planning Officer.
  - c. If approached by residents or other interested parties, they should be referred to the appropriate Planning Officer in order that advice can be given and their opinions can be included in the Officers report to the Planning Committee. Copies of any correspondence or other written material received by a Member should be forwarded to the Planning Officer without delay.
36. Councillors should be aware of the need to act fairly and without bias towards every application. Councillors must keep an open mind upon an issue upon which they will be asked to vote, up until the moment that they vote upon it. Failure to keep an open

mind may result in an application for judicial review of the decision reached. Any interested party may apply for judicial review of a planning decision. One of the grounds being that a Councillor who voted in favour of the decision to approve or refuse the application had approached the issue with a closed mind, and so had failed to take all relevant considerations into account. Failure to maintain an open mind may invalidate the entire decision-making process.

## **Pre-application Discussions**

37. Discussions between a potential applicant and Hastings Borough Council prior to the submission of an application can be of considerable benefit to both parties.
38. With the recognition of the need to allow and encourage Councillors to be champions of their local communities it is now accepted that Lead Councillor and Ward Councillor engagement in pre-application discussions on major development is necessary to allow Councillors to fulfill this role. Councils have not previously involved Councillors in pre-application discussions for fear of them being accused of predetermination when the subsequent planning application came before the Planning Committee for determination. In order to avoid perceptions that Councillors might have fettered their discretion in any pre-application discussions, all Councillors should enter into such discussions within clear guidelines, and include:
  - a. Clarity at the outset that any discussions will not bind the Council to make a particular decision and that any views expressed are personal and provisional.
  - b. Advice given by Officers should be consistent and based on the Development Plan and material considerations. Officers should be present where practicable when Councillors attend any pre-application discussions. Councillors should not become drawn into any negotiations and should ask Officers to deal with any necessary negotiations to ensure that the Council's position is co-ordinated. Councillors should complete the form at Appendix 1 following any pre-application discussion which will be attached to the Planning file in the interests of openness and transparency.
  - c. Pre-application discussions should be arranged by Officers where practicable. A written note should be made by Officers of all meetings and the matters discussed should be confirmed by letter which should be placed on the file as a matter of public record. If there is a legitimate reason for confidentiality regarding the proposal, a note of the non-confidential issue raised, or advice given, should be recorded on the file in the normal manner.
39. If Councillors are invited to, or asked to arrange, a formal meeting with applicants, developers or groups of objectors (for instance, residents' associations) or supporters, they should inform the case officer dealing with the application. This applies to meetings at all stages of the planning process, including the pre-application stage.

## **Presentations of Development Proposals**

40. The Council does, on occasion, allow presentations of development proposals. Presentations are to keep Councillors informed generally on matters, which appear to have or are likely to have strategic importance for the Borough. Presentations will not be allowed in relation to any matter which is the subject of a current planning application to the Council. At such presentations Councillors must try to maintain an impartial role, listening to what is said and asking appropriate questions but not expressing a fixed opinion, and keeping an open mind on the issues at all times. This

applies to pre-application public consultation meetings arranged by Developers in accordance with the Council's Statement of Community Involvement.

## **Pre-Application Consultation Forum**

41. The Council has introduced a Pre-Application Consultation Forum to consider significant major developments, prior to them being submitted as planning applications. Significant development proposals are defined as residential schemes of 30 units or more, employment/industrial scheme of 5,000 m<sup>2</sup> or more, retail schemes of 2,500 m<sup>2</sup> or more and leisure schemes of 1,000 m<sup>2</sup> or more. The Council reserves the right to seek wider community involvement on other applications which do not fall within these thresholds if they consider that they are likely to be particularly sensitive or will have a very significant impact on the local community.
42. A Forum is a meeting held in public where a developer is able to explain proposals directly to Councillors, the public and key stakeholders at an early stage about a development site. The purpose of the Forum is to:-
  - a. enable the developer to explain development proposals directly to Councillors, the public and key stakeholders at an early stage.
  - b. identify any issues that may be considered in any formal application.
  - c. inform Councillors and the public of a development proposal at an early stage in the pre-application process.
  - d. inform officer pre-application discussions with the developer.
  - e. enable the developer to shape an application to address community issues.
43. The Chair of the Forum is the relevant Lead Member or their nominated substitute, who is not a member of the Planning Committee, who will introduce the Forum and explain who is going to speak. The planning officer will provide a background to the proposal. The developer explains the proposal (this may involve contributions from several people). Those persons specified in paragraph 44, then have the opportunity to speak and raise any issues, observations and comments. The developer has an opportunity to respond to what has been said by invited speakers. Councillors present at the Forum may ask questions of the developer. The planning officer summarises the main points raised during the Forum, which is then closed by the Chair of the Forum
44. Forum meetings will be held in public, but only those invited to speak on behalf of recognised key stakeholder groups will be able to raise issues at the Forum. Groups invited to ask questions and express their views at the Forum will be restricted to properly constituted residents' groups covering the area of the proposed development, traders' groups for the immediate area, local campaign groups that have emerged specifically to comment on the development (only one of this type of group will be allowed to ask questions although more than one representation may be received) and properly constituted Borough wide bodies which could include business organisations.
45. Properly constituted is defined as those groups with a published constitution, has an open membership and a democratic election of officers. In addition, registered social landlords will be allowed to ask questions. Individuals do not have an automatic right to speak at the Forum unless invited to do so. Attendees can then make written comments to officers who will forward any comments received to developers. The Forum will not affect any rights to make representations when a formal planning

application is submitted. All Councillors are invited to attend the Forum, including those who are on the Planning Committee.

46. After the Forum, the main points will be recorded and passed to the developer for their consideration during further pre-application discussions with officers and in putting the application together. A copy will be passed to all interested parties and placed on the planning application file. The Planning Committee will in due course consider an application based on the facts, issues and advice and nothing said at the Forum will prejudice that consideration.

## **Chair's Briefings**

47. The purpose of Chair's Briefings will be to brief the Chair and Vice Chair on applications to be brought to the next meeting of the Planning Committee. The purpose of the Briefing is for Officers to explain the forthcoming agenda, consider whether a site visit is required in respect of a particular application and consider administrative arrangements. Chair's Briefings are not to discuss the planning merits of the application or to make decisions.

## **Officer Reports to Committee**

48. All matters requiring a decision by the Planning Committee should be the subject of a written report from Officers, which should be accurate and cover all relevant planning issues. In particular, it should include a clear outline of the site history, the relevant development plan policies, the response of consultees and the nature of objections (electronic links to objection letters and correspondence will be provided to Councillors prior to the Planning Committee Meeting). The report shall include a clear recommendation with a technical appraisal justifying it. Any objections or other relevant issues arising after the report is published shall be reported verbally to the Planning Committee at the meeting. Councillors shall not put improper pressure on Officers to make a particular recommendation and should not do anything which compromises, or is likely to compromise, the officers' impartiality.
49. The Courts and Ombudsman have advised that officer reports on planning applications must have regard to the following points:
  - a. Reports should be accurate and cover the substance of any objections and the views of those consulted.
  - b. Relevant information should include a clear exposition of the Development Plan; relevant parts of the National Planning Policy Framework (NPPF); site or related history; and any other material considerations.
  - c. Reports should have a written recommendation of action. Oral reporting (except to update a report) should be avoided and carefully minuted when it does occur.
  - d. Reports should contain technical appraisal which clearly justify a recommendation.
  - e. If the reports recommendation is contrary to the provisions of the Development Plan, the material considerations which justify the departure must be clearly stated.
  - f. Any oral updates or changes to the Report should be recorded.
50. It is important that the report covers these points, not only as a matter of good practice, but because failure may constitute maladministration or give rise to judicial review on the grounds that the decision was not taken in accordance with the Development Plan

and the Council's statutory duty under Section 38A of the Planning and Compulsory Purchase Act 2004 (see paragraph 66 below).

51. Officers must always act openly and impartially and provide consistent professional advice, in accordance with the rules of their professional body, based on planning policies and procedures, ensuring Councillors are aware of all relevant material planning considerations before decisions are made.
52. Councillors shall give due regard to recommendations and professional advice given by Officers. Councillors are not bound to follow recommendations or advice received, but may depart from this where there is justification to do so, based on clear and legitimate planning grounds which must be recorded in full when making the decision having regard to the relevant planning policy where appropriate.

### **Chair / Vice Chair**

53. In cases where the Chair or Vice Chair is not available to Chair the meeting (or part of), the Legal Officer will ask for a nomination for Chair for the duration of the meeting (or part of). The nomination must be of a permanent member of the Planning Committee and not a substitute.

### **Public Speaking at Planning Committee**

54. Members of the Planning Committee shall not allow members of the public to discuss planning applications with them during the course of the Meeting itself other than through the procedure for public speaking. The procedure for public speaking set out below does not apply to the Pre-Application Consultation Forum.
55. All planning matters will be considered in public session, unless there are specific reasons for dealing with an item as exempt under the provisions of the Local Government Act 1972 (as amended) in which case the public will be asked to leave the room. Whilst this will be rarely exercised it may be necessary for example in consideration of enforcement matters.

### **Petitions**

56. The procedures for public speaking allow members of the public to address the Planning Committee where a petition of objection is received **at least three clear working days** before the Planning Committee considering the item is due to sit. A standard form of petition is available to view on the Council's website. Petitions must contain a minimum of ten signatories. Each page of the petition must clearly state the planning application to which it is referring, giving the address and the reasons for the objection. Petitions must contain names, addresses and signatures. Petitions submitted must be the original document as photocopies are not accepted. Electronic petitions are not acceptable.
57. Where there is a petition against the proposed development the lead petitioner is invited to attend the Planning Committee meeting. Petitions should clearly state who the lead petitioner is and provide their full name and contact details. They (or their representative) will be invited to address the Planning Committee. Where the lead petitioner (or their representative) fails to attend the scheduled Planning Committee meeting the Chair will ask if there is anyone else present in the public gallery who wishes to address the Planning Committee on behalf of the petition. The applicant or their agent has a right to speak in response to the petition. Each person making representations may speak for up to a maximum of five minutes and may be asked

questions by Members of the Planning Committee.

58. The procedure for public speaking allows for an applicant (or their agent) and a petitioner to speak for and against the application respectively. If two petitions are received and petitioners are making similar points, the Chair (or Vice Chair in his/her absence) will exercise his/her discretion and preference will be given to petitions from the immediate locality of the neighbourhood. Where the petitions are making different points the Chair (or Vice Chair in his/her absence) may exercise his/her discretion and allow both petitioners to speak. Each person may speak for up to a maximum of five minutes. Where there are two petitioners, the applicant may speak for up to a maximum of ten minutes in the interests of natural justice.

### **Ward Councillors addressing the Planning Committee**

59. If a Ward Councillor wishes to address the Planning Committee about a matter in their ward being considered at the Planning Committee they should advise the Chair (or Vice Chair in his/her absence) and the Committee Administrator prior to the meeting itself and will be entitled to speak after the petitioner and applicant have addressed the Committee. Ward Councillors should comply with the procedure for declaration of interests if they speak at a Planning Committee meeting in the same way as members of the Committee. A Ward Councillor may address the Planning Committee for a maximum of five minutes but may not be asked questions by Members of the Planning Committee. County Councillors should direct any County related queries they have in respect of a planning application to East Sussex County Council. Where the Ward Councillor has a prejudicial interest they may only address the Planning Committee if they are the applicant or lead petitioner and must withdraw from the room once they have made their representations.

### **Submission of Documentation**

60. Documents must be submitted **at least three clear working days** before the Planning Committee meeting. For example if the Planning Committee was held on a Wednesday, documents should be received by the Council by 3pm on the previous Friday. Any late documents should not be circulated to the Planning Committee as all parties may not have time to react to the submissions, and members of the Planning Committee may not be able to give proper consideration to the matter. Officers may not be able to provide considered advice on any material considerations arising. This must be made clear to those who intend to speak. Members of the Planning Committee should not read emails or correspondence received after the deadline for submission of documents. The acceptance of circulated material could imply a willingness to take the necessary time to investigate any issues raised and lead to the need to defer the application or risk a complaint about the way the material has been considered. This care needs to be taken to avoid the perception of external influence or bias.

### **Decision Making**

61. A decision on a planning application must not be made before the Formal Planning Committee Meeting scheduled to determine the application. **Political group meetings shall not be held prior to a Committee Meeting**, as Group Meetings can give the appearance of bias. The fair-minded observer may perceive that Group Meetings behind closed doors are likely to affect the decisions of those Members attending. The holding of Group Meetings may therefore give rise to judicial challenge. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration by the Local Government Ombudsman. Councillors will be seated alphabetically and shall not sit according to their political groups in order to avoid the appearance of group decision-making. Section 38A of the

Planning and Compulsory Purchase Act 2004 requires that decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. If the Officer's report recommends a departure from the Development Plan the justification for this must be contained in the report. Such applications must be advertised in the local paper in advance of consideration by the Committee. Decisions must be made on planning merits and the reasons for making a decision should be clear and supported by material planning considerations. The reasons for refusing an application shall always be recorded, as should any conditions attached to an approval. If the Planning Committee wish to refuse an application contrary to Officer recommendations or impose additional planning conditions the reasons for doing either must be clearly stated when this is proposed.

62. Councillors are advised to take the following steps before making a decision which differs from the officer recommendation:
  - a. Discussing the areas of difference and the reasons for that with planning officers prior to the Planning Committee meeting.
  - b. Recording the detailed reasons as part of the mover's motion.
  - c. Adjourning for a few minutes for those reasons to be discussed with Officers advising the Planning Committee and then agreed by the Planning Committee.
63. If a Member of the Planning Committee proposes to refuse or grant an application contrary to the Officer recommendation, they should give justification for doing so, based on clear and legitimate planning reasons and having regard to the relevant planning policy where appropriate. Where Councillors are proposing to vote against the Officer recommendations, the Chair (or Vice Chair in his/her absence) shall make sure that the reasons are clearly stated before a vote is taken. These reasons must be recorded in the minutes if the officer recommendations are not agreed and a copy placed on the application file. The reasons given by Councillors should be clear, observe the principles of reasonableness, take into account all relevant information (i.e. material considerations) and ignore all irrelevant information (i.e. non material matters). The officer should be given the opportunity to explain the implications of the proposed decision.
64. Councillors must attend meetings with an open mind and shall demonstrate through their conduct at the meeting that they are giving careful, fair and balanced consideration to the applications under discussion. Councillors shall make a decision only after they have considered all the relevant information needed to make a decision.
65. Councillors shall not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including any petition, representations made by the applicant and the officer's introduction to the matter. Councillors who leave the room will be advised by the Chair (or Vice Chair in his/her absence) that they cannot vote or take any further part in the discussion. The rules of natural justice mean that planning applications should be determined in an open and fair manner taking account of relevant information and arguments. It is only at Planning Committee meetings that members of the Planning Committee will have, and be able to consider, all the relevant information and arguments about an application. Failure to take account of relevant considerations or to take account of irrelevant considerations is a ground for judicial review in the High Court.

## Site Visits

66. Site visits shall be organised by Officers of the Planning Department. All Members of the Planning Committee will be invited to attend the site visit. The site visit will be guided by the Planning Officer who will point out matters of material relevance to the application and answer Councillors' questions. Formal site visits by Members of the Planning Committee should be made only in exceptional circumstances. For example, where the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by Officers, where the proposal is particularly contentious and where the site cannot adequately be viewed from the road. A record shall be maintained of who attended the site visit and recorded in the minutes.
67. A site visit is not a meeting to discuss the planning merits of the application or to make decisions. The purpose of the inspection is to gather factual information about the site and visually assess the likely or actual impact of the proposal. It is not to debate the merits of the application or the Officers' recommendation. During the formal site visit detailed discussions and/or negotiations must not be conducted with the applicant or third parties by either Councillors or Officers. All discussion and debate should be undertaken at the Planning Committee meeting when the application is presented for formal consideration. Any arguments applicants or third parties wish to put forward can be heard at that stage through the public speaking arrangements. Councillors should be aware of the appearance of bias should they be seen in conversation with an applicant or objector.
68. Members of the Planning Committee are expected to attend the organised site visit. Councillors not attending an organised site visit must sit back from the table and not take part in debate and voting on the matter when it comes up for consideration.

## Deferred Applications

69. Applications may be deferred to a future meeting if there are valid reasons for doing so. Consideration must be given to the procedures for public speaking where petitioners and the applicant have addressed the Planning Committee at the previous meeting. There may be occasions when there are a number of petitioners raising different objections to the application and the applicant must have the chance to respond. A judgement has to be made whether it is in the interests of good decision making to re-hear all oral representations again or to restrict the Planning Committee to its constitution at the earlier meeting. That is a decision for the Chair at the Chair's Briefing (or Vice Chair in his/her absence). It may be necessary (in exceptional circumstances such as public disturbance) to adjourn the Planning Committee meeting and re-convene in another room.

## Substitutions

70. Substitutions have implications where applications are deferred from a previous Planning Committee meeting. Where the petitioner/s and applicant have previously addressed the Planning Committee and the application is deferred to another meeting, any Councillors substituting on the Planning Committee will not have heard all the representations which will form some part of the basis for the decision. Where the petitioner/s and applicant are given the opportunity to address the Committee a second time, there is not a problem with substitutes since the matter is heard afresh. Where applications are not deferred but a continuation of the earlier meeting no substitutions are permitted. Group Leaders/authorised persons should be informed where substitutions are not to be permitted on a particular item as soon as practicable after the Chair's Briefing. Where applications are deferred into a new municipal year the application may have to be considered afresh and petitioner/s and the applicant given



the opportunity to address the Planning Committee again if there is a change in membership of the Planning Committee.

## **Annual Review of Decisions**

71. On an annual basis, arrangements will be made for members of the Planning Committee to review a sample of implemented planning permissions to assess the quality of the decisions made. The Planning Services Manager will arrange for members of the Planning Committee to visit a number of sites where development is either completed or near to completion. As this is part of the continuing programme of training for members no decisions are taken during the visit. A record is kept of the sites visited but no record is kept of any discussions that take place. The Planning Committee will consider the review and decide whether it gave rise to the need to reconsider any policies or practices. Such a review should improve the quality and consistency of decision making, strengthening public confidence in the planning system and can help with reviews of planning policy. It will also assist Planning Committee members to refine their understanding of the impact of their decisions from the visiting of completed developments.

## **Training of Members in Planning Law and Procedure**

72. Planning decisions are often complex and differ in nature from some of the other decisions taken by the Council. It is crucial that planning decisions are based on legitimate planning grounds. For this reason, Members shall not sit on the Planning Committee or act as a substitute on the Planning Committee without having previously undertaken recent training in planning law and procedures.
73. The Planning Services Manager, Monitoring Officer and Deputy Monitoring Officer will arrange suitable training opportunities at regular intervals and will supplement this with written guidance. All Members of the Planning Committee must attend training sessions provided. The Committee Administrator will maintain a register of attendance which will be copied to political group leaders annually. Members of the Planning Committee are expected to attend all training sessions but must have attended an Introduction to Planning training course provided by Officers within the term of their office together with a minimum of two training sessions within each municipal year (May to April). New members of the Planning Committee are expected to sit and observe a meeting of the Planning Committee as part of their training prior to sitting on the Committee. If a Councillor has not attended a minimum of two training sessions within the municipal year they will not be allowed to sit on the Planning Committee until they have attended the next quarterly training session to bring their planning training up to date. Councillors who sit on Planning Committee as a substitute must have attended an Introduction to Planning training course within the term of their office in addition to two training sessions within each municipal year (May to April). One to one training will not be provided except in exceptional circumstances.

## **Appendix 1**

### **PLANNING APPLICATIONS: DECLARATION OF LOBBYING**

- Name of Member making the declaration
  
- Planning Application Number (where known)
  
- Application Site / Address
  
- Name(s) of persons undertaking lobbying and a note of their interest in the application (applicant, objector etc)
  
- Date of lobbying
  
- Brief details of the nature of the approach to the Member

Upon completion of this form please submit immediately to the Planning Services Manager at Muriel Matters House to be placed on the planning application file.

# **Hastings Borough Council Constitution of the Council**

## **Part 8**

### **Standing Instructions to Authorised Officers**

Contents	Page No.
Standing Instructions to Authorised Officers.....	3
Introduction .....	3
Definitions .....	3
Assumption of full delegation .....	3
Limitations on powers to act.....	5
Urgency provisions.....	5
Part 1: Matters Reserved to Council .....	6
Part 2: Matters Reserved to the Chief Legal Officer .....	7
Statutory Responsibilities .....	7
Other Responsibilities.....	8
Part 3: Matters Reserved to Authorised Officers .....	10
Part 3a: Assistant Director Environment and Place .....	11
Statutory Responsibilities .....	11
Part 3b: Assistant Director Housing and Built Environment .....	21
Statutory Responsibilities .....	21
Part 3c Assistant Director Regeneration and Culture.....	29
Part 3d: Assistant Director Financial Services and Revenues .....	30
Statutory Responsibilities .....	30
Part 4: Matters Reserved to the Assistant Director Financial Services and Revenues as the Chief Finance Officer .....	31
Financial Responsibility .....	31
Regulatory Responsibilities .....	31
Other Responsibilities.....	31
Discharge of Functions.....	31
Part 5: General Delegation to the Directors .....	33
General Delegation to the Directors and his/her Nominees .....	33
Statutory Responsibilities .....	33
Revenue Spending .....	33
Capital Spending .....	33
Contract Administration .....	33
Personnel Management .....	33
Land and Property Management .....	33
Financial and Other Assistance .....	34
Charges for Services .....	34
Protecting Council Property .....	34
Fixing of Hackney Carriage Fares (Local Government (Miscellaneous Provisions) Act 1976.....	34
Closure Order Under Section 76 Anti-Social Behaviour, Crime and Policing Act 2014	34
Regulation of Investigatory Powers Act 2000 .....	34
Responding to outside parties .....	35
General .....	35

## **Standing Instructions to Authorised Officers**

### **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.
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 2013

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**

Anti Social Behaviour Orders and Dispersal Orders in consultation with the Chief Constable, Sussex Police

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.  
Financial penalties for certain housing offences in England

**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

### **B.13 Housing and Planning Act 2016.**

Part 2 – Rogue Landlords and Property Agents in England  
Part 5 – Housing, estate agents and recharges: other changes

### **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. 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 Assistant Director of Housing and Built Environment is authorised to amend the agreement in consultation with the Chair of the Planning Committee.

44. This authority is subject to the following exceptions:

- a. The application has attracted five or more letters of objection from different households or businesses, or a petition as defined in Standing Orders, or
- 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 in writing 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, 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 2015;

- c. Town and Country Planning (Development Management Procedure) Order 2015;
- d. The Town and Country Planning (Fees for Applications Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013
- e. Town and Country Planning (Environmental Impact Assessment) Regulations 2017;
- 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 (as amended).

List of relevant Acts:

Infrastructure Act 2015  
 Growth and Infrastructure Act 2013  
 Enterprise and Regulatory Reform Act 2013  
  
 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 1991  
 Town and Country Planning Act 1990 (as amended)  
 Planning (Listed Buildings and Conservation Areas) Act 1990  
 Planning (Hazardous Substances) Act 2015  
 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

Hastings Borough Council, The Constitution, Part 8 (July 2017)

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 Conservation of Habitats and Species Regulations 2017

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) Regulations 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

For the avoidance of doubt the following applications in paragraphs 46 to 56 (inclusive) are delegated to be determined by Authorised Officers under delegated authority and unless expressly specified will not be determined by the Planning Committee unless submitted by, or on behalf of the Council, a serving elected Member or officer of the Council where the officer is employed in a politically restricted post and/or within the Council's planning service in accordance with paragraph 44(e) above.

46. 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.
47. All applications for prior determination for telecommunications apparatus.
48. Approvals required under the Town and Country Planning (General Permitted Development) Order 1995 and determining whether prior approval is required.
49. All consents under the Tree Preservation Order Regulations.
50. All certificates of lawfulness of existing use or development or of proposed use or development.
51. 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 Assistant Director Housing and Built Environment 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.
52. The making of emergency tree preservation orders and confirming them if no objections are received.
53. Service of notices in respect of dangerous trees (Section 23 of the Local Government (Miscellaneous Provisions) Act 1976).
54. The Council's functions in relation to high hedges under Part VIII Anti-Social Behaviour Act 2003.
55. Service of requisitions for information about ownership and planning contravention notices seeking information about breaches of development control.
56. Planning (Listed Buildings and Conservation Areas Act 1990 including building

preservation orders and temporary listings.

57. 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

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 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**

59. 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
60. 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.
61. 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**

62. 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;
63. 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**

64. 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**

65. 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**

66. 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:
67. 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.
68. Financial Approvals: to decide whether or not to give any approval required under these instructions or Regulations.
69. Mortgage Interest Rates: to fix interest rates for the purposes of Part XIV Housing Act 1985.

70. 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.

71. 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.

72. 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**

73. 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.
74. 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**

75. 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.
76. The Director of Corporate Services and Governance is the Electoral Registration Officer.
77. 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**

78. 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.
79. The Directors are responsible for the Council's work on income generation.

### **Capital Spending**

80. 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**

81. 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**

82. 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**

83. 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**

84. 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**

85. 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**

86. 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**

87. 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**

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

### **Regulation of Investigatory Powers Act 2000**

89. 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**

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

### **General**

91. 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.



# Agenda Item 5



**Report to:** Cabinet

**Date of Meeting:** 09 April 2018

**Report Title:** Social Lettings Agency Review

**Report By:** Andrew Palmer  
Assistant Director Housing and the Built Environment

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## Purpose of Report

To present a revised business case for the continuation of the council's social lettings agency (SLA), incorporating the council's proposals for dealing with the existing SLA lease agreements.

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## Recommendation(s)

Members are asked to approve the recommendation within the report for the council to proceed with two new service models for the SLA. The two models being proposed are:

- A Guaranteed Rent Scheme
- A Management Service to support the Council's Housing Company

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## Reasons for Recommendations

1. The objective of the SLA is to improve access to quality, well-managed private sector housing for households who present to the council as homeless or at risk of homelessness. Cabinet approval was granted in July 2017 for a cost effective scheme to be developed to replace the council's existing private sector leasing arrangements and allow for the SLA to continue operating and achieve its objective. This was necessary due to changes in central government funding arrangements.
2. The introduction of the Homelessness Reduction Act in April 2018 allows for local authorities to discharge a new 'Relief Duty' by offering the minimum of a fixed-term 6 month Assured Short-hold tenancy in the private rented sector from a private landlord. It is therefore increasingly a priority for the council to minimise the cost of homelessness by maximising access to affordable, suitable and well managed private sector accommodation.
3. Continuation of SLA also provides the council will the necessary property management capacity to provide services to the council owned Housing Company.

## Introduction

1. The council run Social Lettings Agency (SLA) currently leases 45 units of accommodation from private individual property owners. The private sector leasing model was, until March 2017, funded by the Temporary Accommodation Management Fee (TAMF). This was a demand led payment from government which paid a supplement of £60 per week, per property, in addition to the standard Local Housing Allowance rate. The TAMF payments enabled the scheme to offset the operating costs of managing accommodation.
2. In March 2017 the government confirmed that the TAMF would be replaced by the Flexible Homelessness Support Grant (FHSG). This is a ring-fenced grant payment for the purposes of homelessness prevention activity. The effect of the change has been to shift the private sector leasing scheme from an income generating initiative (which successfully provided affordable housing solutions to households) to one which now depends upon financial support from the council paid for through a cash limited grant.
3. In 2016/17 the existing Private Sector Leasing (PSL) scheme was generating an income surplus of £21,771.38 and is projected to generate a surplus of £38,030 in 2017/18. After almost 3 years of operation the PSL scheme currently has 45 units of accommodation under lease and provides over 50 vulnerable households with safe, secure and relatively affordable accommodation.
4. In July 2017 Cabinet gave approval for officers to develop a business case exploring the viability of a council delivered property management service. The service would help sustain the current SLA and promote access into privately rented accommodation; such an agency could also provide management services to the council's Housing Company.

## Access to the Private Rented Sector

5. There is a significant and growing shortfall in the availability of genuinely affordable accommodation for low income households. The challenges in this area described in the 2015 Cabinet report have become increasingly pronounced. A 'perfect storm' has arrived for the most disadvantaged households. The key characteristics being:
  - Increased competition for private rented accommodation resulting in higher rents and greater reluctance from landlords to take on higher risk tenants
  - Increasing purchase prices resulting in new buy to lets demanding higher rents in order for the property investment to achieve a viable yield
  - Reduced vacancies and higher rents in the Social Housing stock
  - Lower levels of new Social Housing supply, particularly at affordable rents.
  - Lower levels of welfare benefit support
6. Part of the impact of these factors has been an increase in the number of homelessness applications received by the Council, rising by 57% since 2014/15. While the increase in presentations has begun to stabilise since mid-2017 - as a result of action taken by the council and new funding received in the

form of the Flexible Homelessness Support Grant - access to suitable housing remains the main barrier to reducing numbers further.

	2014/15	2015/16	2016/17	2017/18
<b>Homeless Applications</b>	350	499	579	550

\*The figure for 2017/18 has been projected to yearend as of 20 March 2018.

7. Increasing competition in the private rented sector has led many letting agencies to supplement the fees paid to them by landlords with other measures designed to generate additional income. Most significant of these are relatively high fees charged to prospective tenants which create an additional barrier for those on low incomes accessing the private rented sector.
8. A number of additional barriers also affect the ability of low income households to access the private rented sector, these include:
  - Requirement for deposit/bond/guarantor
  - Requirement for references
  - Perceived problems with Local Housing Allowance and Housing Benefit processes
9. The council's Housing Company is progressing with plans to invest to purchase and develop property as set out in its business plan. Property is currently being acquired for market rent which will provide a return on investment for the council as the sole shareholder. The Housing Company will need to contract the services of a property management service which, it is proposed, the council provide, via its SLA. The financial assumptions outlined in this report are consistent with those set out in the Hasting Housing Company Business plan.

## Key Features of a Social Lettings Agencies

10. For the purpose of this report a social lettings agency (SLA) is defined as a 'standalone' council service that offers a range of housing management solutions to private landlords.
11. In the winter of 2017 a survey was distributed to landlords to determine what services and products would make it likely for them to provide properties to a council run SLA. The responses received suggest that guaranteed rent is a key factor for many landlords as is the council managing the tenant rent accounts. Other positive indicators were lower landlord fees, avoidance of selective licensing requirements and free Housing Health and Safety Rating System (HHSRS) inspections.
12. It is currently proposed to develop two new service models for the SLA. The two models being proposed are:
  - **A Guaranteed Rent Scheme**
  - **A Management Service to support the Council's Housing Company**

13. It is not proposed at present to develop a commercial property management service that will compete with private letting agencies. Should this be further considered at a later date, then this will be the subject of a separate report to Cabinet. It should be noted that providing such a service on any significant scale might require the establishment of further company.
14. The two models currently proposed would allow the council to achieve the following:
- Allow the council to continue to achieve the objective of the SLA by encouraging new landlords and tenants to take advantage of the services on offer from the council.
  - Sustain existing SLA tenancies beyond the end of the current private sector leasing scheme.
  - Manage accommodation acquired and let by the Hastings Housing Company.
15. Details of how both the **Guaranteed Rent** and the **Housing Company Property** models will function are set out separately and can be found at appendix 1 and appendix 2 respectively, under the following headings:
- Landlord benefits
  - Tenant benefits
  - Payments to landlords
  - Rent levels
  - Security of tenure for tenants
  - Rental income from tenants
  - Housing management & repairs
16. Details which are common to both models will be set out in parallel within the main body of the report, under the following headings:
- Net income and expenditure
  - Risks
  - Cost savings
  - Financial Considerations
  - Legal considerations
  - Staffing and organisational considerations

### **Net income and expenditure**

17. There are three principle income streams within the financial modelling for the SLA. The financial projections are based on modest rates of property acquisition both within the **Guaranteed Rent** and **Housing Company Property** income streams.
- **Private Sector Leasing** – the projected income from the SLA's existing private sector leasing scheme will decline as the 45 properties currently under 3 year leases each reach expiry, between May 2018 and October 2019.

- **Housing Company Property** – the projected income from new Housing Company acquisitions are conservatively based on 50% of the Housing Company's projected property acquisition rate for 2018/19 and 2019/20, rising to 85% thereafter.
- **Guaranteed Rent** – the projected income is based on two property acquisitions per month, which was the acquisition rate under the private sector leasing scheme. This rate is expected to increase of the 5 year forecast.

18. The 5 year forecast outlined below projects income/loss generation over the period 2018/19 – 2022/23.

#### SLA Management Service 5 Year Forecast

Portfolio Type	2018/19	2019/20	2020/21	2021/22	2022/23	Notes
Total income from HHC Properties	-£7,705	-£20,602	-£36,852	-£53,376	-£69,901	
Total income from SLA Properties	-£31,411	-£10,735	£0	£0	£0	
Total income from Guaranteed Rent Properties	-£5,488	-£23,775	-£44,529	-£65,029	-£85,528	
Grant funding required	-£86,151	-£74,712	-£17,128	£0	£0	
<b>Total Gross Income</b>	<b>-£130,754</b>	<b>-£129,825</b>	<b>-£98,509</b>	<b>-£118,405</b>	<b>-£155,429</b>	

Costs for existing Leasing Scheme					Notes
Property handback costs	£17,600	£30,800	£0	£0	£1100 allocated per property
HMO property running costs	£20,000	£8,000	£0	£0	
Bad debt (Rent)	£876	£277	£0	£0	Set at current rate of arrears
Bad debt (HMO service charges)	£7,176	£2,591	£0	£0	Set at current rate of arrears
Legal costs	£8,000	£5,000	£0	£0	Court costs for eviction
Allowance for early lease terminations	£1,118	£1,423	£0	£0	1 lease ending per quarter due to owner initiating termination clause

Costs for New Scheme (HHC Management & Guaranteed Rent)						Notes
Staffing costs	£67,242	£67,242	£75,189	£85,785	£113,091	1 FT housing manager per 50-60 properties managed.
Gas safety certificates	£450	£1,600	£2,800	£4,000	£5,200	
Bad debt	£1,373	£6,972	£14,599	£22,422	£30,245	Projected at 4%
Advertising	£2,000	£1,000	£1,000	£1,000	£1,000	
IT	£780	£780	£780	£780	£780	Subscription to rent and property management software
Property Marketing Rightmove etc.	£3,000	£3,000	£3,000	£3,000	£3,000	Marketing of HHC properties
Other supplies and services	£1,140	£1,140	£1,140	£1,140	£1,140	
Total Fixed Costs	£130,754	£129,825	£98,508	£118,127	£154,456	

<b>Total Net Income After fixed costs</b>	<b>£0</b>	<b>-£0</b>	<b>-£0</b>	<b>-£277</b>	<b>-£973</b>
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## Future Grant Funding

19. The existing Private Sector Leasing (PSL) scheme will be sustained by the Flexible Homelessness Support Grant (FHSG) during 2018/19 as authorised by Cabinet in July 2017. The government has also recently announced the FHSG allocation for 2019/20. The level of award for 2019/20 gives the council the ability to sustain the SLA to March 2020, subject to the budget being approved. There will also be the need for additional grant funding for the **Guaranteed Rent** model in 2020/21, the detail of which is summarised in the table above. The SLA is forecast to be self-funding in 2021/22 and beyond.
20. The government is yet to announce what funding will replace the FHSG beyond March 2020. This report assumes that government will replace the FHSG with equivalent grant funding and that this will supplement the income generated by both the proposed **Guaranteed Rent** and **Housing Company Property** models in 2020/21. Some form of direct subsidy for the scheme will be necessary over this period if it is to continue.
21. The viability of the scheme will be kept under close review. If there has been no announcement as to whether government will replace the FHSG beyond 2019/20, by December 2019, then a further review will be carried out and a decision will need to be reached as to whether it is necessary to terminate any property management contracts under both the **Guaranteed Rent** and **Housing Company Property** models.
22. It is important to note that termination of the SLA scheme is possible at any stage. All existing contracts between the SLA and property owners have an early termination clause. All contracts under the two proposed new models will also include early termination clauses. In the event that the council is required to terminate leases and/or contracts the SLA would need to put in place arrangements for the rehousing of all households who require alternative accommodation.

## **Risks**

23. A full breakdown of risks and mitigations is attached in appendix 3.

## **Cost Saving**

24. All of the properties within the **Guaranteed Rent** income stream will be used to prevent or relieve the homelessness of people who may otherwise end up in expensive emergency or temporary accommodation.
25. The average net cost of a placement in temporary accommodation is £3,250 for a family with children. The **Guaranteed Rent** model is projected to rehouse 1 new household (typically with children) a month or 12 new families with children per year. The net saving would therefore be in the order of **£39,000** net in 2018/19, rising to **£78,000** in 2019/20, when properties are forecast to be accrued at 24 per year.



26. Please note - any potential saving has to be considered in the context of rising demand for all forms of temporary accommodation, including bed & breakfast accommodation. Without a significant reduction in overall demand it is unlikely that there will be any cashable saving that will accrue to the Council.

## Financial Considerations

27. The performance of the SLA will be kept under review and regularly reported to Members through the council's performance management arrangements. Should central government grant arrangements change beyond March 2020 - necessitating a further financial review of the scheme - then Members will be advised of the position.
28. The current tenancies under the SLA's Private Sector Leasing scheme are fully funded by external grant until March 2019. The council also has the ability to sustain the SLA for 2019/20 if it chooses to allocate an element of recently awarded external grant for 2019/20.
29. Further, all licence and management agreements between the council and landlords within the proposed **Guaranteed Rent** and **Housing Company Property** models will contain termination clauses which can be enacted with 3 months' notice.

## Legal Considerations Framework

30. A social lettings agency can be established by a local authority using its powers under Section 2(1)(b) Local Government Act 2000 "to promote the improvement of social wellbeing" in the local authority area.
31. The power to charge landlords for services on a non-profit basis is contained within section 93 of the Local Government Act 2003.
32. Section 3 of the Homelessness Act 2002 introduced the requirement for housing authorities to take a preventative approach to homelessness and confirms the power to make payment to achieve the prevention of homelessness.
33. Section 94 Local Government Act 2003 allows the council to charge landlords for the provision of the SLA services up to the full cost of providing those services.
34. Section 5(2)(2)(a) of the Homelessness Reduction Act, introduced in April 2018, allows for local authorities to discharge a new 'Relief Duty' by offering the minimum of a fixed-term 6 months Assured Short-hold tenancy in the private rented sector.
35. The point may be reached where the Council has to consider whether to set up a company to deliver property management services on a commercial basis to those property owners who may not wish to rent property directly, but who may seek the reassurance offered by a service delivered by the Council. As previously stated, this will be subject to a separate future report if required.

## Staffing and organisational considerations

36. A managerial post to run the SLA and to procure properties for the Housing Company has been established and a full-time officer is in post. The cost of this provision has been built into financial projections for the SLA over the next 5 financial years. The post will be part funded by SLA budgets until March 2019 which could be extended to March 2020, subject to budget approval and part funded through services provided to the Housing Company. The costs of this have been built into the business plan of Hastings Housing Company (HHC).
37. In addition, a full time Housing Management Officer is in post that responds to tenant enquiries and supports tenants to sustain their accommodation; this post is fully funded by SLA budgets until March 2019 and could be extended to March 2020, subject to budget approval.
38. Additional staffing may be required based on business need which will be under the oversight of the SLA and Temporary Accommodation Working Group as part of the wider oversight of the SLA. The impact upon corporate support services will also need to be considered should the scheme expand.

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## Wards Affected

All

## Timetable of Next Steps

1. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Finalise property management contracts.	Prospective contract agreements shared with existing SLA landlords.	May 2018	Sam Taylor
Finalise Housing Management procedures.	New SLA models promoted to landlords.	June 2018	Sam Taylor
Finalise Income Recovery procedures documents.	New SLA models promoted to landlords.	June 2018	Sam Taylor



Finalise payment processes under the new SLA models	Payment processes finalised.	June 2018	Sam Taylor & Grant Smith
Promote the new SLA models to landlords.	New SLA models promoted at Landlords Forum	April 2018	Joe Powell
Promote the new SLA models to partner services.	Partnership event held.	June 2018	Joe Powell
Go live with new SLA models and keep under monthly performance review.	Project plan finalised by SLA and Temporary Accommodation Group.	May 2018	Joe Powell

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## 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 Yes (see appendix 3)

Environmental Issues No

Economic/Financial Implications Yes (see Financial Considerations, above)

Human Rights Act No

Organisational Consequences Yes (see Organisational Considerations, above)

Local People's Views No

Anti-Poverty No

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## Additional Information

Appendix 1- Guaranteed Rent overview

Appendix 2 – Housing Company Property overview

Appendix 3 – Risk log

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## Officer to Contact

Officer Name Joe Powell

Officer Email Address [jpowell@hastings.gov.uk](mailto:jpowell@hastings.gov.uk)

Officer Telephone Number 01424 451 314

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## Appendix 1 - Guaranteed Rent overview

### Landlord benefits

- Guaranteed rent paid in advance.
- A comprehensive property management service.
- HHSRS Inspections.
- Selective Licensing exemption.
- Gas Safety Certificates.

### Tenant benefits

- Properties let at lower quartile rents.
- Quality property management.
- No fees.
- Dedicated property management worker to maintain the tenancy when required.

### Payments to Landlords

1. The **Guaranteed Rent** model will function by paying the landlord a monthly fee, equivalent to the monthly rent for their property, less a management fee, typically between 10% and 12% of the rental income - regardless of whether the tenant has paid or whether the property is occupied.
2. Under the proposed model, the council would guarantee a landlord a payment set at the **lower quartile** of market rents for Hastings and St Leonards. The average lower quartile rents are published by East Sussex in Figures and are publically available. The landlord and the council would enter into an agreement which guarantees payment to the landlord for the life of the tenancy.
3. The SLA team will require the flexibility to increase rents by 5% above the average lower quartile, where tenants can afford it, to ensure a competitive offer for landlords. There are a number of variables relating to the specification of individual properties, alongside their location which may require a slightly higher rent than the lower quartile.
4. The risk to the council of guaranteeing the rent is balanced against the social benefits to vulnerable households avoiding homelessness and savings made on temporary accommodation which, on average, represents a net cost to the council of £3,250 per household (with children) placed in temporary accommodation.

### Rent levels

5. LHA rates were frozen in 2016 and are increasingly losing touch with market rents. As a result, income and benefit dependent households are increasingly required to make top-up payments from their income to supplement the LHA rate of Housing Benefit or Universal Credit they receive.

6. Each prospective tenant will be assessed to ensure that the amount of top-up they are required to pay is affordable. The table below outlines the typical top-up a household would pay under the proposed **Guaranteed Rent** model across different bedroom sizes, using the East Sussex in Figures statistics on average lower quartile rents for Hastings and St Leonards. The table also shows the amount of top up required where the council negotiates a slightly higher rent, not to exceed 5% of the average lower quartile.

	1 bed	2bed	3 bed
LHA Rate	£92.05	£120.29	£159.95
Avg. Lower Quartile Rent	£98.00	£126.00	£173.00
<b>Top Up (lower quartile)</b>	<b>£5.95</b>	<b>£5.71</b>	<b>£13.05</b>
<b>Top Up (lower quartile + 5%)</b>	<b>£10.85</b>	<b>£12.01</b>	<b>£21.70</b>

### Security of tenure

7. Tenants will have a standard Assured Shorthold Tenancy (AST) with their landlord. Under an AST the tenant cannot be evicted within the fixed term period which is usually the first 6 months of the tenancy; beyond this, tenants can be evicted with 8 weeks' notice.
8. When instructed by the landlord, the council would take responsibility for ensuring the tenant is rehoused in suitable alternative accommodation. The SLA team would take responsibility for any eviction at the landlord's behest.
9. If a tenant proves unable to sustain accommodation independently due to high rent arrears or perpetrating antisocial behaviour the council will support the tenant to find alternative suitable accommodation, in every case. However, if it is necessary to evict the tenant and the tenant will not accept the alternative accommodation offered, the council may initiate the eviction on behalf of the landlord. The council will consider whether to charge a fixed fee to landlords for this service as part of the contract with the landlord.
10. Without the council taking responsibility for carrying out evictions there is a risk that landlord's – who have their rent guaranteed by the council - will have no incentive to evict a poor tenant.

### Rental income from tenants

11. The council will collect rent from the tenant alongside any top-up due; this income will offset the rent guarantee payments to the landlord. Tenants will be required to make payments directly into the council's SLA bank account which will be monitored by the SLA team using rent account software.
12. The council is purchasing rent account management software which is used to monitor the status of rent accounts under the SLA. The rent accounts under the **Guaranteed Rent** model will be monitored bi-monthly. Tenants will be supported to ensure that they do not fall into arrears and that adequate support is put in place when required to ensure rent accounts are up to date.

13. The government recently announced that it will be making residents of temporary accommodation managed by the council exempt from Universal Credit. The DWP have indicated that accommodation used to prevent homelessness – such as accommodation provided by the SLA under the **Guaranteed Rent** model described above - is defined as temporary accommodation and will be exempt from Universal Credit.
14. All tenants accommodated under the **Guaranteed Rent** model will therefore be entitled to claim Housing Benefit enabling the SLA to arrange for direct payments to the rent account. This will minimise the risk of arrears as the majority of tenants under the **Guaranteed Rent** model will be entitled to full Housing Benefit for which direct payments to the council can be arranged.

#### Housing Management and repairs

15. The council housing management service will include deposit lodging, tenant finding, full tenancy management, rent collection, tenancy support, and an optional repairs and maintenance service.
16. The council will provide a comprehensive housing management package delivered by experienced staff members who have been managing SLA tenancies since 2015. This includes a minimum 6 monthly property inspections, support with budgeting and signposting to specialist support services to assist with tenancy sustainment.
17. The council will not charge tenants any fees to access their tenancy. Nor will the council charge landlords any additional fees on top of the 10% - 12% of the rental income agreed ahead of the start of the tenancy. The only exceptions being a 10% administration fee for arranging repairs on the landlord's behalf, described below.
18. The council will require tenants to pay a deposit which will be lodged with a deposit protection scheme. Landlords have provided feedback to the council that tenants are less likely to maintain the tenancy in a good state of repair when they have not lodged a deposit and have no investment in their tenancy. The council is able to provide tenants with interest free loans in order to provide a deposit when required.
19. The SLA will provide landlords with the offer of a free annual Gas Safety inspection. As well as the added financial incentive this provides the landlord – for a relatively modest cost to the council – this will also ensure that all SLA properties are compliant with gas safety regulations.
20. The council will not be responsible for the cost of repairs. Repairs will be the responsibility of the landlord. However, the council has the ability to carry out repairs on the landlord's behalf via our existing contractor. Therefore, the council will provide an optional repairs service which landlords can access, particularly when emergency repairs occur out of normal office hours. The council will charge the landlord a 10% administration fee for this service.

## Appendix 2 – Housing Management Property Overview

### Landlord benefits

- Tenant finding, deposit lodging, tenant referencing, and assured compliance with statutory requirements.
- Rent collection (no guarantee).
- Reputable, responsible and affordable property management service, competitively priced.
- Proactive property management approach which can link tenants to a range of established HBC support providers should they fall into rent arrears or face other challenges.

### Tenant benefits

- No fees.
- Reputable, responsible and affordable property management.
- Proactive property management approach which can link tenants to a range of support services should they fall into difficulties.

### Payments and charges to Landlords

1. The SLA will offer a traditional property management service to the Hastings Housing Company in return for a percentage of the monthly rent.
2. The SLA will charge 2 weeks rent to the Hastings Housing Company as a finder fee for sourcing and referencing tenants.
3. The SLA will add a 10% administration fee for any repairs organised by the council on behalf of the Hastings Housing Company.

### Rent levels

4. Rent levels will be negotiated on a case-by-case basis. The average market rents for the Hastings and St Leonards area will be used as a starting point using data published by East Sussex in Figures. There are a number of factors which will affect the final agreed rental price including location, property condition and the length of tenure being offered. The council will make efforts to ensure rents levels are competitively priced.

### Security of tenure

5. The security of tenure will be the same as under the **Guaranteed Rent** model - see appendix 1 above.

### Rental income from tenants

6. The council will collect rent from the tenant on the Hastings Housing Company's behalf. Tenants will be required to make payments directly into the council's SLA bank account which will be monitored by the SLA team.
7. As with the **Guaranteed Rent** model, the council has purchased rent account management software which is used to monitor the status of rent accounts under the SLA. The rent accounts under the **Housing Company Property** model will be monitored monthly. The Hastings Housing Company will be provided with a monthly statement highlighting the status of their tenant's rent account. Tenants will be supported to ensure that they do not fall into arrears and that adequate support is put in place when required to ensure rent accounts are up to date.

### Housing Management and repairs

8. The housing management offer will be the same within the **Housing Company Property** model as it is under the **Guaranteed Rent** model, see appendix 1 above.

## Appendix 3 - Risk

Risk	Likelihood	Impact	Mitigation
1. Not enough landlords willing to rent properties under the <b>Guaranteed Rent</b> model.	Low	High	<ul style="list-style-type: none"> <li>Consider financial assessments to require rent top ups from tenants where affordable.</li> <li>Landlord surveys indicate interest in a guaranteed rent model.</li> <li>Evidence of operating the SLA leasing scheme since 2015 is that a procurement rate of 2 per month is typical for a scheme offering guaranteed rents in Hastings.</li> </ul>
2. The Housing Company acquires fewer properties than projected.	Med	Med	<ul style="list-style-type: none"> <li>Income from Housing Company properties assumes a modest rate of acquisition 50% lower than the Housing Company business case.</li> <li>Overall viability of the SLA will be reviewed monthly by the Temporary Accommodation and SLA Working Group.</li> </ul>
3. Unable to find tenants for the Guaranteed Rent and Market Rent models	Low	High	<ul style="list-style-type: none"> <li>145 households were assisted into private rented accommodation in 2016/17</li> <li>Demand for accommodation continues to rise</li> <li>The Housing Company is projected to acquire 20 properties per annum.</li> </ul>
4. Tenants experience poor property conditions and a risk to their health.	Low	High	<ul style="list-style-type: none"> <li>All properties will be inspected by the council under HSSRS before being managed and will receive 6 monthly inspections thereafter.</li> <li>All properties will be installed with smoke alarms and carbon monoxide detectors (where required) and will be tested every 6 months.</li> </ul>

5. Lower than anticipated level of rental income	Low	High	<ul style="list-style-type: none"> <li>• Ensure enough officer resource is allocated to income recovery</li> <li>• Utilise rent account management software</li> <li>• Utilise eviction procedures</li> <li>• Implement UC exemption</li> </ul>
6. Level of rent arrears is higher than projected.	Low	Med	<ul style="list-style-type: none"> <li>• Ensure rent account management software is utilised</li> <li>• Utilise eviction procedures</li> <li>• Ensure enough officer resource is allocated to income recovery</li> <li>• Overall viability of the SLA will be reviewed monthly by the Temporary Accommodation and SLA Working Group.</li> </ul>
7. Landlords are not incentivised from evicting tenants as rent is guaranteed under the <b>Guaranteed Rent</b> scheme.	Low	Low	<ul style="list-style-type: none"> <li>• The council will lead the eviction on the landlord's behalf.</li> </ul>
8. Level of government grant available in future years is not sufficient to make the SLA viable.	Low	High	<ul style="list-style-type: none"> <li>• If there has been no announcement as to whether government will replace the FHSG by December 2019 a decision will be made as to whether to terminate the existing private sector leasing leases and any new property management contracts under both the <b>Guaranteed Rent</b> and <b>Housing Company Property</b> models.</li> <li>• All properties managed by the SLA can be terminated if scheme is not viable.</li> <li>• Overall viability of the SLA will be reviewed monthly by the Temporary Accommodation and SLA Working Group.</li> </ul>
9. Income reduces as a result of the implementation of benefit reforms or changes in	Med	High	<ul style="list-style-type: none"> <li>• Regularly review the viability of scheme</li> <li>• All agreements will contain break clauses and can be</li> </ul>



statutory guidance.			<p>terminated.</p> <ul style="list-style-type: none"> <li>Tenants can be rehoused by the Housing Options team where needed.</li> </ul>
10. A high number of households require rehousing if SLA is unviable beyond March 2020 because grant funding is not available.	Med	High	<ul style="list-style-type: none"> <li>The Housing Options service has expertise to rehouse households in the PRS and social housing</li> <li>Landlords may wish to keep tenants under alternative property management readily available in the market</li> <li>Resources can be diverted from the Housing options team to rehouse households</li> <li>Maximise time available to achieve rehousing by close project and performance monitoring</li> </ul>
11. Reputational risk to the council	Low	Med	<ul style="list-style-type: none"> <li>Communication and project plan</li> <li>Regular project performance monitoring</li> <li>Council corporate scrutiny procedures.</li> </ul>
12. The government intends for UC to be fully rolled out in longer-term. Change in HB subsidy back to UC.	High	Low	<ul style="list-style-type: none"> <li>SLA is currently exempt from UC</li> <li>HBC continue to engage with MHCLG and DWP on future plans for UC full rollout.</li> <li>Keep viability under review.</li> <li>Overall viability of the SLA will be reviewed monthly by the Temporary Accommodation and SLA Working Group.</li> </ul>
13. Higher than anticipated level of voids	Low	High	<p>Ensure re-let times are kept to a minimum by:</p> <ol style="list-style-type: none"> <li>1) identifying tenants in advance</li> <li>2) timely repairs and void turnaround</li> <li>3) close housing management to ensure timely rent payments, minimal evictions and minimal absconding</li> </ol>
14. Accommodation becomes unaffordable for tenants	Low	Low	<ul style="list-style-type: none"> <li>Ensure regular property inspections and accounts management to ensure</li> </ul>

			<p>incomes are maximised</p> <ul style="list-style-type: none"> <li>• Work with Housing options team and wider partners to find alternative accommodation for tenants who cannot afford accommodation.</li> </ul>
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# Agenda Item 6



**Report to:** Cabinet

**Date of Meeting:** 9 April 2018

**Report Title:** Proposed Revisions to the Local Development Scheme (Local Plan Timetable)

**Report By:** Victoria Conheady, Assistant Director Regeneration & Culture

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## Purpose of Report

To inform Cabinet of the updated timescales for the production of Local Plan documents since the last Local Development Scheme was adopted in April 2016.

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## Recommendation(s)

1. That the contents of the revised Local Development Scheme be agreed.

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## Reasons for Recommendations

So that an up-to-date Local Development Scheme is in place in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004, as amended by section 180 of the Planning Act 2008 and section 111 (7) of the Localism Act, and the Town and Country Planning (Local Development) (England) Regulations 2004.

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## Introduction

1. Planning regulations require us to prepare and maintain a Local Development Scheme (LDS) setting out our programme for preparing the documents that will make up local planning policy for Hastings.

### Proposed Revisions to the Local Development Scheme

2. The Local Plan for Hastings is made up of the Hastings Planning Strategy (adopted Feb 2014); Development Management Plan (adopted Sept 2015) and once adopted will include the Town Centre, White Rock Area and Bohemia Action Plan. The LDS needs to set out a realistic and achievable work programme. This report proposes changes to the current LDS and recommends that a revised LDS be brought into effect.
3. Section 15(1) of the 2004 Planning and Compulsory Purchase Act requires that the “local planning authority must prepare and maintain a scheme to be known as their local development scheme”. Unless otherwise directed, a local authority is to revise its LDS at such time it considers appropriate. The current LDS has not been reviewed since it came into force in April 2016. It is considered that revisions are needed to the current LDS in order to:
  - Adjust the target dates and key milestones for the production of Town Centre, White Rock Area and Bohemia Area Action Plan (AAP), and
  - Amend the number, form and content of Local Development Documents that are proposed to be prepared,

### Progress since April 2016

4. Work to develop the evidence base needed to support the development of the Area Action Plan has been progressing. In September 2017 we published the White Rock Master Plan. This document will significantly inform the development of the AAP.
5. The scope of the Sustainability Appraisal (SA) was undertaken in July 2017 to meet the requirements of the Strategic Environmental Assessment Regulations<sup>[1]</sup>. The purpose of the SA is to inform and influence the AAP’s development and maximise its contribution to sustainable development. The Scoping exercise involved consultation with the statutory bodies. An initial SA Report is being prepared to accompany the first consultation draft of the AAP.
6. Appraisal of Conservation Areas within the AAP boundary and those surrounding it has been started. Central Hastings CAA and St. Leonards CAA are currently in production.
7. Other specialist studies needed to support the AAP which are currently in progress include work in relation to flood risk, traffic modelling and housing requirements.

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<sup>[1]</sup> The Environmental Assessment of Plans and Programmes Regulations 2004

## **Amending the Local Development Documents in the LDS**

8. Since we adopted our Local Plan there have been a number of significant changes to the national planning policy and legislative context, and others are emerging. These include:
- a. changes to developer contributions (affordable housing),
  - b. the Housing and Planning Act 2016,
  - c. the introduction of permissions in principle,
  - d. ongoing changes to permitted development rights,
  - e. the introduction of self & custom build requirements,
  - f. national commissions into the local plan making process,
  - g. consultation on the changes to the National Planning Policy Framework,
  - h. the Neighbourhood Planning Act 2017,
  - i. the Housing White Paper 2017,
  - j. consultation on the policy approach to Build to Rent.
9. In September 2017 the Government published a consultation proposing amongst other matters a methodology for calculating housing need. Most recently, on 5 March the Government began a consultation on a draft revised National Planning Policy Framework (NPPF) which runs until 10 May. The revised draft incorporates proposals from the earlier consultation documents including the White Paper and proposals announced in the 2017 budget. They intend to publish a final revised Framework in the summer.
10. In light of these national changes, it is recommended that evidence gathering for a new local plan – the Local Plan Review should begin later this year. Based on a 3 year work programme and the fact that the Plan will need to have a 15 year time horizon the new plan period should run to 2036. The LDS should be updated to reflect this.
11. The 2016 LDS identified a number of Supplementary Planning Documents (SPDs) which were to be produced to support the HPS and Development Management Plan (DMP). In view of the priority which now needs to be given over to commencing the Local Review process it is now recommended that only the Affordable Housing and Design SPDs are progressed.

## **Amending the Milestones in the Current LDS**

12. The revised key stages for the TC&WR AAP as set out in the updated LDS are as follows:

- Public participation in the preparation of the Town Centre & White Rock Area Action Plan (Regulation 18) : June-September 2018
- Publication of the Proposed Submission Town Centre Action Plan (Regulation 19): January-February 2019
- Adoption of the DPD : December 2019

13. For the Local Plan Review, the key stages are:

- Public participation in the preparation of the Local Plan Review (Regulation 18): Oct-Dec 2019
- Publication of the Proposed Submission Local Plan Review (Regulation 19): June-Jul 2020
- Adoption of the DPD: April 2021

14. The main risks to this timetable are; the high complexity of evidence requirements; the potential for a high volume of representations, given the sensitivity of bringing development forward in the AAP area; staff resources and access to specialist advice.

## Conclusion and Recommendations

15. We need to publish an up-to-date LDS to meet statutory requirements and to publicise our updated production timetable for Local Development Documents.

## Policy Implications

16. The production of local plan documents which are land-use planning documents, will give rise to the need to consider environmental issues. Financial implications arise both from the cost of producing and consulting on such documents. The requirement to begin work on a Local Plan Review has been factored in to the 2018/19 Planning Policy budget. Further costs will need to be planned for and factored in to the 2019/20 budget. Local people's view will be sought as part of the process of developing Local Plan documents.

## Timetable of Next Steps

17. key actions and the scheduled dates:

Action	Key milestone	Due date (provisional)	Responsible
AAP - Public Consultation (Reg 18)	Cabinet Approval	June-Sept 2018	Planning Policy

AAP – Publication of the Proposed Submission AAP (Reg 19)	Full Council approval	Jan-Feb 2019	Planning Policy
AAP – Adoption	Full Council	December 2019	Planning Policy
Local Plan Review – Public Consultation (Reg 18)	Cabinet Approval	Oct – Dec 2019	Planning Policy
Local Plan Review – Publication of the Proposed Submission Local Plan Review (Reg 19)	Full Council	June-Jul 2020	Planning Policy
Affordable Housing SPD – public consultation	Cabinet Approval	Mar-Apr 2019	Planning Policy
Publication of Brownfield Register		Annually by 31 Dec	Planning Policy

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### Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

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### Implications

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

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	N
Risk Management	N
Environmental Issues	Y
Economic/Financial Implications	Y

Human Rights Act	N
Organisational Consequences	N
Local People's Views	Y
Anti-Poverty	N

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### **Additional Information**

Appendix A: 2018 Local Development Scheme.

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### **Officer to Contact**

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# Hastings Local Plan – Local Development Scheme

April 2018

## Contents

Summary .....	3
Introduction .....	4
Current Policy .....	4
Documents to be prepared over the next 3 years .....	7
Appendix A – Glossary .....	15
Appendix B - Programme management and risk assessment .....	16

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## Summary

1. The Local Development Scheme (LDS) sets out the documents that will be prepared as part of the Hastings Local Plan 2011-2028. Following the adoption of the Hastings Planning Strategy and Development Management Plan, this latest version of the LDS will cover the period to 2021 setting out details of the remaining Local Development Documents (LDDs) to be produced.
2. The Hastings Local Plan currently comprises the following documents:
  - The Hastings Planning Strategy (adopted 19 February 2014)  
<https://www.hastings.gov.uk/planning/policy/adoptedlocalplan/strategy/>
  - The Hastings Local Plan Development Management Plan (adopted 23 September 2015)  
<https://www.hastings.gov.uk/planning/policy/adoptedlocalplan/dmp/>
  - Statement of Community Involvement (updated Dec 2016)  
<https://www.hastings.gov.uk/planning/policy/consultations/involvement/>
  - Roof Materials for Listed Buildings and Conservation Areas Supplementary Planning Document (SPD) (July 2005)
  - Replacement Doors and Windows for Listed Buildings and Conservation Areas SPD (July 2005)
  - Householder Development SPD (February 2007)
  - Shopfronts and Advertisements SPD (September 2007)
  - Parking Provisions in New Development (October 2013)
  - Employment Land Retention SPD (16<sup>th</sup> December 2015)
  - Visitor Accommodation SPD (16<sup>th</sup> December 2015)  
<https://www.hastings.gov.uk/planning/policy/guidance/>
  - Local Plan Monitoring Report (January 2018)  
<https://www.hastings.gov.uk/planning/policy/localplanmonitoring/>
3. This revision of the LDS sets out the timescales for the preparation of the Hastings Town Centre and Bohemia Area Action Plan (AAP), the Local Plan Review and several other supporting documents over the next 3 years. The AAP will be adopted during the LDS period.
4. We will work with communities on Neighbourhood Plans as and when appropriate.
5. Please see the Glossary in Appendix A for clarification of the terms used in this document. A risk assessment and mitigation measures for the LDS programme is set out at appendix B.

## Introduction

6. The Council is the Local Planning Authority and is responsible for preparing a Local Plan for its area to guide development in the Borough in accordance with relevant Regulation<sup>1</sup> and in line with the National Planning Policy Framework (NPPF)<sup>2</sup> and national Planning Practice Guidance on local plan preparation.<sup>3</sup>

## What is a Local Development Scheme?

7. The Local Development Scheme (LDS) sets out the documents that will be prepared as part of the new Hastings Local Plan – the statutory development plan for the Borough.
8. This LDS has been produced to give local residents and any other interested parties information on:
  - The documents we are currently preparing, as well as those we intend to produce
  - The subject matter of the documents, and the geographical area they cover
  - The timetable for the stages of preparation and adoption of these documents
9. Taken as a whole, all the documents prepared as part of the Local Plan will form the planning policy framework for land use and development in Hastings up to 2028.
10. The Hastings LDS has been prepared in accordance with legal requirements.<sup>4</sup>

## Current Policy

### Existing documents including Development Plan Documents

11. At present the 'Development Plan' for Hastings comprises:

#### The Hastings Planning Strategy

12. The Hastings Planning Strategy (HPS) was adopted in February 2014. The Planning Strategy is the principal development plan document for the Borough and sets out the overall vision and strategic objectives for the delivery of growth in Hastings between 2011 and 2028. It also includes development management policies which will help shape new development over the lifetime of the Plan.  
[http://www.hastings.gov.uk/environment\\_planning/planning/localplan/adoption/](http://www.hastings.gov.uk/environment_planning/planning/localplan/adoption/)

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<sup>1</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012

<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

<sup>3</sup> <http://planningguidance.communities.gov.uk/blog/guidance/local-plans/>

<sup>4</sup> Section 15 of the Planning & Compulsory Purchase Act 2004, as amended by the Localism Act 2011 – Part 6 Planning, section 111

## **The Hastings Development Management Plan**

13. The Development Management Plan (DMP) identifies sites proposed for development and protection in line with the HPS. It also included development management policies against which planning applications are assessed.  
<https://www.hastings.gov.uk/planning/policy/adoptedlocalplan/dmp/>

## **Policies Map**

14. In parallel with the development of the HPS and DMP, a Policies Map has been developed which shows the location of proposals in the adopted Local Plan (HPS & DMP) on an ordnance survey based map. The interactive Policies Map is available to view on the Council's website at: <http://www.planvu.co.uk/hbc2015/>

## **Waste and Minerals Plans**

15. East Sussex County Council, the South Downs National Park and Brighton & Hove City Council are the responsible authorities for preparing the Minerals and Waste Local Plans. The East Sussex, South Downs, and Brighton & Hove Waste and Minerals Plan was adopted in 2013.  
<https://new.eastsussex.gov.uk/environment/planning/development/mineralsandwaste>
16. A Waste and Minerals Sites Plan (WSMP) has now been adopted. The document can be found at  
<https://new.eastsussex.gov.uk/environment/planning/development/mineralsandwaste>

## **Supplementary Planning Documents (SPDs)**

17. The following Supplementary Planning Documents (SPDs) also form part of the planning policy framework for Hastings. SPDs are non-statutory planning documents. They provide more detailed explanation and guidance in relation to policies and proposals in the statutory development plan. The Council has prepared five SPDs so far:
  - Roof Materials for Listed Buildings and Conservation Areas SPD (July 2005)
  - Replacement Doors and Windows for Listed Buildings and Conservation Areas SPD (July 2005)
  - Householder Development SPD (February 2007)
  - Shopfronts and Advertisements SPD (September 2007)
  - Parking Provisions in New Development (October 2013)
  - Employment Land Retention SPD (December 2015)
  - Visitor Accommodation SPD (December 2015)
18. Copies of these SPDs are available on our website at  
<https://www.hastings.gov.uk/planning/policy/guidance/>

## Other Documents

### The Statement of Community Involvement (SCI)

19. First adopted in 2006, the SCI sets out the Council intends to achieve community and stakeholder involvement, and public participation in all planning matters, including the preparation of local development documents and arrangements for consultation on planning applications. The SCI was updated in 2011, again in January 2013 and again in June 2014 to reflect changes to the planning regulations and also the principles set out in the Council's Participation and Communication Strategy 2011/12 – 2013/14. The document has been updated to align with plans and programmes in this document.
20. To download a copy of the updated SCI please visit the website at <https://www.hastings.gov.uk/planning/policy/consultations/involvement/>

### Local Plan Monitoring Report (LPMR)

21. The Local Authority regularly publishes a monitoring report. The role and purpose of this document is to publish data on housing, employment and other development statistics; plan making progress against the LDS; consultations on planning forums and duty to cooperate matters. The Local Plan Monitoring Report (LPMR) is published annually. The most recent LPMR can be viewed at: <https://www.hastings.gov.uk/planning/policy/localplanmonitoring/>
22. The LPMR assesses whether or not targets and milestones related to the production of the Local Plan have been met. As a result of monitoring, the Council will decide what changes, if any, need to be made to the Local Plan and will bring forward any such changes through a review of the LDS.

### Community Infrastructure Levy (CIL)

23. A CIL is a Charging Schedule setting out the standard charge(s) that a Council will levy on specified types of development to contribute towards required infrastructure. Work to explore viability of CIL implementation in the Borough has been undertaken concurrent with developing the adopted Local Plan. This work has so far determined that a Community Infrastructure Levy (CIL) charging schedule would be unviable due to current market conditions. However the potential for CIL will be considered as part of the Local Plan Review process.

### Neighbourhood Planning

24. Regulations<sup>5</sup> concerning neighbourhood planning came into force in April 2012. These make provision for several elements falling under the neighbourhood planning category:
  - Neighbourhood Development Plans
  - Neighbourhood Development Orders
  - Community Right to Build

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<sup>5</sup> The Neighbourhood Planning (General) Regulations 2012

25. In the event of any Neighbourhood Plans coming forward in Hastings, when such plans are adopted, they will form part of the Development Plan.

### **The Local Plan Evidence Base**

26. We need to ensure a robust evidence base is available to support planning policies in emerging Local Plan document. Background work prepared by, or for the Council will normally be published in the form of background documents. Such documents are made publicly available at the same time as, or before, any draft Local Plan documents are published. A substantial evidence base has already been built up as a result of developing both the HPS and DMP documents.
27. Further information on the evidence base prepared so far is available at [https://www.hastings.gov.uk/planning/policy/adoptedlocalplan/supportingdocs\\_evidencebase/evidencebaseddocuments/](https://www.hastings.gov.uk/planning/policy/adoptedlocalplan/supportingdocs_evidencebase/evidencebaseddocuments/)

### **Documents to be prepared over the next 3 years**

#### **Hastings Town Centre & Bohemia Area Action Plan (AAP)**

28. The AAP area has been as a key location to the continued economic and cultural regeneration of the Borough and to help meet future growth requirements. The AAP will provide a detailed planning framework to guide change across the Hastings Town Centre and Bohemia area.

#### **Local Plan Review**

29. The current Planning Strategy sets out the spatial vision, strategy and strategic level policies for the Borough up to 2028. The Planning Strategy was adopted in 2014. In order to ensure plans remain relevant and up-to-date it is necessary to regularly review and update plans. Evidence gathering on the review process will begin in 2018 and the Plan period extended to 2036.

#### **Brownfield Land Register**

30. A new duty through the Housing and Planning Act (2016) has been placed on local planning authorities to prepare, maintain and publish a register of brownfield land (also known as previously developed land) which the Council has assessed as being potentially suitable for residential development.
31. The Register will comprise a standard set of information, prescribed by the Government, to help provide certainty for developers and communities and encourages the development of suitable brownfield sites.
32. The first iteration of the Register was published in December 2017 and will subsequently be reviewed at least once a year. The register will then be used to monitor the Government's commitment to the delivery of brownfield sites.

#### **Affordable Housing Supplementary Planning Document (SPD)**

33. This SPD will provide further detail to Policy H3 "Provision of Affordable Housing" of the Hastings Planning Strategy. The SPD will include guidance on meeting the Policy requirement for the delivery of affordable housing contributions within

residential schemes; the type and standard of affordable housing that will be required; and the assessment of the financial viability of a scheme.

### **Design Supplementary Planning Document (SPD)**

34. The scope and timetable for the production of this SPD will be subject to progress on the AAP.

### **Neighbourhood Plans**

35. We will also be working closely with communities to bring forward any neighbourhood plans, and continue work on monitoring and implementation of the Local Plan documents that are already in place.
36. A detailed schedule for the Local Plan documents document is provided below, followed by an illustrative work programme on page 14.



## **Hastings Town Centre & Bohemia Area Action Plan (AAP)**

### **Overview**

**Role and Subject** – Previously known as the Town Centre & White Rock Area Action Plan, the Hastings Town Centre & Bohemia Area AAP provides a detailed planning framework to guide change across the Town Centre and Bohemia area, consistent with the Hastings Planning Strategy

**Coverage** – Hastings Town Centre boundary and Bohemia area

**Status** - Local Plan document

**Conformity** - With National Planning Guidance and Hastings Planning Strategy

### **Key milestones**

#### **Consulting statutory bodies on the scope of the Sustainability Appraisal**

June/July 2016

#### **Public participation in the preparation of the Hastings Town Centre & Bohemia Area Action Plan (Regulation 18)**

June-September 2018

#### **Publication of the Proposed Submission of the Hastings Town Centre & Bohemia Area Action Plan (Regulation 19)**

January-February 2019

#### **Adoption of the DPD**

December 2019

### **Arrangements for production**

**Organisational lead** – Assistant Director Regeneration & Culture

**Political management** - Executive decision (Cabinet), Full Council resolution required for publication and adoption stages

**Internal resources** - Planning Policy team with wide ranging input across the Council

**External resources** - Key stakeholders and service providers, contractors for evidence base

**Community and stakeholder involvement** - In compliance with the Statement of Community Involvement.

## **Local Plan Review**

### **Overview**

**Role and Subject** – To set out the vision, objectives and strategy for the type, scale, and priority locations for development, strategic and development management policies and site allocations.

**Coverage** – Borough-wide

**Status** - Local Plan document

**Conformity** - With National Planning Guidance

### **Key milestones**

**Consulting statutory bodies on the scope of the Sustainability Appraisal**

Sept 2018

**Public participation in the preparation of the Local Plan Review (Regulation 18)**

Oct – Dec 2019

**Publication of the Proposed Submission of the Local Plan Review (Regulation 19)**

Jun – Jul 2020

**Adoption of the DPD**

Apr 2021

### **Arrangements for production**

**Organisational lead** – Assistant Director Regeneration & Culture

**Political management** - Executive decision (Cabinet), Full Council resolution required for publication and adoption stages

**Internal resources** - Planning Policy team with wide ranging input across the Council

**External resources** - Key stakeholders and service providers, contractors for evidence base

**Community and stakeholder involvement** - In compliance with the Statement of Community Involvement.

## **Brownfield Land Register**

### **Overview**

**Role and Subject** - Prepare, maintain and publish a register of brownfield land which is potentially suitable for residential development

**Coverage** – Borough-wide

**Status** - Brownfield Land Register

**Conformity** - With National Planning Guidance and Hastings Planning Strategy & Development Management Plan

### **Key dates**

**Public participation** site submission on-going / annual update of existing register  
Sept/Oct

**Publication** updated annually and published by 31 December

### **Arrangements for production**

**Organisational lead** – Assistant Director Regeneration & Culture

**Internal resources** - Planning Policy team with wide ranging input across the Council

**External resources** - Key stakeholders and service providers, contractors for evidence base

**Community and stakeholder involvement** - In compliance with the Statement of Community Involvement.

## **Affordable Housing SPD**

### **Overview**

**Role and Subject** – To provide guidance on the application of Hastings Planning Strategy Policy H3.

**Coverage** – Borough-wide

**Status** - Supplementary Planning Document

**Conformity** - With National Planning Guidance and Hastings Planning Strategy

### **Key dates**

**Stakeholder participation in the preparation of the Affordable Housing SPD**

Mar – Nov 2018

**Consultation on the Proposed Affordable Housing SPD**

Mar – Apr 2019

**Adoption of the SPD**

June 2019

### **Arrangements for production**

**Organisational lead** – Assistant Director Regeneration & Culture

**Political management** - Executive decision (Cabinet)

**Internal resources** - Planning Policy team with wide ranging input across the Council

**External resources** - Key stakeholders and service providers, contractors for evidence base

**Community and stakeholder involvement** - In compliance with the Statement of Community Involvement.

## Design SPD

### Overview

**Role and Subject** – To provide design guidance in support of design related policies contained within the Local Plan.

**Coverage** – Borough-wide

**Status** - Supplementary Planning Document

**Conformity** - With National Planning Guidance and Hastings Planning Strategy and Development Management Plan

Key dates for the preparation of this document will be provided on our website when available

### Arrangements for production

**Organisational lead** – Assistant Director Regeneration & Culture

**Political management** - Executive decision (Cabinet)

**Internal resources** - Planning Policy team with wide ranging input across the Council

**External resources** - Key stakeholders and service providers, contractors for evidence base

**Community and stakeholder involvement** - In compliance with the Statement of Community Involvement.

## Illustrative Work Programme

	2018-19												2019-20												2020-21												
	Q1			Q2			Q3			Q4			Q1			Q2			Q3			Q4			Q1			Q2			Q3			Q4			
	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	
<b>Hastings Town Centre &amp; Bohemia Area Action Plan</b>																																					
Developing the evidence base & early engagement	■	■																																			
Draft AAP consultation (regulation 18)			■	■	■	■	■																														
Pre-submission Public Consultation (regulation 19)										■	■	■																									
Submission (S)												S																									
Examination (E)																■	■	■																			
Adoption (A)																				A																	
<b>Local Plan Review</b>																																					
Developing the evidence base and early engagement							■	■	■	■	■	■	■	■	■	■	■	■																			
Draft Local Plan consultation (regulation 18)																			■	■	■	■	■														
Pre-submission Public Consultation (regulation 19)																									■	■	■	■									
Submission (S)																											■										
Examination																																	■	■	■		
Adoption (A)																																					
<b>Affordable Housing Supplementary Planning Document</b>																																					
Stakeholder engagement development of consultation draft	■	■	■	■	■	■	■																														
Public consultation on proposed draft											■	■	■																								
Consideration of responses and adoption by Cabinet														A																							
<b>Brownfield Land Register</b>																																					
Publication									■	■	■													■	■	■							■	■	■		

## **Appendix A – Glossary**

### **Development Plan Documents (DPD)**

Statutory planning documents, produced by the planning authority, that form part of the Local Plan, including the Hastings Planning Strategy, Development Management Plan and where necessary, Area Action Plans.

### **Local Development Scheme (LDS)**

A project management document setting out what the emerging Local Plan will contain, a timetable for its production, proposals for monitoring and review.

### **Local Plan Monitoring Report (LPMR)**

Authorities are required to produce LPMRs to assess progress against the LDS and the extent to which policies in Local Plan documents are being achieved.

### **Policies Map (formerly Proposals Map)**

A map showing site allocations and geographical areas where policies apply.

### **Statement of Community Involvement (SCI)**

Important document within the Local Plan which sets out the Borough Council's approach to involving the community in the preparation, alteration and review of the Local Plan documents, and in the consideration of planning applications

### **Strategic Environmental Assessment (SEA)**

Environmental assessment of policies, plans and programmes required under the European SEA Directive 2001/42/EC.

### **Supplementary Planning Document (SPD)**

Non-statutory documents within the emerging Local Plan. Their purpose is to expand upon policies or proposals in other Local Plan documents such as the Planning Strategy and Development Management Plan

### **Sustainability Appraisal (SA)**

Assessment of the social, economic, and environmental impacts of the policies and proposals contained within the emerging Local Plan

## Appendix B - Programme management and risk assessment

The Council's Cabinet, which meets monthly, oversees the preparation of planning policy documents. It is authorised to approve documents for public consultation. However, in accordance with the Council's Constitution, statutory development plan documents that are to be published or adopted as Council policy are determined by Full Council.

The Portfolio Holder for Regeneration & Culture oversees the preparation of planning policy documents and is involved throughout, from the early stages of the process.

Management is overseen by the Assistant Director – Regeneration & Culture. Day-to-day management of the production of the planning policy documents is undertaken by the Planning Policy Manager.

### Strategic Environmental Assessment/Sustainability Appraisal

The Local Plan and SPDs will be subject to Sustainability Appraisal (SA) and, where required, Strategic Environmental Assessment (SEA). Assessment of the sustainability implications of the policies will be prepared and published at the key stages in preparation in line with the SEA Regulations.

### Resources

The main responsibility for the Local Plan preparation lies with the Planning Policy section. Beyond the expertise in the team, the support of other officers will be provided at key stages in the preparation process, notably in the production of detailed development management policies, where capacity exists.

External expertise will be required to assist with the preparation of specialist studies and assessments.

The resource requirements will be regularly monitored in line with the Council's existing budgetary processes

### Timeframe and contingencies

At the end of the three-year timeframe covered by this LDS, the Local Plan for the Borough should comprise the HPS (adopted 2014) the DMP (adopted 2015) and the Hastings Town Centre & Bohemia Area Action Plan.

A Risk Assessment is presented below, with potential responses.

Risk Factor	Likelihood / Scale of impact	Contingency actions and response	Impact
Work demands that are not programmed notably Neighbourhood Plans	High/High	Manage inputs to neighbourhood plans and strictly prioritise inputs to re work demands Short-term extra resources  Review programmes for priority policy documents	Delay Possible financial cost



Changes to Planning Policy and Guidance	Medium/High	Monitor emerging guidance, consultations etc.  Reassess priorities through review of LDS	Delay
Staff shortages e.g. unable to recruit, long term sick leave etc.	Medium/High	Consideration with HR of recruitment and retention issues Subject to timing of absence, purchase expertise on short term basis via consultancy	Delay Financial cost
Requisite expertise or capacity not available in-house	Medium/Medium	Staff training/CPD Identify evidence needs with other LPAs Train staff Purchase expertise on short term basis Sharing expertise with other LPAs	Financial cost
Budgetary limitations	Medium/High	Council budgetary management processes Monitor grant potential Advanced appraisal of future costs  Reassess Department priorities through review of both the LDS and the Department's work programme	Delay Non-achievement of other Department priorities
Longer process times, especially due to high level of responses	Medium/Low	Encourage online representations Early engagement  Secure administrative assistance Review programme and priorities	Delay

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# Agenda Item 7



**Report to:** Cabinet

**Date of Meeting:** 9 April 2018

**Report Title:** Healthy Hastings & Rother – Reducing Health Inequalities Programme

**Report By:** Andrew Palmer – Assistant Director – Housing & Built Environment

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## Purpose of Report

1. To advise Cabinet on proposed changes to funding allocations for the Hastings Borough Council (HBC) led projects within the NHS Hastings & Rother Clinical Commissioning Group's (CCG) Healthy Hastings & Rother (HHR) programme.
2. To seek agreement for the revised programme and the arrangements for ensuring delivery of projects until March 2020.

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## Recommendation(s)

1. To note the proposed changes to funding allocations from 2017 to 2020 for HBC led projects within the CCG's Healthy Hastings & Rother Programme.
2. To agree the revised programme of HBC led projects as described in the report, within the total financial resources available from the CCG of £2,751,512.
3. Subject to confirmation of the programme by the CCG's Governing Body on 28 March 2018, the Director of Operational Services, in consultation with the Lead Member, be authorised to enter into a funding agreement with the CCG under section 256 of the NHS Act 2006 to support continuation of the HBC led programme until 31 March 2020.

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## Reasons for Recommendations

The Council has long held the position that good health is a key factor in determining the quality of people's lives and that health inequality is a significant outcome of and contributor to poverty. This programme is helping to contribute towards more integrated work with partners to address issues of health inequality. The revised programme supported by CCG funding requires Cabinet approval.

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## Introduction

1. Since 2015 the CCG has allocated substantial resources from its Healthy Hastings & Rother Programme, for HBC, East Sussex County Council, and other partners or providers to invest in projects, which will address health inequalities.
2. In July 2015 HBC Cabinet approved an initial programme of work with CCG funding of £0.602m paid under section 256 of the NHS Act 2006. This was supplemented with further CCG funding of £1.2m in 2015/16 and the enhanced work programme received HBC Cabinet approval in August 2016. In July 2017 HBC Cabinet approved further enhancements to the programme with additional CCG funding of £1.711m allocated over the current financial year and the two subsequent financial years until 31 March 2020.
3. Following the July 2017 Cabinet it was necessary to revise funding allocations to certain projects after changes resulting from feasibility work and/or project mobilisation. Cabinet approved the revised programme on 6 November 2017. Since November 2017 it has proved necessary to make further adjustments to the programme reflecting the experience of project delivery and to some extent increased funding pressures on NHS budgets. This report provides a summary of the updated position for Cabinet approval.
4. Overall, the revised programme supported by CCG funding amounts to a considerable sum of approximately £2.75m between 2015-2020. However, please note the revised programme is still subject to confirmation by the CCG's Governing Body on 28 March 2018.

## HBC Led Programme

5. The HBC led programme comprises nine projects. Details of the individual projects and high level progress with delivering them is summarised at Appendix 1.
6. In Quarter 3 2017 it proved necessary to make some adjustments to the programme to reflect the conclusion of feasibility work during summer 2017 in relation to the Homelessness Support – Hospital Pathway project and to address slower than anticipated mobilisation of Phase 1 of the Health and Wellbeing Community Hubs. The programme originally included an allocation of £300,000 for the Homelessness Support – Hospital Discharge project. However, following feasibility work to establish the project, HBC and CCG colleagues have concluded that the proposed service, which following market testing includes a specialist nursing service, would be better commissioned directly by the CCG. In addition, slippage on the Health and Wellbeing Community Hubs project will result in spend this year of £229,000 against an original budget of £400,000.
7. As the CCG requires full spend in 2017/18 against the allocated budget these changes released funds to cover the extension of some existing projects without the need for the additional CCG funding originally anticipated in 2017/18, e.g. the Community Adult Learning project (WD4) and the Street Community – Health & Wellbeing Hub (EG12). The changes also enabled the implementation of a new partnership project: Co-investment Programme in Ore, Hollington, and Sidley

designed to reduce health inequalities amongst communities where there are concentrations of people living in housing association homes. Investment in this project was anticipated to be £50,250 in 2017/18. The budget changes also enabled an additional £130,000 to be allocated to the Healthy Homes programme to deliver additional heating improvements and energy efficiency measures for vulnerable households in priority areas.

8. The Borough Council and the CCG have worked hard to maximise expenditure against the overall budget whilst responding to local needs and opportunities. For example, in March 2018 Warrior Square GP practice relocated back to Marlborough House, St Leonards. The CCG is therefore exploring with its key stakeholders, the feasibility of investing Health & Wellbeing Community Hubs Phase 2 resources into Marlborough House in order to reduce inequalities between patients in access to services.
9. As the 2017/18 financial year end approaches HBC and CCG colleagues have reviewed project expenditure forecasts and this has indicated that across the programme £152,632 will not be spent by 31 March 2018. To help clarify the position the variations to the programme/reallocation of funds and projected expenditure in 2017/18 are set out at Appendix 2. The underspend equates broadly to the funds released by the CCG directly commissioning the Homelessness Support – Hospital Pathway project. Current NHS financial pressures require this sum to be returned to the CCG and arrangements are in train to facilitate this.
10. The revised budget position for the 5 year programme is attached at Appendix 3. Whilst the total allocation is now £2,751,512, which is £761,764 less than the allocation of £3,513,276 originally envisaged in July 2017, it is important to note that the CCG is now intending to directly commission the Homelessness Support – Hospital Pathway project, which is likely to lead to additional investment exceeding £300,000 over the next two years. Furthermore, if it proves successful there is the possibility of the project being extended for a further two years with a similar level of investment.
11. A further section 256 agreement between the CCG and HBC is required to confirm the availability of additional resources of £1,102,144 to sustain the programme through to 31 March 2020. This is being drafted in tandem with the Cabinet report so that it is ready for signature by both organisations and as soon as possible after the Cabinet meeting. In order to avoid delay in project delivery and to enable the letting of contracts that extend beyond 2017/18 prior to the Cabinet meeting and completion of the section 256 agreement, the CCG has written to HBC to confirm the availability of funds in 2018/19 and 2019/20.
12. The revised programme is subject to confirmation of funding by the CCG's Governing Body on 28 March 2018. Should the total funding be reduced for any reason, or any element of the programme require significant revision, then it will be necessary to further amend a new section 256 agreement between the CCG and the Borough Council. It is proposed, therefore, that the Director of Operational Services, in consultation with the Lead Member, be given delegated authority to vary the proposed agreement in line with requirements of both parties.

## Policy Implications

13. If successful, projects within the programme will contribute to reducing health inequalities and impact positively on:
- a) Greater community cohesion and sustainability. Poor health outcomes are a significant cause of exclusion and impose significant problems at a personal and community level.
  - b) Crime and fear of crime, particularly on issues of domestic violence.
  - c) Local people's views, particularly through work around consultation and engagement on the delivery of health and wellbeing services in community centres
  - d) Anti-poverty, as health inequalities are widely recognised as both a development and outcome of wider economic exclusion
14. Initial results from established projects are generally proving positive. However, it is important to note that only longer term work, which is aligned to other local initiatives that are targeted at deprived communities and / or vulnerable population groups, will produce significant outcomes for local people.

## Financial and Management Implications

15. The work programme will need to be contained within the resources allocated by the CCG, currently £2,751,512, including the additional funding of £1,102,144 for 2018-2020. Project delivery is progressing based on previously approved funding and will continue across the next two financial years to March 2020.
16. HBC does not have the staff resources or the capacity to absorb project management and other costs associated with delivering the programme. These costs will be contained within the programme budget and the agreed HBC project management costs will be charged to individual projects. In addition, the programme budget includes an allocation of just under £106,000 over the five year period (calculated at 4% of the total programme), as a contribution towards HBC management and central support costs associated with developing and delivering this programme.

### Timetable of Next Steps

17. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Confirm CCG Programme Funding	Agree and sign off s.256 funding agreement with CCG	10 April 2018	Andrew Palmer

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## Wards Affected

All

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## Implications

### Relevant project tools applied? Yes/No

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

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

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## Additional Information

**Appendix 1** – Healthy Hastings & Rother Programme – Projects Led by Hastings Borough Council

**Appendix 2** – Healthy Hastings & Rother – HBC Led Projects – Variations to Programme at 31 March 2018

**Appendix 3** – Healthy Hastings & Rother – HBC Led Projects – Revised Programme 2016/17-2019/20

## Background Papers

Report to Cabinet – Healthy Hastings & Rother – Reducing Health Inequalities Programme – 10 July 2017

Report to Cabinet – Healthy Hastings & Rother – Reducing Health Inequalities Programme – 6 November 2017

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## Officer to Contact

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## Appendix 1

### Healthy Hastings & Rother Programme – Projects Led by Hastings Borough Council – High Level Summary of Progress

CCG Ref:	Project description	High level progress against key targets	Progress against outcomes	Delivery Lead
E11	<b>Let's Get Moving (LGM)</b> exercise referral pathway in GP practices - increase the physical activity levels of overweight adults over 12 months	In Q1, 2 and 3 <b>2017/18</b> , 15 (52%) HR GP practices delivered LGM. 655 initial patient consultations were completed during this period. However evidence shows that a limited number of patients received a follow up and motivational interviewing focused appointment.	In Q1 <b>2018/19</b> further analysis of the project's impact will inform future commissioning decisions.	GP Practices
EC2	<b>Health and Wellbeing Community Hubs</b> – enable existing community centres and VCS organisations to become further involved in the design, development and delivery of health and wellbeing services	In <b>November 2017</b> , awards made to VCS organisations to establish Health and Wellbeing Community Hubs in North East Hastings, North West Hastings, Central St Leonards, Central Bexhill and Sidley.	First stage evaluation report evidencing the impact of Health and Wellbeing Community Hubs available in <b>April 2018</b> .	HBC - Regeneration
EC5	<b>Community Empowerment programme in Ore, Hollington and Sidley</b> – strengthen the capacity and capability of three communities to reduce the impact of health inequalities	In <b>September 2017</b> , co-investment programme commenced with Hastings Borough Council, Optivo and Orbit housing associations and other partners. Focus includes support for young people and their families, adults on low incomes and / or living with long term conditions and Making Every Contact Count and Health	First stage evaluation report evidencing the impact of Community empowerment programme available in <b>April 2018</b> .	Optivo housing association



CCG Ref:	Project description	High level progress against key targets	Progress against outcomes	Delivery Lead
		Inequalities Leadership training for staff.		
<b>EG6</b>	<b>Health Independent Domestic Violence Adviser (HIDVA)</b> - promote earlier identification of domestic violence and abuse (DVA) at the Conquest Hospital and improve referrals to IDVA services in Hastings for further support.	<b>Q1 2017/18</b> 21 referrals were received of which 75% were provided with an Initial Safety & Support Plan. Training has been embedded in the hospital's safeguarding programme. An amended referral pathway and staff changes resulted in the pilot ending in August 2017.	A review of HIDVA (EG6) and IRIS (EG7) projects concluded that the pilots have achieved positive outcomes e.g. improved professional understanding of DVA and direct help and support to victims of DVA.  EG6 and a redesigned EG7 (see below) will continue in <b>2018/19</b> with 3 x HIDVAs (1 x hospital and 2 x primary care) working via a Health Hub for Adults Affected by DVA.	Change, Grow, Live - CGL
<b>EG7</b>	<b>Identification and Referral to Improve Safety (IRIS)</b> - develop existing partnership work between primary care and specialist DVA services by providing GP practices in Hastings with a practice based training, support and referral programme for staff.	<b>Q1 2017/18</b> 17 GP practices received brief advice training and 8 GP practices were trained in the full IRIS model. A review of the project concluded it was too rigid and therefore the pilot ended in August 2017.	A review of the pilot project concluded there was no perceived added value in retaining the IRIS brand and that the project should be redesigned to provide better value for money and more flexibility. In <b>2018/19</b> , the project will be incorporated in a Health Hub for Adults Affected by DVA (see EG6 above).	Change, Grow, Live - CGL
<b>EG9</b>	<b>Specialist Nursing Service for rough sleepers, the street community and people living in temporary accommodation</b> – provide physical and mental health support in the community and at the Conquest Hospital.	Project now funded directly by the CCG. Business case approved by HHR steering group. Procurement closed on <b>16th March 2018</b> .	Provider to be appointed in <b>May 2018</b> with the service commencing in <b>September 2018</b> .	H&R CCG

CCG Ref:	Project description	High level progress against key targets	Progress against outcomes	Delivery Lead
EG12	<b>Rough sleepers and street community hub</b> – a weekly multi agency hub in St Leonards to improve access to services and support for rough sleepers and the street community	In Q2 and Q3 <b>2017/18</b> , 44 people were provided with housing and health and wellbeing information and referred to specialist services. Permanent housing solutions were found for 37 people.	Findings demonstrate that co-ordinated intensive support enables better health and wellbeing and housing outcomes to be achieved and improvements in access to local GP practices, drug and alcohol treatment and mental health services.	HBC - Housing Needs & Policy
WD2	<b>Healthy Homes programme</b> – reduce fuel poverty in owner occupied and private rented homes and support the enforcement of housing standards.	In Q1, Q2 and Q3 <b>2017/18</b> : <ul style="list-style-type: none"> <li>• 72 owner occupied and private rented homes were provided with additional heating and / or insulation improvements.</li> <li>• 83 private rented homes were inspected of which 13 have been improved through enforcement action.</li> </ul>	The University of Brighton have been appointed to evaluate the impact and effectiveness of the programme. An interim report evidencing its impact will be available in <b>April 2018</b> .	HBC - Housing Renewal
WD4	<b>Community Adult Learning</b> – bespoke and targeted community adult learning for lone parents, people with poor physical and / or mental health, care leavers, the long term unemployed and the Black, Asian and minority ethnic communities.	In Q1, Q2, Q3 <b>2017/18</b> , 73 independent learners benefitted from a programme of 8 courses.	Over 85% of learners were from the 30% most disadvantaged communities in Hastings and St Leonards. 100% of respondents said their mental wellbeing had improved. Case studies evidence learners feeling more confident in managing their health conditions.	Sussex Coast College Hastings

**Appendix 2****Healthy Hastings & Rother – HBC Led Projects  
Variations to Programme at 31 March 2018**

<b>Project</b>	<b>CCG Ref</b>	<b>Spend @ 31 March 2017</b>	<b>Forecast Spend 2017/18</b>	<b>Original s.256 Allocation</b>	<b>Variance</b>	<b>Notes</b>
Community Adult Learning	WD4	£57,600	£13,950	£57,600	£13,950	Project extended to 2019
Health & Wellbeing Centres - Consultation	0	£147,000	£0	£147,000	£0	Consultation phase complete
Health & Wellbeing Community Hubs Phase 1	EC2	£0	£229,186	£400,000	(£170,814)	Project start slipped but will continue until 2020
Health & Wellbeing Community Hubs Phase 1 Stage 2	EC7	£0	£0	£0	£0	Phase 1 Stage 2 to commence in 2018/19
Health & Wellbeing Community Hubs Phase 2	EC8	£0	£0	£0	£0	Phase 2 to commence following implementation of Phase 1
Co-Investment Programme in Ore, Hollington and Sidley	EC5	£0	£30,650	£0	£30,650	New project to run until 2019/20
Let's Get Moving	EI1	£33,822	£0	£73,400	(£39,578)	Funding no longer required for Sport England bid match funding.
IDVA Domestic Violence	EG6	£29,052	£20,751	£49,803	£0	Project extended to 2018/19 but slippage due to staffing issues
IRIS Domestic Violence	EG7	£41,001	£28,993	£69,994	£0	Project review leading to merger with EG6
Street Community - Health & Wellbeing Hub	EG12	£88,926	£115,000	£162,747	£41,179	Project extended to 2018/19
Homelessness Support (Hospital Pathway)	EG9	£0	£5,000	£152,253	(£147,253)	Feasibility work complete. CCG now commissioning this project.
Healthy Homes - Places (Fuel Poverty)	WD2	£194,004	£550,996	£627,000	£118,000	Project extended to 2018/19
HBC Programme Management	ME3	£51,000	£12,437	£62,203	£1,234	Calculated @ 4% of programme
<b>Total Expenditure</b>		<b>£642,405</b>	<b>£1,006,963</b>	<b>£1,802,000</b>	<b>(£152,632)</b>	Underspend to be repaid to CCG

<b>Appendix 3</b>							
<b>Healthy Hastings &amp; Rother - HBC Led Projects Revised Programme – 2016/17-2019/20</b>							
		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	
<b>Project</b>	<b>CCG Ref</b>	<b>Actual Spend @ 31 March 2017</b>	<b>Forecast Spend 2017/18</b>	<b>Additional Allocation 2018-19</b>	<b>Additional Allocation 2019-20</b>	<b>Total Additional Allocation (C+D)</b>	<b>Total Project Value (A+B+E)</b>
Community Adult Learning	WD4	£57,600	£13,950	£41,850	£0	£41,850	£113,400
Health & Wellbeing Centres - Consultation	0	£147,000	£0	£0	£0	£0	£147,000
Health & Wellbeing Community Hubs Phase 1	EC2	£0	£229,186	£229,186	£229,186	£458,372	£687,558
Health & Wellbeing Community Hubs Phase 1 Stage 2	EC7	£0	£0	£0	£0	£0	£0
Health & Wellbeing Community Hubs Phase 2	EC8	£0	£0	£0	£0	£0	£0
Co-Investment Programme in Ore, Hollington and Sidley	EC5	£0	£30,650	£85,500	£85,500	£171,000	£201,650
Let's Get Moving	EI1	£33,822	£0	£0	£0	£0	£33,822
IDVA Domestic Violence	EG6	£29,052	£20,751	£105,532	£0	£105,532	£155,335
IRIS Domestic Violence	EG7	£41,001	£28,993	£0	£0	£0	£69,994
Street Community - Health & Wellbeing Hub	EG12	£88,926	£115,000	£108,000	£0	£108,000	£311,926
Homelessness Support (Hospital Pathway)	EG9	£0	£5,000	£0	£0	£0	£5,000
Healthy Homes - Places (Fuel Poverty)	WD2	£194,004	£550,996	£175,000	£0	£175,000	£920,000
HBC Programme Management	ME3	£51,000	£12,437	£29,803	£12,587	£42,390	£105,827
<b>Total Expenditure</b>		<b>£642,405</b>	<b>£1,006,963</b>	<b>£774,871</b>	<b>£327,273</b>	<b>£1,102,144</b>	<b>£2,751,512</b>

# Agenda Item 8



**Report to:** Cabinet

**Date of Meeting:** 9<sup>th</sup> April 2018

**Report Title:** Freedom Leisure Loan for Capital Investment

**Report By:** Victoria Conheady, Assistant Director, Regeneration and Culture

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## Purpose of Report

This report proposes that the Council supports the initial capital investment for leisure facility improvements by providing a loan to Freedom Leisure. Freedom Leisure will pay back the loan, plus the appropriate interest charge over the contract term, achieving a financial net gain for the Council.

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## Recommendation(s)

1. Approve the proposal for the Council to provide a loan to Freedom Leisure.
2. Delegate authority to the Chief Financial Officer and Chief Legal Officer to agree any matters of detail necessary to conclude the final loan arrangements

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## Reasons for Recommendations

The recent procurement process for the leisure management contract identified Freedom Leisure as the successful bidder. The new contract will commence from 1<sup>st</sup> April 2018. Freedom Leisure's bid included an investment into various areas, including £134,037.60 on a climbing wall and energy reduction measures. The proposal will result in a net gain of £21,774 for the Council based on an opportunity cost of borrowing of 1%.

## Introduction

1. Following a soft market test, the procurement for leisure facility management services was initiated in November 2016. Two compliant bids were received from Wave Leisure Trust Limited and Wealden Leisure Ltd trading as Freedom Leisure. The two tenders were evaluated in accordance with the published evaluation criteria. The preferred bidder was Freedom Leisure, the 5 year (+2 +2 year) contract will commence 1<sup>st</sup> April 2018.
2. Freedom Leisure's winning bid included investment in the following areas:
  - F/T Community worker post
  - Clip & climb wall
  - New pool inflatable
  - Energy reductions measures
  - Outdoor parkour equipment and training
  - Improvements to changing areas and catering offer
3. The clip & climb wall and energy reduction measures will cost £111,698 + VAT. The proposal is for HBC to loan Freedom Leisure the money to fund the initial capital investment of these items. Freedom Leisure will pay back the loan, plus the appropriate interest charge over the contract term.

## Investment Proposal

4. The length of the proposed loan would be 5 years (60 months) at an agreed interest rate of 7%. The amount to be borrowed would be £134,037.60 (the £111,698 + £22,339.60 VAT). The total amount to be repaid would be £159,246.31 (£134,037.60 principal repayment and £25,208.71 interest).
5. The loan will be charging a market rate interest charge meaning that state aid rules do not apply.
6. The council will have the option of funding the loan from its own reserves or from borrowing. The decision as to whether borrowing or reserves are used to fund the loan would be left to the Chief Financial Officer. The net gain from either funding mechanism would more than cover the council's costs of administering the loan.
7. The exact return the Council would make from using reserves depends upon the rate of return that the Council would have forgone from investing the funds elsewhere. The annual treasury management report that went to Cabinet in September 2017 shows the highest rate of return for our short term deposits was 1.05% but with some as low as 0.01%. If we assumed the Council could invest the funds at 1% a return of £3,435 would be received, thus making the net gain from lending to Freedom Leisure for the council £21,774.

8. The alternative option of funding the loan from borrowing is likely to come from the Public Works Loan Board (PWLB) at a fixed rate of around 1.7%. The interest payable by the Council for borrowing the loan amount over 5 years is estimated to be £6,346. The interest received from making the loan to Freedom Leisure would be £25,209. This would therefore leave the Council with a net gain of £18,863. Therefore a lower return than the estimated £21,774 net gain from using reserves as stated above.
9. The borrowing figures for the Council are indicative (those in effect as at 19 March 2017) and will depend upon the rates prevailing at the time any borrowing is actually undertaken.
10. The loan will be paid back over 60 monthly repayments fixed at £2,654.11.
11. The investment will be implemented to benefit the 5 year contract term. Freedom Leisure is keen to proceed with the investment as soon as a decision is made at April Cabinet.
12. If this loan proposal from the Council is not approved by Cabinet, then Freedom Leisure will ensure that the improvements still go ahead but financed via an alternative method.

## Resource Implications

13. The finance team will be required to set-up and administrate the loan. The legal team will be required to set-up the loan agreement. Officers believe that the financial return will outweigh the administrative costs.

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## Wards Affected

All

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## Implications

[Relevant project tools applied? Yes](#)

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

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	
Risk Management	Yes
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	
Organisational Consequences	
Local People's Views	
Anti-Poverty	

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## **Additional Information**

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### **Officer to Contact**

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