

# Council Meeting

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**26 July 2017**

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## HASTINGS BOROUGH COUNCIL

Dear Councillor

You are hereby summoned to attend a meeting of the Hastings Borough Council to be held at the Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY, on Wednesday, 26th July, 2017 at 6.00 pm at which meeting the business specified below is proposed to be transacted.

Yours sincerely,

Chief Legal Officer

Aquila House  
Breeds Place  
Hastings

18 July 2017

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### **AGENDA**

1. Apologies for Absence
2. To approve as a correct record the minutes of the Annual Council meeting held on 17 May 2017
3. Declarations of Interest
4. Announcements from the Mayor and Leader
5. Questions (if any) from:
  - a) Members of the public under Rule 11
  - b) Councillors under Rule 12
6. Motion (Rule 14)  
Councillor Lee Clark to propose seconded by Councillor Lee that:  
  
“Hastings Borough Council increase with immediate effect the age at which no charge is made for interment fees and cremation fees at Hastings Borough Council facilities for residents of the Borough. The increase is to be from the current age of 5 to the age of 18. This is also

to include those who have reached their 18<sup>th</sup> birthday but remain in full time further education.

To be funded from reserves for the remainder of the municipal year 2017 – 2018 and for future years to be costed and allowed for within the Budget for 2018 – 2019 onwards.”

7. Membership of Committees

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

8. Annual Audit Report 2016/17 to Council

(Report of the Chief Auditor)

9. Amendments to the Council's Constitution

(Report of the Chief Legal Officer)

10. Reports of Committees

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

| <b>Minute No.</b>                    | <b>Subject</b>   | <b>Cabinet Member / Chair</b> |
|--------------------------------------|--|-------------------------------|
| <b>SPECIAL CABINET – 15 MAY 2017</b> |  |                               |
| 89.                                  | Review of Consultation and Implementation Public Space Protection Orders | Fitzgerald                    |
| <b>CABINET – 10 JULY 2017</b>        |  |                               |
| 2.                                   | Hastings and Rother Reducing Health Inequalities Programme               | Batsford                      |
| 3.                                   | Compulsory Purchase of Long Term Empty Homes                             | Forward                       |
| 4.                                   | Housing Renewal Financial  | Batsford                      |

|                               |  |            |
|-------------------------------|--|------------|
|                               | Assistance Policy  |            |
| 5.                            | Environmental Health Service Enforcement Policy  | Fitzgerald |
| 6.                            | Cabinet Appointments to Committees, Working Groups and Partnerships  | Chowney    |
| 9. (E)                        | Compulsory Purchase of Long Term Empty Homes   | Forward    |
| <b>CABINET – 17 JULY 2017</b> |  |            |
| 12.                           | Petition: More Public EV charging facilities in Hastings   | Poole      |
| 13.                           | Corporate Plan retrospective report on performance during 2016/17 and proposed Performance Indicator targets for 2017/18 | Forward    |
| 14.                           | Final Accounts 2016/17   | Chowney    |
| 15.                           | Priory Meadow – Supplementary Capital Budget   | Chowney    |
| 16.                           | Social Lettings Agency 2 Year Review   | Batsford   |
| 17.                           | Management Response to the Review of Scrutiny Arrangements   | Poole      |
| 18.                           | Acquisition of Land in Ore Valley from HBRL  | Chowney    |
| 19.                           | Community Housing Fund   | Batsford   |
| 20.                           | Future Waste and Cleansing Services  | Fitzgerald |
| 21.                           | Flexible Homelessness Support Grant Expenditure  | Batsford   |
| 22. (E)                       | Commercial Property Purchase   | Chowney    |

(C) – Council Decision

(E) - Exempt

Notes:

1. The Mayor will call over the minutes and members will rise and indicate those items which they wish to have discussed
2. No discussion shall take place at this stage upon part II minute covered by the resolution covered by 10a) above. Any such discussion shall be deferred until item 11 on the agenda.

11. To consider the recommendations and decisions of committees (if any)

which the council resolved should be discussed after the exclusion of the public from the meeting

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

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# Agenda Item 2 Public Document Pack

## ANNUAL COUNCIL

17 MAY 2017

Present: The Right Worshipful the Mayor (Councillor Judy Rogers) in the Chair, Councillors Sinden, Batsford, Chowney, Clark, Cooke, Davies, Howard, Dowling, Poole, Roberts, Sabetian, Scott, Street, Turner, Webb, Westley, Wincott, Beaver, Charman, Lee, Fitzgerald, Beaney, Atkins, Edwards, Clarke, Dowling, Bacon, Patmore and Rankin

Apologies for absence were noted for Councillor Cartwright and Forward

Apologies for lateness were noted from Councillor Lee Clark

### 67. ELECTION OF MAYOR

Councillor Rogers announced that she was seeking re-election as Mayor of the Borough of Hastings and withdrew from the meeting to allow the Deputy Mayor to preside over the election.

Councillor Terri Dowling proposed that Councillor Judy Rogers be elected as Mayor of the Borough of Hastings for the current municipal year, which was seconded by Councillor Wincott. No further nominations were received.

**RESOLVED (unanimously) that Councillor Judy Rogers is elected as Mayor of the Borough of Hastings for the current municipal year**

Councillor Rogers made the declaration prescribed by Section 83 of the Local Government Act 1972.

### 68. ELECTION OF DEPUTY MAYOR

Councillor Sinden announced that he was seeking re-election as Deputy Mayor of the Borough of Hastings and withdrew from the meeting.

Councillor Fitzgerald proposed that Councillor Nigel Sinden be elected as Deputy Mayor of the Borough of Hastings for the current municipal year, which was seconded by Councillor Bacon. No further nominations were received.

**RESOLVED (unanimously) that Councillor Nigel Sinden is elected Deputy Mayor of the Borough of Hastings for the current municipal year**

Councillor Sinden made the declaration prescribed by Section 83 of the Local Government Act 1972.

### 69. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE FULL COUNCIL MEETING HELD ON 19 APRIL 2017

**FULL COUNCIL**

**17 MAY 2017**

**RESOLVED** that the minutes of the Full Council meeting held on 19 April 2017 be signed by the Mayor as a correct record of the proceedings

**70. MAYORAL ANNOUNCEMENTS**

The Mayor made an acceptance of office speech, in which she described her highlights from her first term of office as Mayor and set out her priorities for the year ahead. She also thanked all those who had supported her during her first term of office.

**71. TO RECEIVE THE LEADER'S REPORT ON THE APPOINTMENT OF THE DEPUTY LEADER OF COUNCIL**

Councillor Chowney announced that Councillor Forward has been appointed as Deputy Leader of the Council and Regeneration and Culture Portfolio Holder.

**72. TO RECEIVE THE LEADER'S REPORT ON THE NUMBER OF MEMBERS TO BE APPOINTED TO THE CABINET AND THE NAMES OF THE MEMBERS OF CABINET APPOINTED**

Councillor Chowney reported that:

- 1) Membership of the council's Cabinet be 8 Councillors
- 2) The seats on Cabinet be allocated 6 to the Labour group (to include the Chair of Charity Committee) and 2 to the Conservative group and members be appointed in accordance with the nomination of the groups as shown in appendix A to the minutes

**73. TO RECEIVE THE LEADER'S REPORT ON THE CABINET PORTFOLIOS AND THEIR ALLOCATION TO MEMBERS OF THE CABINET**

Councillor Chowney reported that the allocation of responsibilities for Cabinet portfolios be as follows:

| Cabinet Lead Member | Portfolio   |
|---------------------|---|
| Councillor Chowney  | Leader of the Council and Finance and Property Portfolio Holder |
| Councillor Forward  | Deputy Leader of the Council and Regeneration and Culture       |

## FULL COUNCIL

17 MAY 2017

|                       |   |
|-----------------------|---|
|                       | Portfolio Holder                            |
| Councillor Fitzgerald | Environment and Equalities Portfolio Holder |
| Councillor Poole      | Corporate Services Portfolio Holder         |
| Councillor Batsford   | Housing and Leisure Portfolio Holder        |
| Councillor Beaney     | Charity Committee Chair                     |

Councillor Chowney announced that Councillor Cartwright was stepping down from his role as Portfolio Holder for Corporate Services. Councillor Chowney thanked Councillor Cartwright for his efforts during his time on Cabinet, particularly his work overseeing the organisational transformation programme.

#### **74. TO AGREE THE APPOINTMENT OF THE OVERVIEW AND SCRUTINY COMMITTEE AND ITS TERMS OF REFERENCE**

Councillor Chowney proposed the following terms of reference for Overview and Scrutiny Committee.

**RESOLVED** that Overview and Scrutiny Committee be appointed with the following key areas of responsibility:

| <b>Overview and Scrutiny Committee</b>   |
|--|
| <ul style="list-style-type: none"><li>• <b>Strategy Targets</b></li><li>• <b>Reviewing progress on the implementation of Cabinet decisions</b></li><li>• <b>Policy development work with Portfolio Holders, officers and partners</b></li><li>• <b>Service reviews</b></li><li>• <b>Collection of Council tax and other charges</b></li><li>• <b>Payment of benefits</b></li><li>• <b>Management of resources</b></li><li>• <b>Public sector efficiency programmes</b></li></ul> |

#### **75. TO APPOINT COMMITTEES OF THE COUNCIL, TO DETERMINE THE REPRESENTATION OF POLITICAL GROUPS ON THOSE COMMITTEES, TO APPOINT MEMBERS TO THOSE COMMITTEES AND TO APPOINT THE CHAIRS AND VICE CHAIRS (AS INDICATED) FOR THE MUNICIPAL YEAR 2017/18 (LIST TO BE CIRCULATED SEPARATELY)**

## FULL COUNCIL

17 MAY 2017

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

**RESOLVED** that the council adopts the following arrangements for the membership of committees:

|                                  | <u>Councillors</u> | <u>Non-Councillors</u> |
|----------------------------------|--------------------|------------------------|
| Overview and Scrutiny Committee  | 11                 | -                      |
| Audit Committee                  | 5                  | -                      |
| Standards Committee              | 5                  | 2                      |
| Licensing Committee              | 15                 | -                      |
| Council Appointments Committee   | 5                  | -                      |
| Employment Committee             | 4                  | -                      |
| Employment Appeals Committee     | 4                  | -                      |
| Planning Committee               | 10                 | -                      |
| Environment and Safety Committee | 5                  | -                      |

- (2) the seats on the committees of the Council be allocated to political groups and members be appointed to those committees in accordance with the nominations of the political groups as shown in appendix A to the minutes; and
- (3) the Chairs and Vice – Chairs of the committees be appointed as shown on appendix A to the minutes.

### 76. THE YEAR'S PROGRAMME

In accordance with the constitution rule 1.1 (xii) the Leader of the Council proposed the programme for the ensuing municipal year, which was seconded by Councillor Poole.

**RESOLVED** (by 22 votes for, 8 against with 0 abstentions) that the council agrees the programme for the ensuing municipal year as proposed by the Leader of the Council.

**FULL COUNCIL**

**17 MAY 2017**

**77. COUNCIL MEETINGS 2017/18**

**RESOLVED that the meetings of the council be held on the following dates:**

**6.00pm on 26 July 2017**

**6.00pm on 18 October 2017**

**6.00pm on 13 December 2017**

**6.00pm on 21 February 2018 (Budget Meeting)**

**6.00pm on 28 February 2018**

**6.00pm on 18 April 2018**

**6.00pm on 16 May 2018 (Annual Meeting)**

(The Mayor declared the meeting closed at. 8.08 pm)

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**APPENDIX A TO THE MINUTES - HASTINGS BOROUGH COUNCIL APPOINTMENTS TO COMMITTEES – AS OF COUNCIL ON MAY 2017  
POLITICAL BALANCE RULES APPLY TO COMMITTEES**

|                                |                         |                                |     | NOMINATIONS FOR 2017/18   |                    | NOTES   |
|--------------------------------|-------------------------|--------------------------------|-----|---|--------------------|---|
| COMMITTEE                      | SEATS TO BE FILLED      | ALLOCATION TO POLITICAL GROUPS |     | LABOUR GROUP  | CONSERVATIVE GROUP |   |
|                                |                         | LAB                            | CON |   |                    |   |
| Cabinet                        | Up to 10                | 6                              | 2   | Chowney (Chair)<br>Forward (Vice-Chair)<br>Poole<br>Fitzgerald<br>Batsford<br>Beaney (Chair of Charity Committee) | Lee<br>Patmore     | 1 member from the majority group to be a non-portfolio holder and to Chair the Charity Committee.   |
| Audit Committee                | 5                       | 4                              | 1   | Chowney<br>Charman<br>Davies<br>Sinden (Vice-Chair)   | Rankin (Chair)     | The Leader of the Council, who shall not be the Chair, is a member ex officio.<br>With the exception of the above, members of this Committee may not be members of Cabinet.<br>The Chair may not be in the same political group as the Leader of the Council. |
| Council Appointments Committee | 5                       | 4                              | 1   | Chowney (Chowney)<br>Forward<br>Poole<br>Fitzgerald   | Atkins             |   |
| Standards Committee            | 5<br>(+ 2 independents) | 4                              | 1   | Roberts (Chair)<br>Sinden (Vice-Chair)<br>Bacon<br>B.Dowling  | M Clarke           | No more than 1 Cabinet member who is not to be the Leader.<br>Members may not appoint substitutes.  |

**APPENDIX A**

|                                 |                           |                                       |            | <b>NOMINATIONS FOR 2017/18</b>   |                           | <b>NOTES</b>  |
|---------------------------------|---------------------------|---------------------------------------|------------|--|---------------------------|---|
| <b>COMMITTEE</b>                | <b>SEATS TO BE FILLED</b> | <b>ALLOCATION TO POLITICAL GROUPS</b> |            | <b>LABOUR GROUP</b>  | <b>CONSERVATIVE GROUP</b> |   |
|                                 |                           | <b>LAB</b>                            | <b>CON</b> |  |                           |   |
| Employment Appeals Committee    | 4                         | 3                                     | 1          | B.Dowling (Chair)<br>Sinden (Vice-Chair)<br>Poole  | Beaver                    |   |
| Employment Committee            | 4                         | 3                                     | 1          | Chowney<br>Forward<br>Poole  | Edwards                   |   |
| Overview and Scrutiny Committee | 11                        | 8                                     | 3          | Webb (Chair)<br>Howard (Vice-Chair)<br>Bacon<br>Cartwright<br>Charman<br>Davies<br>B.Dowling<br>Turner | Atkins<br>Cooke<br>Rankin | No Cabinet Member may sit on O & S Committees.<br>Mayor and Deputy Mayor not eligible for membership.<br>Political Balance applies to Chairs and Vice-Chairs of O&S Committee |

**APPENDIX A**

|                                  |                           |                                       |   | <b>NOMINATIONS FOR 2017/18</b>  |                                       | <b>NOTES</b>  |
|----------------------------------|---------------------------|---------------------------------------|---|---|---------------------------------------|---|
| <b>COMMITTEE</b>                 | <b>SEATS TO BE FILLED</b> | <b>ALLOCATION TO POLITICAL GROUPS</b> |   | <b>LABOUR GROUP</b>   | <b>CONSERVATIVE GROUP</b>             |   |
| Licensing Committee              | 15                        | 11                                    | 4 | Sabetian (Chair)<br>Sinden (Vice-Chair)<br>Cartwright<br>Charman<br>B.Dowling<br>Howard<br>Roberts<br>Rogers<br>Street<br>Webb<br>Westley | Cooke<br>Edwards<br>Patmore<br>Rankin | No Cabinet member with Portfolio.<br>No more than 5 members of Planning Committee. Chair and Vice-Chair not to be elected from members of the Planning Committee. |
| Planning Committee               | 10                        | 7                                     | 3 | Street (Chair)<br>Scott (Vice-Chair)<br>Cartwright<br>B.Dowling<br>Roberts<br>Rogers<br>Wincott   | Beaver<br>Edwards<br>Clarke           | No Cabinet member with portfolio  |
| Environment and Safety Committee | 5                         | 4                                     | 1 | B.Dowling (Chair)<br>Roberts (Vice-Chair)<br>Sinden<br>Rogers   | Cooke                                 | No Cabinet member with Portfolio.   |

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# Agenda Item 8



**Report to:** Council

**Date of Meeting:** 26 July 2017

**Report Title:** Audit Committee Report 2016/17 to Council

**Report By:** Tom Davies  
Chief Auditor

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## **Purpose of Report**

Report from the Audit Committee on its annual review of effectiveness of Internal Audit to Council.

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## **Recommendation(s)**

**1. That the Audit Committee Report 2016/17 to Council is accepted.**

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## **Reasons for Recommendations**

Regulation 6 of the Accounts and Audit Regulations (England) 2015 requires relevant bodies to conduct an annual review of the effectiveness of its system of internal audit and for a committee of the body to consider the findings.

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## Introduction

1. Background Regulation 6 of the Accounts and Audit Regulations (England) 2015 requires Local Authorities to conduct a review at least once a year of the effectiveness of its system of internal control and publish a statement on internal control each year with the authority's financial statements.
2. This report, which follows the format recommended by the Chartered Institute of Public Finance and Accountancy, sets out the review of internal control and the assurance gathering process as required by the statute and accompanying guidance.
3. In addition, Regulation 6 of the Regulations requires relevant bodies to conduct an annual review of the effectiveness of its system of internal audit and for a committee of the body to consider the findings. Proper practices in relation to internal audit for relevant bodies may be found in the "Public Sector Internal Audit Standards". We are working with the Sussex Audit Group on a reciprocating basis to arrange a "peer" review of Internal Audit which must be completed by 31 March 2018.

### Principal statutory obligations and organisational objectives

#### Responsibility for Statutory Obligations

4. The Council has formally established responsibilities for its statutory obligations through the Constitution that sets out individual officer and member responsibilities, delegations to officers and committees, and committee terms of reference. These records are accessible on the Council's website and through the Monitoring Officer.
5. Detailed officer responsibilities are set out in job descriptions and structure charts.
6. Directors are accountable for ensuring that responsibilities, authorities and any limits to authorities are appropriately and clearly established within their directorates. The Audit Committee receives internal and external audit reports and ensures that any non-compliance is remedied through appropriate recommendations, and where necessary, requires assurance that recommendations have been implemented.

#### Organisational objectives and priorities

7. The multi-functional nature of the Council means that there are a large number of mandatory and discretionary requirements and powers. Hastings Borough Council took action to identify its priority objectives resulting in a list of principles and priorities underpinning the Corporate Plan. The priority areas were then devolved through Directors to Service Managers in the form of Work Plan Summaries.
8. There is a Local Code of Corporate Governance. Audit Committee Terms of Reference clearly assign responsibility for the scrutiny of corporate governance arrangements to the Audit Committee.

## **Performance against planned outcomes**

9. The Authority knows how well it is performing against its planned outcomes through a comprehensive and effective performance management system. This system monitors performance against plans, targets, and financial budgets, with quarterly reports to the Overview and Scrutiny Committee.

## **Identifying principal risks to achieving the objectives**

10. 'Risk' is any obstacle, or potential obstacle, to the achievement of the Council's priority objectives or statutory duties. The purpose of risk management is to ensure the achievement of the Council's objectives with efficient use of resources.
11. By identifying high-risk groups or areas, corporate policies and service resources can be targeted on those groups or areas.
12. The Council has a formal Risk Management Framework that was approved by Cabinet. The Framework is designed to encourage managers to 'own' the risks associated with their areas of responsibility. Managers use a corporately agreed matrix for identifying and assessing risks and controls.
13. The council continues to ensure the identification of key risks from both a strategic and operational perspective. Using a process of self-assessment, senior management re-assessed the strategic risks (those to service provision, statutory compliance, and reputation) and services assessed operational risks (financial, physical and contractual risks).
14. During 2016/17 both the Strategic Risk Register and Operational Risk Registers were regularly updated.
15. Council has approved Terms of Reference for the Audit Committee giving it a clear remit to,  
  
"Review, evaluate and approve: The effectiveness of the Council's process for assessing significant risk exposures and the measures taken by management to mitigate risks to an acceptable level".
16. A large part of the internal audit plan is risk-driven.

## **Key controls for managing principal risks**

17. To ensure that its controls are fully up to date with the current operating environment, Financial Operating Procedures provide the framework within which Members and Officers must operate and compliance is routinely checked through audit reports to the Audit Committee.
18. In addition, the Council has these controls in place:
  - a. The Council has adopted the CIPFA Code on Treasury Management to ensure compliance with the Prudential Code.
  - b. An Anti-Fraud and Anti-Corruption Strategy (Fighting Fraud Locally).

- c. A Whistle-blowing Policy.
- d. Codes of Conduct for Members and Officers.
- e. Registers of Interests for Members and Officers.
- f. Risk Registers (reviewed by Audit Committee) are updated on an ongoing basis.
- g. Performance is monitored through quarterly Performance Reviews.
- h. A Corporate Health and Safety system of monitoring and review is in place.
- i. A Corporate compliments and complaints procedure operates.

### **Sources of assurance**

19. Sources of assurance on the adequacy and effectiveness of the Council's controls over key risks include:
- a. An Audit Committee that is a fully constituted Committee of the Council.
  - b. An Internal Audit and Investigations service that is independent in planning, operating, and reporting, and that reports to the Audit Committee.
  - c. A Chief Finance Officer with responsibility for ensuring the proper administration of the Council's financial affairs.
  - d. Processes for maintaining internal control include a framework of regular management information, Financial Rules and Finance Operating Procedures, administrative procedures (including segregation of duties), management supervision and a system of delegation and accountability.
  - e. A performance management system that includes commentary on service-level risk, the setting of targets for service delivery and monitoring of performance against targets and plans.
  - f. A strategic Corporate Plan setting out the Council's priorities, which cascades to operational plans at service and project level, including consideration of risks.
  - g. An annual budget and quarterly reviews of actual expenditure to budget.
  - h. A Local Code of Corporate Governance agreed by Cabinet.
  - i. A project management methodology for major projects.
  - j. A Risk Management Framework.
  - k. Declaration of related party transactions forms for members.
  - l. Codes of Conduct for Members and Officers.
  - m. A Staff Health & Safety Group that monitors insurable and public liability risks.

- n. A Corporate Risk Management Group that meets periodically.
- o. Risk management processes designed to ensure that Directors and Managers retain ownership of the risks and internal controls associated with their areas of responsibility. Directors and Managers are therefore an important source of assurance on the effectiveness of controls for managing risks.
- p. The Internal Audit service carries out audit and risk reviews of high-risk areas to provide assurance that major risks have been identified and are being actively managed, and that the internal control environment is adequate.
- q. The Assistant Director Financial Services and Revenues in his role provides a source of assurance that the requirements of the Local Government Act 1972 Section 151 are being met.
- r. The Monitoring Officer, undertakes the relevant statutory duties and provides a source of assurance that the Council's affairs are conducted in compliance with relevant legislation and Codes of Conduct.
- s. External audit provides a source of assurance on the operation of internal controls in that BDO inspects internal audit work at each annual external audit.

## **Evaluation of assurances and identification of gaps**

### **Internal Audit**

- 20. On the basis of the audits reported to the Audit Committee by Internal Audit, the audit conclusion is that during the year 2016/17, all of the Council's operations that were audited incorporate control systems that are 'Satisfactory' or better.
- 21. In financial systems, the audit aims to evaluate the strength of controls for ensuring the proper administration of financial resources. In the audit of non-financial areas, the audit aims to evaluate the strength of controls for ensuring that external obligations are met and that the success criteria of the activity under review are achieved. The following table shows the audit conclusion for each of the main audits carried out in 2016/17.

22.

| Audit Conclusion  | No of Audits |
|---|--------------|
| A: Good<br>More than the key controls are in place and work effectively. While improvement may be possible, there are no significant audit concerns | 3            |
| B: Satisfactory<br>The key controls are in place and work effectively. Improvement is possible but there are no significant audit concerns          | 2            |
| C: Adequate but with reservations in some areas<br>Some controls in place are adequate but there are audit concerns in some areas                   | 0            |
| D: Poor<br>Controls are not adequate or not present or not adequately complied with. Improvement is essential                                       | 0            |
| Total audits  | 5            |

23. This compares with previous years as follows:

| Audit Conclusion          | 2013-14      | 2014-15      | 2015-16      | 2016-2017    |
|---------------------------|--------------|--------------|--------------|--------------|
|                           | No of audits | No of audits | No of audits | No of audits |
| A, B: Good / Satisfactory | 4            | 7            | 8            | 5            |
| C, D: Adequate / Poor     | 1            | 0            | 0            | 0            |

24. The Internal Audit Service was unable to complete the whole audit plan before 31 March 2017 due to long term unanticipated sick leave in the last quarter. It has moved the audit of Cash & Bank to 2017-2018. Two others, Selective Licensing and Homelessness were outsourced to PricewaterhouseCoopers where the fieldwork was completed by 31 March 2017 and both reports are in the process of being finalised.

25. The audit conclusions are defined in the service's own Internal Audit Manual.

26. Ethical audit consisted of work carried out over staff travel and subsistence expenses.

27. Based on the audit work undertaken by Internal Audit, the Authority's overall internal control system is considered to be satisfactory.

## External Audit

External audit is carried out by BDO and is an important source of assurance on the adequacy of the Council's arrangements for ensuring proper arrangements for its financial affairs. During 2016/17 the Audit Committee received the following reports:

| 28. Report Title                  | Date Issued    |
|-----------------------------------|----------------|
| Report on Final Accounts          | September 2016 |
| Annual Audit Letter 2015/16       | October 2016   |
| Audit Plan to the Audit Committee | March 2017     |

29. BDO gave an unqualified opinion on the Council's accounts for 2015/16 and an unqualified opinion on value for money.

### Areas of audit concern arising from internally conducted audits

30. There were no major concerns arising from internally conducted audits.

### Areas of audit concern arising from External Audit

31. No significant areas of audit concern have been highlighted in the Annual Audit Letter (October 2016).

32. The key findings reported in it were:

- (i) "We issued an unqualified true and fair opinion on the financial statements for the period ended 31 March 2016 on 30 September 2016.
- (ii) We reported our detailed findings to the Audit Committee on 22 September 2016. A small number of corrections were made to the final published accounts.
- (iii) We issued an unqualified conclusion on the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources on 30 September 2016.
- (iv) While the Council still has some work to do to close the funding gap in future years and the planned use of earmarked and other reserves of £4.2 million over the next three years is clearly not sustainable in the longer term, this should be seen in the context of the Council having a high level of earmarked reserves (£7 million general reserves and £13 million earmarked at 31 March 2016) to manage the transition to becoming a lower spending authority
- (v) We have not exercised our statutory powers and have no matters to report.
- (vi) We are satisfied that the Annual Governance Statement is not inconsistent or misleading with other information we were aware of from our audit.

(vii) Our review of your housing benefits subsidy claim 2015/2016 is in progress and the results will be reported upon completion of this work".

## **Policy Implications**

### **Risk Management**

33. This report has referred to the way that the council manages its risks.

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### **Wards 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                       | Yes |
| Environmental Issues                  | No  |
| Economic/Financial Implications       | No  |
| Human Rights Act                      | No  |
| Organisational Consequences           | Yes |
| Local People's Views                  | No  |
| Anti-Poverty                          | No  |

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### **Additional Information**

External Audit Annual Governance Report 2015/16  
Annual Audit Letter 2015/16

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### **Officer to Contact**

Tom Davies  
Email: [tdavies@hastings.gov.uk](mailto:tdavies@hastings.gov.uk)  
Telephone: 01424 451524

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# Agenda Item 9



**Agenda Item No:** 9

**Report to:** Council

**Date of Meeting:** 26th July 2017

**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**

Council is asked to consider and approve the constitutional amendments

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## **Recommendation(s)**

- 1. To recommend that the amendments to the Council's Constitution be adopted by 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. The changes to the Constitution have been agreed by Working Arrangement Group at their meeting on 29th March 2017.
3. Changes have been made to Parts 2, 3, 4, 5 and 8 of the Constitution. All additions are in red text and all removed words are struck through in red text for ease of reference. Page numbers and paragraph numbers have also been corrected where text has been added or removed and reference to Aquila House has been changed to Muriel Matters House throughout.
4. Part 2 - Articles of the Constitution - addition of Articles 8 para 8.2e regarding the appointment of Chair at Regulatory Committees where the Chair or Vice Chair is not available to Chair the meeting (or part of). This may be due to absence or interests.
5. Part 3 - Responsibility for Functions - all text versions of the table of functions have been deleted as they were duplicated.
6. Part 4 - Rules of Procedure - Para 10 Petitions Scheme has been clarified to exclude planning petitions which are dealt with by the Planning Committee and petitions relating to Disciplinary proceedings. E-Petitions have also been clarified now they are facilitated by Modern.Gov and not ESCC. E-Petitions are not accepted for petitions alleging misconduct by a councillor (complaint to Standards Committee), relating to a Council officer or Service (Corporate Complaints Process / Disciplinary), matters relating to an individual e.g. a taxi driver's licence application or relating to a current planning application. Clarification has also been given as to how the Council will respond to petitions.
7. Part 4 - Para 11 Public Question Time - addition of 'questions asked within the 30 minutes will be answered'. Clarification has also been given as to the scope of questions in that the Chief Legal Officer may reject a question if it is about a matter which is the subject of legal proceedings, an appeal to a tribunal or government minister, an investigation by the Local Government Ombudsman or the Standards Committee, or through the Council's Corporate Complaints Procedure.
8. Part 4 - Para 14 Motions on Notice - The wording regarding motions to Council has also been further clarified. Following concerns over the length of Council meetings the Working Arrangements Group have suggested that the general time for members to speak on an item be reduced from 5 minutes to 3 minutes (para 16.4).
9. Part 5 Planning Protocol. The number of letters of objection required for a planning application to be determined by Planning Committee has increased from 3 to 5 different households. This will bring it in line with other Local Planning Authorities and reduce the need for small and minor applications to come to Planning Committee. Major, sensitive and contentious planning applications will always attract more than 5 objections or a petition of objection (some application can attract dozens / hundreds).

This does not affect a Councillor's right to call in the application to Planning Committee in accordance with paragraph 44 of Part 8 of the Constitution. Addition of para 53 regarding the appointment of the Chair where the Chair or Vice Chair is not available to Chair the meeting (or part of). This may be due to absence or interests. The nomination must be of a permanent member of Planning Committee and not a substitute. The procedures for public speaking now allow for members of the public to address the Planning Committee where a petition of over 10 signatories is received. This could be for or against the officer recommendation. Previously this was only where the petition was against the recommendation of the planning officer. This is in the interests of transparency and natural justice.

10. Part 8 - Standing Instructions to Authorised Officers - Part 3b para B insertion of 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. Clarification is also provided in relation to planning matters that do not need to be referred to Planning Committee. All applications made by the Council, 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 must be determined by Planning Committee in the interests of transparency. This is regardless of the number of objections to these applications. Clarification is also provided as to applications determined by Authorised Officers under delegated authority for example on time restricted prior approval applications.

11. There has been some general tidying up for consistency and some additional legislative provisions added required by law.

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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

- Appendix 1 - Amendments to Part 2
- Appendix 2 - Amendments to Part 3
- Appendix 3 - Amendments to Part 4
- Appendix 4 - Amendments to Part 5
- Appendix 5 - Amendments to Part 8

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### **Officer to Contact**

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Officer Telephone Number: 01424 451731

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**Hastings Borough Council  
Constitution of the Council**

**Part 2**

**Articles of the Constitution**

Hastings Borough Council  
The Constitution  
Part 2  
(July 2017)

The Constitution, Part 2  
Articles of the Constitution

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## **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.

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## 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 Standards Committee 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 Development 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 of the Head of Paid Service;
- 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 Overview and Scrutiny Committees. 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 committees 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
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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.**

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## **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 plus at least one independent person. The Political Balance Rules do not 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) to the Standards Committee 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 Directors Assistant – 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 (available on the internet under [hastings.gov.uk](http://hastings.gov.uk) decisions and democracy/town hall transparency/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**

- 127 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**

- 128 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**

- 129 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**

- 1210 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.

## **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 3**

**Responsibility for Functions**

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The Constitution, Part 3  
Responsibility for Functions

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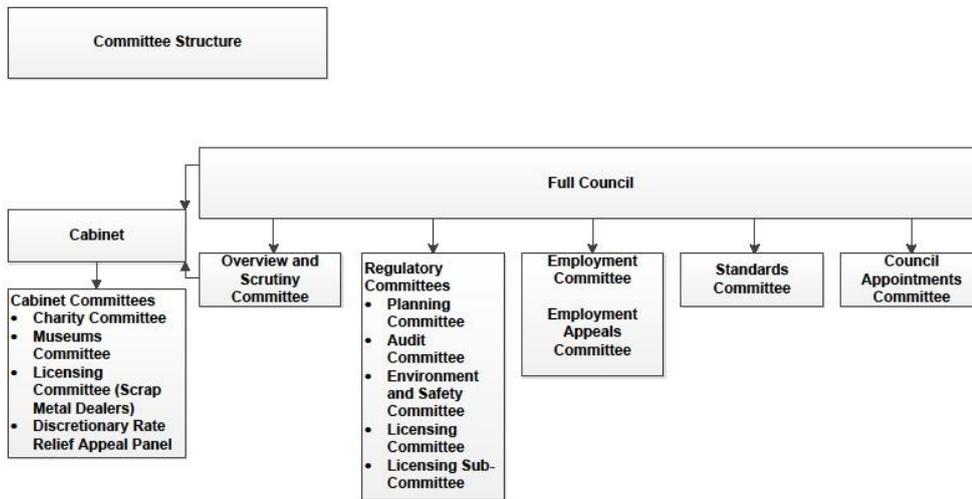
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## Flowchart of Council Committee Structure



## Responsibility for Local Choice Functions

The Council will have the following Committees with terms of reference as described.

## Responsibility for Council Functions

### Table of Committees and their Functions

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~~A text version is shown following this table.~~

| Committee   | Functions   |
|---|---|
| Planning Committee<br>(a committee of the Council)                    | Planning and conservation<br>Functions relating to town and country planning and development management as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (the Functions Regulations) as amended.  |
| Licensing Committee<br>(a committee of the Council)                   | All matters delegated to the Council's Licensing Committee by virtue of Section 7(1) Licensing Act 2003 ("the Act") or by virtue of any amending or consolidating legislation and any regulations made under the Act or such amending or consolidating legislation.<br>Any other functions referred to the Licensing Committee under Section 7(3) and (5)(b) of the Act.<br>All matters delegated to the Licensing Committee by virtue of Section 154 Gambling Act 2005.  |
| Licensing Committee (Scrap Metal Dealers)(a committee of the Cabinet) | Functions relating to the licensing of Scrap Metal Dealers as set out in the Scrap Metal Dealers Act 2013 or by virtue of any amending or consolidating legislation and any regulations made under the Act or such amending or consolidating legislation.   |
| Environment and Safety Committee<br>(a committee of the Council)      | Functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended, other than as are referred to the Council's Licensing Committee by Section 7(1) Licensing Act 2003 ("the Act").<br><br>Any licensing function referred to the Committee under Section 7(5)(a) of the Act.<br><br>Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer. |

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| Committee  | Functions   |
|--|---|
| Standards Committee<br>(a committee of the Council)            | <p>Main Functions:-<br/>To promote and maintain high standards of conduct for members.<br/>To help members to follow the Code of Conduct.</p> <p>Specific Functions:-<br/>To give the Council advice on adopting the Local Code.<br/>To monitor the effectiveness of the Code.<br/>To train members on the Code, or arrange for such training.<br/>To assess and review complaints about members.<br/>To conduct determinations' hearings.<br/>To grant dispensations to members with prejudicial/pecuniary interests.<br/>To grant exemptions for politically restricted posts.</p>  |
| Employment Appeals Committee<br>(a Committee of the Council)   | To consider appeals from the Chief Officers against decisions made by the Employment Committee concerning their terms and conditions of employment. To consider appeals against dismissal brought by the Chief Officers.  |
| Employment Committee<br>(a Committee of the Council)           | <p>To appoint the Head of Paid Service (subject to the confirmation of full Council) and Chief Officers and to determine all matters concerning the terms and conditions of employment of these officers, including dismissal, subject to the Officer Employment Rules.</p> <p>To determine such matters concerning the terms and conditions of employment of all other staff as are referred to the Committee by the Head of Paid Service, on the advice of the Monitoring Officer.</p> <p>To ensure that any disciplinary action against Statutory Officers cannot be taken until comments, views or recommendations are received from at least two independent persons who would be invited to join the committee.</p>   |
| Council Appointments Committee<br>(a Committee of the Council) | To nominate councillors, other than Cabinet members, for appointments to outside bodies where there is no representative role on behalf of or accountability to the Cabinet (these latter appointments to be dealt with by the Cabinet)   |
| Audit Committee<br>(a committee of the Council)                | <p>The Audit Committee shall:</p> <p>General:</p> <ol style="list-style-type: none"> <li>a. Have the power to conduct or authorise investigations into any matters within the Committee's scope of responsibilities. The Committee shall have unrestricted access to Directors and relevant information. The Committee may retain independent counsel, accountants or others to assist it in the conduct of any investigation.</li> <li>b. Arrange to meet four times per year, or more frequently if circumstances require it</li> <li>c. Report Committee actions to the Cabinet with recommendations, as the Committee may deem appropriate.</li> <li>d. Review annually and make recommendations to Council to update the Audit Committee's terms of reference</li> </ol> |

| Committee | Functions   |
|-----------|---|
|           | <p>e. In compliance with the recommendations of external bodies, the Chair of the Audit Committee will meet privately with the Chief Auditor, at least annually, to confirm that significant internal control issues, risk exposures, and Corporate Governance issues have been considered by the Audit Committee</p> <p>f. Provide for inclusion in the Statement of Assurance on Corporate Governance and Internal Control whether the Audit Committee has:-</p> <p>i. Reviewed and discussed the financial statements</p> <p>ii. Discussed with the external auditors any matters under SAS 610.</p> <p>iii. Received disclosures from the external auditors regarding the auditors' independence and discussed with the auditors their independence.</p> <p>Internal Controls and Risk Assessment:</p> <p>g. Review, evaluate and approve:-</p> <p>i. The effectiveness of the Council's process for assessing significant risk exposures and the measures management has taken to mitigate such risks to an acceptable level, including the risks of fraud and corruption, with regular progress reports to the Audit Committee and an annual report to Council.</p> <p>ii. The adequacy and appropriateness of internal audit provision.</p> <p>iii. The effectiveness of, or weaknesses in, the Council's internal controls including the adequacy of information systems, efficiency in the use of resources, and security of assets.</p> <p>iv. Any related significant findings and recommendations of the external auditors and the internal auditors together with management's responses including the timetable for implementation of recommendations to correct weaknesses in the internal controls.</p> <p>h. Instruct the external auditors to communicate directly to the Audit Committee any serious difficulties or disputes with management.</p> <p>Internal Audit:</p> <p>i. Evaluate the internal audit process for establishing internal audit plans and the focus on risk.</p> <p>j. Evaluate the audit scope and role of internal audit.</p> <p>k. Consider and review:-</p> <p>i. Significant findings and management's response including the timetable for implementation to correct significant weaknesses.</p> |

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| Committee | Functions  |
|-----------|--|
|           | <p>ii. Any difficulties encountered in the course of their audit such as restrictions on the scope of their work or access to information.</p> <p>iii. Any changes required in the planned scope of their audit plan.</p> <p>iv. The internal audit budget.</p> <p>Compliance with Laws and Regulations:</p> <p>l. Ascertain whether the Council has an effective process for determining risks and exposure from asserted and unasserted litigation and claims from non-compliance with laws and regulations.</p> <p>m. Review with the Chief Legal Officer and others any legal, tax, or regulatory matters that may have a material impact on Council operations and the financial statements.</p> <p>n. Discuss with management, the internal auditors and the Council's external auditor the status and adequacy of management information systems including the significant risks and major controls over such risks.</p> <p>Financial Reporting:</p> <p>o. Review with management and the external auditors and approve the Council's financial statements prior to publication</p> <p>p. Advise management based upon its review and discussion whether anything has come to the Audit Committee's attention that causes it to believe that the audited financial statements included in the Council's financial statements contain an untrue statement of material fact or omit to state a necessary material fact.</p> <p>q. Review with management and the external auditors and approve at the completion of the annual examination:-</p> <p>i. The Council's annual financial statements and related footnotes.</p> <p>ii. The external auditors' audit of the financial statements and their report.</p> <p>iii. Any significant changes required in the external auditor's audit plan.</p> <p>iv. Any difficulties or disputes with management encountered during the audit.</p> <p>v. The Council's accounting principles.</p> <p>vi. Other matters related to conduct, which should be communicated to the Committee under generally accepted auditing standards.</p> <p>External Auditor:</p> <p>r. Recommend to the Cabinet any change of the</p> |

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| Committee   | Functions  |
|---|--|
|   | <p>external audit provider, approve the fees of the external auditors and review and approve the discharge of the external auditors.</p> <p>s. Review the scope and approach of the annual audit with the external auditors.</p> <p>t. Seek assurance of the external auditors' compliance with the Codes of Conduct of the auditing body</p> <p>u. Review and monitor, as appropriate, with the external auditors the results of Standards Committee recommendations for the purpose of ensuring the adequacy of Corporate Governance and internal control systems.</p> <p>v. Receive all reports of the external auditor and monitor progress in the implementation of recommendations against the agreed timetable.</p>                           |
| Museums Committee (a committee of the Cabinet)                              | To advise the Cabinet on matters relating to the collections of the Hastings and St. Leonards Museums.   |
| Charity Committee   | All member decisions relating to charities administered by the Council, in particular the Hastings and St Leonards Foreshore Charitable Trust (the Foreshore Trust). It is intended that Cabinet delegates its functions to the Charity Committee to make trustee decisions and to avoid any breach of trust or perception or apprehension of breach of trust by reason of a conflict of interest between the Charity and the Council and its executive. The Committee has special responsibility in particular under the Charity Commission Scheme Number 981/1011 to have regard to the recommendations of the Protector, the Coastal Advisory Group and the Grant Advisory Group in relation to specified matters concerning the Foreshore Trust. |
| Working Arrangements Group (a working group with no decision making powers) | This working group is responsible for considering all matters relating to the internal arrangements of the Council, e.g. Constitution. It reports to Cabinet or Council, as appropriate.   |
| Independent Remuneration Panel  | There will be an independent remuneration panel established from time to time under the Local Government Act 2000 to advise Council in relation to the Scheme of Members' Allowances.  |

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## ~~Text Version of Table of Committees and their Functions~~

### ~~Planning Committee (a committee of the Council)~~

#### ~~Functions:-~~

#### ~~Planning and conservation.~~

~~Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (the Functions Regulations) as amended.~~

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### ~~Licensing Committee (a committee of the Council)~~

#### ~~Functions:-~~

~~All matters delegated to the Council's Licensing Committee by virtue of Section 7(1) Licensing Act 2003 ("the Act") or by virtue of any amending or consolidating legislation and any regulations made under the Act or such amending or consolidating legislation.~~

~~Any other functions referred to the Licensing Committee under Section 7(3) and (5)(b) of the Act.~~

~~All matters delegated to the Licensing Committee by virtue of Section 154 Gambling Act 2005.~~

### ~~Licensing Committee (Scrap Metal Dealers)(a committee of the Cabinet)~~

#### ~~Functions:-~~

~~Functions relating to the licensing of Scrap Metal Dealers as set out in the Scrap Metal Dealers Act 2013 or by virtue of any amending or consolidating legislation and any regulations made under the Act as such amending or consolidating legislation.~~

### ~~Environment and Safety Committee (a committee of the Council)~~

#### ~~Functions:-~~

~~Functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 as amended, other than as are referred to the Council's Licensing Committee by Section 7(1) Licensing Act 2003 ("the Act").~~

~~Any licensing function referred to the Committee under Section 7(5)(a) of the Act.~~

~~Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that these functions are discharged otherwise than in the Council's capacity as employer.~~

### ~~Standards Committee (a committee of the Council)~~

#### ~~Main Functions:-~~

~~To promote and maintain high standards of conduct for members.~~  
~~To help members to follow the Code of Conduct.~~

#### ~~Specific Functions:-~~

~~To give the Council advice on adopting the Local Code.~~  
~~To monitor the effectiveness of the Code.~~  
~~To train members on the Code, or arrange for such training.~~  
~~To assess and review complaints about members.~~  
~~To conduct determinations' hearings.~~  
~~To grant dispensations to members with prejudicial/pecuniary interests.~~  
~~To grant exemptions for politically restricted posts.~~

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~~Employment Appeals Committee (a Committee of the Council)~~

~~To consider appeals from the Chief Officers against decisions made by the Employment Committee concerning their terms and conditions of employment. To consider appeals against dismissal brought by the Chief Officers.~~

~~Employment Committee (a Committee of the Council)~~

~~To appoint the Head of Paid Service (subject to the confirmation of Full Council) and Chief Officers and to determine all matters concerning the terms and conditions of employment of these officers, including dismissal, subject to the Officer Employment Rules.~~

~~To determine such matters concerning the terms and conditions of employment of all other staff as are referred to the Committee by the Head of Paid Service, on the advice of the Monitoring Officer.~~

~~Employment Committee to ensure that any disciplinary action against Statutory Officers cannot be taken until comments, views and recommendations are received from at least two independent persons who would be invited to join the committee.~~

~~Council Appointments Committee (a Committee of the Council)~~

~~To nominate councillors, other than Cabinet members, for appointments to outside bodies where there is no representative role on behalf of or accountability to the Cabinet (these latter appointments to be dealt with by the Cabinet).~~

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## Audit Committee (a committee of the Council)

### The Audit Committee shall:

#### General:-

- a. ~~Have the power to conduct or authorise investigations into any matters within the Committee's scope of responsibilities. The Committee shall have unrestricted access to Corporate Directors and relevant information. The Committee may retain independent counsel, accountants or others to assist it in the conduct of any investigation.~~
- b. ~~Arrange to meet four times per year, or more frequently if circumstances require it~~
- c. ~~Report Committee actions to the Cabinet with recommendations, as the Committee may deem appropriate.~~
- d. ~~Review annually and make recommendations to Council to update the Audit Committee's terms of reference~~
- e. ~~In compliance with the recommendations of external bodies, the Chair of the Audit Committee will meet privately with the Chief Auditor, at least annually, to confirm that significant internal control issues, risk exposures, and Corporate Governance issues have been considered by the Audit Committee~~
- f. ~~Provide for inclusion in the Statement of Assurance on Corporate Governance and Internal Control whether the Audit Committee has:~~
  - i. ~~Reviewed and discussed the financial statements~~
  - ii. ~~Discussed with the external auditors any matters under SAS 610.~~
  - iii. ~~Received disclosures from the external auditors regarding the auditors' independence and discussed with the auditors their independence.~~

#### Internal Controls and Risk Assessment:-

- g. ~~Review, evaluate and approve:~~
  - i. ~~The effectiveness of the Council's process for assessing significant risk exposures and the measures management has taken to mitigate such risks to an acceptable level, including the risks of fraud and corruption, with regular progress reports to the Audit Committee and an annual report to Council.~~
  - ii. ~~The adequacy and appropriateness of internal audit provision.~~
  - iii. ~~The effectiveness of, or weaknesses in, the Council's internal controls including the adequacy of information systems, efficiency in the use of resources, and security of assets.~~
  - iv. ~~Any related significant findings and recommendations of the external auditors and the internal auditors together with management's responses including the timetable for implementation of recommendations to correct weaknesses in the internal controls.~~
  - v. ~~Monitoring the effectiveness of the authority's risk management arrangements.~~
- h. ~~Instruct the external auditors to communicate directly to the Audit Committee any serious difficulties or disputes with management.~~

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Internal Audit:

~~i. — Evaluate the internal audit process for establishing internal audit plans and the focus on risk.~~

~~j. — Evaluate the audit scope and role of internal audit.~~

~~k. — Consider and review:-~~

~~i. — Significant findings and management's response including the timetable for implementation to correct significant weaknesses.~~

~~ii. — Any difficulties encountered in the course of their audit such as restrictions on the scope of their work or access to information.~~

~~iii. — Any changes required in the planned scope of their audit plan.~~

~~iv. — The internal audit budget.~~

Compliance with Laws and Regulations:

~~l. — Ascertain whether the Council has an effective process for determining risks and exposure from asserted and unasserted litigation and claims from non-compliance with laws and regulations.~~

~~m. — Review with the Chief Legal Officer and others any legal, tax, or regulatory matters that may have a material impact on Council operations and the financial statements.~~

~~n. — Discuss with management, the internal auditors and the Council's external auditor the status and adequacy of management information systems including the significant risks and major controls over such risks.~~

Financial Reporting:

~~o. — Review with management and the external auditors and approve the Council's financial statements prior to publication~~

~~p. — Advise management based upon its review and discussion whether anything has come to the Audit Committee's attention that causes it to believe that the audited financial statements included in the Council's financial statements contain an untrue statement of material fact or omit to state a necessary material fact.~~

~~q. — Review with management and the external auditors and approve at the completion of the annual examination:~~

~~i. — The Council's annual financial statements and related footnotes.~~

~~ii. — The external auditors' audit of the financial statements and their report.~~

~~iii. — Any significant changes required in the external auditor's audit plan.~~

~~iv. — Any difficulties or disputes with management encountered during the audit.~~

~~v. — The Council's accounting principles.~~

~~vi. — Other matters related to conduct, which should be communicated to the Committee under generally accepted auditing standards.~~

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#### External Auditor:

- ~~r. — Recommend to the Cabinet any change of the external audit provider, approve the fees of the external auditors and review and approve the discharge of the external auditors.~~
- ~~s. — Review the scope and approach of the annual audit with the external auditors.~~
- ~~t. — Seek assurance of the external auditors' compliance with the Codes of Conduct of the auditing body~~
- ~~u. — Review and monitor, as appropriate, with the external auditors the results of Standards Committee recommendations for the purpose of ensuring the adequacy of Corporate Governance and internal control systems.~~
- ~~v. — Receive all reports of the external auditor and monitor progress in the implementation of recommendations against the agreed timetable.~~
- ~~w. — Scrutiny of the Treasury Management Strategy, Minimum Revenue Provision (MRP) Policy normal and the Investment Strategy and performance throughout the year before their submission to Cabinet and Council.~~

#### Museums Committee (a committee of the Cabinet)

~~To advise the Cabinet on matters relating to the collections of the Hastings and St. Leonards Museums.~~

#### Charity Committee (a committee of the Cabinet)

~~All member decisions relating to charities administered by the Council, in particular the Hastings and St Leonards Foreshore Charitable Trust (the Foreshore Trust). It is intended that Cabinet delegates its functions to the Charity Committee to make trustee decisions and to avoid any breach of trust or perception or apprehension of breach of trust by reason of a conflict of interest between the Charity and the Council and its executive. The Committee has special responsibility in particular under the Charity Commission Scheme Number 981/1011 to have regard to the recommendations of the Protector, the Coastal Advisory Group and the Grant Advisory Group in relation to specified matters concerning the Foreshore Trust.~~

#### Working Arrangements Group (a working group with no decision making powers)

~~This working group is responsible for considering all matters relating to the internal arrangements of the Council, e.g. Constitution. It reports to Cabinet or Council, as appropriate.~~

#### Independent Remuneration Panel

~~There will be an Independent Remuneration Panel established from time to time under the Local Government Act 2000 to advise Council in relation to the Scheme of Members Allowances.~~

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## Schedule 1

### Functions not to be the Responsibility of the Cabinet

#### Table of functions relating to town and country planning and development control

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~~A text version is shown following this Table.~~

| Function   | Provision of Act or Statutory Instrument  |
|--|---|
| 1. Powers and duties relating to local development documents which are development plan documents.   | Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004 (c. 5).  |
| 2. Power to agree to establish a joint committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority. | Section 29 of the Planning and Compulsory Purchase Act 2004.  |
| 3. Power to agree to confer additional functions on a joint committee.   | Section 30 of the Planning and Compulsory Purchase Act 2004.  |
| 4. Power to request the dissolution of a joint committee.  | Section 31 of the Planning and Compulsory Purchase Act 2004.  |
| 5. Power to determine application for planning permission.   | Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c. 8).  |
| 6. Power to determine applications to develop land without compliance with conditions previously attached.   | Section 73 of the Town and Country Planning Act 1990.   |
| 7. Power to grant planning permission for development already carried out.   | Section 73A of the Town and Country Planning Act 1990.  |
| 8. Power to decline to determine application for planning permission.  | Section 70A of the Town and Country Planning Act 1990.  |
| 9. Duties relating to the making of determinations of planning applications.   | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder. |
| 10. Power to determine application for planning permission made by a local authority, alone or jointly with another person.                                      | Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).  |
| 11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.                       | Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).  |
| 12. Power to enter into agreement regulating development or use of land.   | Section 106 of the Town and Country Planning Act 1990.  |
| 13. Power to issue a certificate of existing or proposed lawful use or development.  | Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.   |
| 14. Power to serve a completion notice.  | Section 94(2) of the Town and Country Planning Act 1990.  |
| 15. Power to grant consent for the display of  | Section 220 of the Town and Country   |

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| Function   | Provision of Act or Statutory Instrument   |
|--|--|
| advertisements.  | Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666).  |
| 16. Power to authorise entry onto land.  | Section 196A of the Town and Country Planning Act 1990.  |
| 17. Power to require the discontinuance of a use of land.  | Section 102 of the Town and Country Planning Act 1990.   |
| 18. Power to serve a planning contravention notice, breach of condition notice or stop notice.   | Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.  |
| 19. Power to issued a temporary Stop Notice.   | Section 171E of the Town and Country Planning Act 1990.  |
| 20. Power to issue an enforcement notice.  | Section 172 of the Town and Country Planning Act 1990.   |
| 21. Power to apply for an injunction restraining a breach of planning control.   | Section 187B of the Town and Country Planning Act 1990.  |
| 22. Power to determine applications for hazardous substances consent, and related powers.  | Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.  |
| 23. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject. | Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.  |
| 24. Power to require proper maintenance of land.   | Section 215(1) of the Town and Country Planning Act 1990.  |
| 25. Power to determine application for listed building consent, and related powers.  | Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c. 9).  |
| 26. Power to determine applications for conservation area consent.   | Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.  |
| 27. Duties relating to applications for listed building consent and conservation area consent.   | Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97. |
| 28. Power to serve a building preservation notice, and related powers.   | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.  |
| 29. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.   | Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.  |
| 30. Powers to acquire a listed building in need of repair and to serve a repairs notice.   | Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.  |
| 31. Power to apply for an injunction in relation   | Section 44A of the Planning (Listed Buildings  |

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| Function                           | Provision of Act or Statutory Instrument   |
|------------------------------------|--|
| to a listed building.              | and Buildings in Conservation Areas) Act 1990.   |
| 32. Power to execute urgent works. | Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990." |

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## Text Version of Functions not to be the Responsibility of the Cabinet

### A. Functions relating to town and country planning and development control

#### Function:-

1. Powers and duties relating to local development documents which are development plan documents.

Provision of Act or Statutory Instrument: Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004 (c. 5).

#### Function:-

2. Power to agree to establish a joint committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority.

Provision of Act or Statutory Instrument: Section 29 of the Planning and Compulsory Purchase Act 2004.

#### Function:-

3. Power to agree to confer additional functions on a joint committee.

Provision of Act or Statutory Instrument: Section 30 of the Planning and Compulsory Purchase Act 2004.

#### Function:-

4. Power to request the dissolution of a joint committee.

Provision of Act or Statutory Instrument: Section 31 of the Planning and Compulsory Purchase Act 2004.

#### Function:-

5. Power to determine application for planning permission.

Provision of Act or Statutory Instrument: Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c. 8).

#### Function:-

6. Power to determine applications to develop land without compliance with conditions previously attached.

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~~Provision of Act or Statutory Instrument: Section 73 of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~7.—— Power to grant planning permission for development already carried out.~~

~~Provision of Act or Statutory Instrument: Section 73A of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~8.—— Power to decline to determine application for planning permission.~~

~~Provision of Act or Statutory Instrument: Section 70A of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~9.—— Duties relating to the making of determinations of planning applications.~~

~~Provision of Act or Statutory Instrument: Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.~~

~~Function:-~~

~~10.—— Power to determine application for planning permission made by a local authority, alone or jointly with another person.~~

~~Provision of Act or Statutory Instrument: Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).~~

~~Function:-~~

~~11.—— Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.~~

~~Provision of Act or Statutory Instrument: Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).~~

~~Function:-~~

~~12.—— Power to enter into agreement regulating development or use of land.~~

~~Provision of Act or Statutory Instrument: Section 106 of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~13.—— Power to issue a certificate of existing or proposed lawful use or development.~~

~~Provision of Act or Statutory Instrument: Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.~~

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~~Function:-~~

~~14.—— Power to serve a completion notice.~~

~~Provision of Act or Statutory Instrument: Section 94(2) of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~15.—— Power to grant consent for the display of advertisements.~~

~~Provision of Act or Statutory Instrument: Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666).~~

~~Function:-~~

~~16.—— Power to authorise entry onto land.~~

~~Provision of Act or Statutory Instrument: Section 196A of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~17.—— Power to require the discontinuance of a use of land.~~

~~Provision of Act or Statutory Instrument: Section 102 of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~18.—— Power to serve a planning contravention notice, breach of condition notice or stop notice.~~

~~Provision of Act or Statutory Instrument: Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~19.—— Power to issued a temporary Stop Notice.~~

~~Provision of Act or Statutory Instrument: Section 171E of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~20.—— Power to issue an enforcement notice.~~

~~Provision of Act or Statutory Instrument: Section 172 of the Town and Country Planning Act 1990.~~

~~Function:-~~

~~21.—— Power to apply for an injunction restraining a breach of planning control.~~

~~Provision of Act or Statutory Instrument: Section 187B of the Town and Country Planning Act 1990.~~

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Function:-

22. — Power to determine applications for hazardous substances consent, and related powers.

Provision of Act or Statutory Instrument: Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.

Function:-

23. — Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.

Provision of Act or Statutory Instrument: Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.

Function:-

24. — Power to require proper maintenance of land.

Provision of Act or Statutory Instrument: Section 215(1) of the Town and Country Planning Act 1990.

Function:-

25. — Power to determine application for listed building consent, and related powers.

Provision of Act or Statutory Instrument: Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c. 9).

Function:-

26. — Power to determine applications for conservation area consent.

Provision of Act or Statutory Instrument: Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.

Function:-

27. — Duties relating to applications for listed building consent and conservation area consent.

Provision of Act or Statutory Instrument: Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of the Department of the Environment Circular 14/97.

Function:-

28. — Power to serve a building preservation notice, and related powers.

Provision of Act or Statutory Instrument: Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.

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Function:-

~~29. — Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.~~

~~Provision of Act or Statutory Instrument: Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.~~

Function:-

~~30. — Powers to acquire a listed building in need of repair and to serve a repairs notice~~

~~Provision of Act or Statutory Instrument: Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.~~

Function:-

~~31. — Power to apply for an injunction in relation to a listed building.~~

~~Provision of Act or Statutory Instrument: Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.~~

Function:-

~~32. — Power to execute urgent works.~~

~~Provision of Act or Statutory Instrument: Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990."~~

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**B.A. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)**

**Table of licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)**

~~A text version is shown following this table.~~

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| Function.  | Provision of Act or Statutory Instrument.  |
|--|--|
| 1. Power to issue licences authorising the use of land as a caravan site ("site licences").  | Section 3(3) of the Caravan Sites and Control of Development Act 1960.   |
| 2. Power to license the use of moveable dwellings and camping sites.                         | Section 269(1) of the Public Health Act 1936.  |
| 3. Power to license hackney carriages and private hire vehicles.                             | a. as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976<br>b. as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976. |
| 4. Power to license drivers of hackney carriages and private hire vehicles.                  | Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.  |
| 5. Power to license operators of hackney carriages and private hire vehicles.                | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.  |
| 6. Power to register pool promoters.   | Schedule 2 to the Betting, Gaming and Lotteries Act 1963.  |
| 7. Power to grant track betting licences.  | Schedule 3 to the Betting, Gaming and Lotteries Act 1963.  |
| 8. Power to license inter-track betting schemes.   | Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963.   |
| 9. Power to grant permits in respect of premises with amusement machines.                    | Schedule 9 to the Gaming Act 1968.   |
| 10. Power to register societies wishing to promote lotteries.                                | Schedule 1 to the Lotteries and Amusements Act 1976.   |
| 11. Power to grant permits in respect of premises where amusements with prizes are provided. | Schedule 3 to the Lotteries and Amusements Act 1976.   |
| 12. Power to issue cinema and cinema club licences.  | Section 1 of the Cinema Act 1985.  |
| 13. Power to issue theatre licences.   | Sections 12 to 14 of the Theatres Act 1968.  |
| 14. Power to license sex shops and sex cinemas.  | The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.  |
| 15. Functions relating to licensing.   | Sections 5-8 of the Licensing Act 2003.  |
| 16. Power to resolve not to issue a casino premises licence.                                 | Section 166 of the Gambling Act 2005.  |

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| Function.  | Provision of Act or Statutory Instrument.   |
|--|---|
| 17. Power to license performances of hypnotism.  | The Hypnotism Act 1952.   |
| 18. Power to issue entertainments licences.  | Section 12 of the Children and Young Persons Act 1933, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982. |
| 19. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.   | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.  |
| 20. Power to license pleasure boats and pleasure vessels.  | Section 94 of the Public Health Acts Amendment Act 1907.  |
| 21. Power to register door staff.  | Local Government (Miscellaneous Provisions) Act 1982.   |
| 22. Power to license market and street trading.  | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.   |
| 23. Power to license night cafes and take-away food shops.   | Section 2 of the Late Night Refreshment Houses Act 1969.  |
| 24. Duty to keep list of persons entitled to sell non-medicinal poisons.   | Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.  |
| 25. Power to license dealers in game and the killing and selling of game.  | Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.   |
| 26. Power of register and license premises for the preparation of food.  | Section 19 of the Food Safety Act 1990.   |
| 27. Power to license scrap yards.  | Section 1 of the Scrap Metal Dealers Act 2013.  |
| 28. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.                          | The Safety of Sports Grounds Act 1975.  |
| 29. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.                           | Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).  |
| 30. Power to issue fire certificates.  | Section 5 of the Fire Precautions Act 1971.   |
| 31. Power to license premises for the breeding of dogs.  | Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.   |
| 32. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business. | Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.  |

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| Function.   | Provision of Act or Statutory Instrument.   |
|---|---|
| 33. Power to register animal trainers and exhibitors.   | Section 1 of the Performing Animals (Regulation) Act 1925.  |
| 34. Power to license zoos.  | Section 1 of the Zoo Licensing Act 1981.  |
| 35. Power to license dangerous wild animals.  | Section 1 of the Dangerous Wild Animals Act 1976.   |
| 36. Power to license knackers' yards.   | Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).                                    |
| 37. Power to license the employment of children.  | Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963. |
| 38. Power to license persons to collect for charitable and other causes.  | Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.     |
| 39. Power to grant consent for the operation of a loudspeaker.  | Schedule 2 to the Noise and Statutory Nuisance Act 1993.  |
| 40. Power to approve meat product premises.   | Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).   |
| 41. Power to approve premises for the production of minced meat or meat preparations.   | Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).  |
| 42. Power to approve dairy establishments.  | Regulations 6 and 7 of the Dairy Products (Hygiene) Regs. 1995 (S.I. 1995/1086).  |
| 43. Power to approve egg product establishments.  | Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).   |
| 44. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods. | Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).  |
| 45. Power to approve fish products premises.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).                        |
| 46. Power to approve dispatch or purification centres.  | Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 47. Power to register fishing vessels on board which shrimps or molluscs are cooked.  | Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 48. Power to approve factory vessels and fishery product establishments.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 49. Power to register auction and wholesale markets.  | Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 50. Duty to keep register of food business premises.  | Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).   |

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| Function.                                      | Provision of Act or Statutory Instrument.                          |
|--|--|
| 51. Power to register food business premises.  | Regulation 9 of the Food Premises (Registration) Regulations 1991. |
| 52. Power to register motor salvage operators. | Part I Vehicles (Crime) Act 2001.                                  |

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~~Text Version of Table of licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)~~

~~Function:-~~

~~1. Power to issue licences authorising the use of land as a caravan site ("site licences");~~

~~Provision of Act or Statutory Instrument: Section 3(3) of the Caravan Sites and Control of Development Act 1960.~~

~~Function:-~~

~~2. Power to license the use of moveable dwellings and camping sites.~~

~~Provision of Act or Statutory Instrument: Section 269(1) of the Public Health Act 1936.~~

~~Function:-~~

~~3. Power to license hackney carriages and private hire vehicles.~~

~~Provision of Act or Statutory Instrument:-~~

~~a. as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976~~

~~b. as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.~~

~~Function:-~~

~~4. Power to license drivers of hackney carriages and private hire vehicles.~~

~~Provision of Act or Statutory Instrument: Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.~~

~~Function:-~~

~~5. Power to license operators of hackney carriages and private hire vehicles.~~

~~Provision of Act or Statutory Instrument: Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.~~

~~Function:-~~

~~6. Power to register pool promoters.~~

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~~Provision of Act or Statutory Instrument: Schedule 2 to the Betting, Gaming and Lotteries Act 1963.~~

~~Function:-~~

~~7.—— Power to grant track betting licences.~~

~~Provision of Act or Statutory Instrument: Schedule 3 to the Betting, Gaming and Lotteries Act 1963.~~

~~Function:-~~

~~8.—— Power to license inter-track betting schemes.~~

~~Provision of Act or Statutory Instrument: Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963.~~

~~Function:-~~

~~9.—— Power to grant permits in respect of premises with amusement machines~~

~~Provision of Act or Statutory Instrument: Schedule 9 to the Gaming Act 1968.~~

~~Function:-~~

~~10.—— Power to register societies wishing to promote lotteries.~~

~~Provision of Act or Statutory Instrument: Schedule 1 to the Lotteries and Amusements Act 1976.~~

~~Function:-~~

~~11.—— Power to grant permits in respect of premises where amusements with prizes are provided.~~

~~Provision of Act or Statutory Instrument: Schedule 3 to the Lotteries and Amusements Act 1976.~~

~~Function:-~~

~~12.—— Power to issue cinema and cinema club licences.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Cinema Act 1985.~~

~~Function:-~~

~~13.—— Power to issue theatre licences.~~

~~Provision of Act or Statutory Instrument: Sections 12 to 14 of the Theatres Act 1968.~~

~~Function:-~~

~~14.—— Power to license sex shops and sex cinemas.~~

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~~Provision of Act or Statutory Instrument: The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.~~

~~Function:-~~

~~15. Functions relating to licensing.~~

~~Provision of Act or Statutory Instrument: Sections 5-8 of the Licensing Act 2003.~~

~~Function:-~~

~~16. Power to resolve not to issue a casino premises licence.~~

~~Provision of Act or Statutory Instrument: Section 166 of the Gambling Act 2005.~~

~~Function:-~~

~~17. Power to license performances of hypnotism.~~

~~Provision of Act or Statutory Instrument: The Hypnotism Act 1952.~~

~~Function:-~~

~~18. Power to issue entertainments licences.~~

~~Provision of Act or Statutory Instrument: Section 12 of the Children and Young Persons Act 1933, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982.~~

~~Function:-~~

~~19. Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.~~

~~Provision of Act or Statutory Instrument: Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.~~

~~Function:-~~

~~20. Power to license pleasure boats and pleasure vessels.~~

~~Provision of Act or Statutory Instrument: Section 94 of the Public Health Acts Amendment Act 1907.~~

~~Function:-~~

~~21. Power to register door staff.~~

~~Provision of Act or Statutory Instrument: Local Government (Miscellaneous Provisions) Act 1982.~~

~~Function:-~~

~~22. Power to license market and street trading.~~

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~~Provision of Act or Statutory Instrument: Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.~~

~~Function:-~~

~~23.— Power to license night cafes and take-away food shops.~~

~~Provision of Act or Statutory Instrument: Section 2 of the Late Night Refreshment Houses Act 1969.~~

~~Function:-~~

~~24.— Duty to keep list of persons entitled to sell non-medicinal poisons.~~

~~Provision of Act or Statutory Instrument: Sections 3(1)(b)(iii), 5, 6 and 11 of the Poisons Act 1972.~~

~~Function:-~~

~~25.— Power to license dealers in game and the killing and selling of game.~~

~~Provision of Act or Statutory Instrument: Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.~~

~~Function:-~~

~~26.— Power of register and license premises for the preparation of food.~~

~~Provision of Act or Statutory Instrument: Section 19 of the Food Safety Act 1990.~~

~~Function:-~~

~~27.— Power to license scrap yards.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Scrap Metal Dealers Act 2013.~~

~~Function:-~~

~~28.— Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.~~

~~Provision of Act or Statutory Instrument: The Safety of Sports Grounds Act 1975.~~

~~Function:-~~

~~29.— Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.~~

~~Provision of Act or Statutory Instrument: Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).~~

~~Function:-~~

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~~30. — Power to issue fire certificates.~~

~~Provision of Act or Statutory Instrument: Section 5 of the Fire Precautions Act 1971.~~

~~Function:-~~

~~31. — Power to license premises for the breeding of dogs.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.~~

~~Function:-~~

~~32. — Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.~~

~~Function:-~~

~~33. — Power to register animal trainers and exhibitors.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Performing Animals (Regulation) Act 1925.~~

~~Function:-~~

~~34. — Power to license zoos.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Zoo Licensing Act 1981.~~

~~Function:-~~

~~35. — Power to license dangerous wild animals.~~

~~Provision of Act or Statutory Instrument: Section 1 of the Dangerous Wild Animals Act 1976.~~

~~Function:-~~

~~36. — Power to license knackers' yards.~~

~~Provision of Act or Statutory Instrument: Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).~~

~~Function:-~~

~~37. — Power to license the employment of children.~~

~~Provision of Act or Statutory Instrument: Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963.~~

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~~Function:-~~

~~38.—— Power to license persons to collect for charitable and other causes.~~

~~Provision of Act or Statutory Instrument: Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.~~

~~Function:-~~

~~39.—— Power to grant consent for the operation of a loudspeaker.~~

~~Provision of Act or Statutory Instrument: Schedule 2 to the Noise and Statutory Nuisance Act 1993.~~

~~Function:-~~

~~40.—— Power to approve meat product premises.~~

~~Provision of Act or Statutory Instrument: Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).~~

~~Function:-~~

~~41.—— Power to approve premises for the production of minced meat or meat preparations.~~

~~Provision of Act or Statutory Instrument: Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).~~

~~Function:-~~

~~42.—— Power to approve dairy establishments.~~

~~Provision of Act or Statutory Instrument: Regulations 6 and 7 of the Dairy Products (Hygiene) Regs.1995 (S.I. 1995/1086).~~

~~Function:-~~

~~43.—— Power to approve egg product establishments.~~

~~Provision of Act or Statutory Instrument: Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).~~

~~Function:-~~

~~44.—— Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready to eat foods.~~

~~Provision of Act or Statutory Instrument: Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).~~

~~Function:-~~

~~45.—— Power to approve fish products premises.~~

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~~Provision of Act or Statutory Instrument: Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).~~

~~Function:-~~

~~46.— Power to approve dispatch or purification centres.~~

~~Provision of Act or Statutory Instrument: Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.~~

~~Function:-~~

~~47.— Power to register fishing vessels on board which shrimps or molluscs are cooked.~~

~~Provision of Act or Statutory Instrument: Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.~~

~~Function:-~~

~~48.— Power to approve factory vessels and fishery product establishments.~~

~~Provision of Act or Statutory Instrument: Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.~~

~~Function:-~~

~~49.— Power to register auction and wholesale markets.~~

~~Provision of Act or Statutory Instrument: Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.~~

~~Function:-~~

~~50.— Duty to keep register of food business premises.~~

~~Provision of Act or Statutory Instrument: Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).~~

~~Function:-~~

~~51.— Power to register food business premises.~~

~~Provision of Act or Statutory Instrument: Regulation 9 of the Food Premises (Registration) Regulations 1991.~~

~~Function:-~~

~~52.— Power to register motor salvage operators.~~

~~Provision of Act or Statutory Instrument: Part I Vehicles (Crime) Act 2001.~~

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**C.B. Functions relating to health and safety at work**

**Table of functions relating to health and safety at work**

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| Function   | Provision of Act or Statutory Instrument               |
|--|--|
| Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer. | Part I of the Health and Safety at Work etc. Act 1974. |

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~~Functions:-~~

~~Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.~~

~~Provisions of Act or Statutory Instrument: Part I of the Health and Safety at Work etc. Act 1974.~~

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## D.C. Functions relating to elections

### Table of functions relating to elections

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| Function   | Provision of Act or Statutory Instrument  |
|--|---|
| 1. Duty to appoint an electoral registration officer.  | Section 8(2) of the Representation of the People Act 1983.  |
| 2. Power to assign officers in relation to requisitions of the registration officer.   | Section 52(4) of the Representation of the People Act 1983.   |
| 3. Duty to appoint returning officer for local government elections.   | Section 35 of the Representation of the People Act 1983.  |
| 4. Duty to provide assistance at European Parliamentary elections.   | Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978.  |
| 5. Duty to divide constituency into polling districts.   | Section 18 of the Representation of the People Act 1983.  |
| 6. Power to divide electoral divisions into polling districts at local government elections.   | Section 31 of the Representation of the People Act 1983.  |
| 7. Powers in respect of holding of elections.  | Section 39(4) of the Representation of the People Act 1983.   |
| 8. Power to pay expenses properly incurred by electoral registration officers.   | Section 54 of the Representation of the People Act 1983.  |
| 9. Power to fill vacancies in the event of insufficient nominations.   | Section 21 of the Representation of the People Act 1985.  |
| 10. Duty to declare vacancy in office in certain cases.  | Section 86 of the Local Government Act 1972.  |
| 11. Duty to give public notice of a casual vacancy.  | Section 87 of the Local Government Act 1972.  |
| 12. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.   | Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215). |
| 13. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000. | Section 10 of the Representation of the People Act 2000.  |

~~Text Version of Table of functions relating to elections~~

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~~Function:-~~

~~1. Duty to appoint an electoral registration officer.~~

~~Provision of Act or Statutory Instrument: Section 8(2) of the Representation of the People Act 1983.~~

~~Function:-~~

~~2. Power to assign officers in relation to requisitions of the registration officer.~~

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~~Provision of Act or Statutory Instrument: Section 52(4) of the Representation of the People Act 1983.~~

~~Function:-~~

~~3.—— Duty to appoint returning officer for local government elections.~~

~~Provision of Act or Statutory Instrument: Section 35 of the Representation of the People Act 1983.~~

~~Function:-~~

~~4.—— Duty to provide assistance at European Parliamentary elections.~~

~~Provision of Act or Statutory Instrument: Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978.~~

~~Function:-~~

~~5.—— Duty to divide constituency into polling districts.~~

~~Provision of Act or Statutory Instrument: Section 18 of the Representation of the People Act 1983.~~

~~Function:-~~

~~6.—— Power to divide electoral divisions into polling districts at local government elections.~~

~~Provision of Act or Statutory Instrument: Section 31 of the Representation of the People Act 1983.~~

~~Function:-~~

~~7.—— Powers in respect of holding of elections.~~

~~Provision of Act or Statutory Instrument: Section 39(4) of the Representation of the People Act 1983.~~

~~Function:-~~

~~8.—— Power to pay expenses properly incurred by electoral registration officers.~~

~~Provision of Act or Statutory Instrument: Section 54 of the Representation of the People Act 1983.~~

~~Function:-~~

~~9.—— Power to fill vacancies in the event of insufficient nominations.~~

~~Provision of Act or Statutory Instrument: Section 21 of the Representation of the People Act 1985.~~

~~Function:-~~

~~10.—— Duty to declare vacancy in office in certain cases.~~

~~Provision of Act or Statutory Instrument: Section 86 of the Local Government Act 1972.~~

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~~Function:-~~

~~11. — Duty to give public notice of a casual vacancy.~~

~~Provision of Act or Statutory Instrument: Section 87 of the Local Government Act 1972.~~

~~Function:-~~

~~12. — Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.~~

~~Provision of Act or Statutory Instrument: Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).~~

~~Function:-~~

~~13. — Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.~~

~~Provision of Act or Statutory Instrument: Section 10 of the Representation of the People Act 2000.~~

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**E.D. Functions relating to name and status of areas and individuals**

**Table of functions relating to name and status of areas and individuals**

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| Function   | Provision of Act or Statutory Instrument      |
|--|---|
| 1. Power to change the name of the Borough.  | Section 74 of the Local Government Act 1972.  |
| 2. Power to confer title of honorary alderman or to admit to be an honorary freeman. | Section 249 of the Local Government Act 1972. |

~~Text Version of Table of functions relating to name and status of areas and individuals~~

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~~Function:-~~

~~1. Power to change the name of the Borough.~~

~~Provision of Act or Statutory Instrument: Section 74 of the Local Government Act 1972.~~

~~Function:-~~

~~2. Power to confer title of honorary alderman or to admit to be an honorary freeman.~~

~~Provision of Act or Statutory Instrument: Section 249 of the Local Government Act 1972.~~

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**F.E. Functions relating to power to make, amend, revoke, re-enact or enforce byelaws**

**Table of functions relating to power to make, amend, revoke or re-enact byelaws**

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| Function   | Provision of Act or Statutory Instrument  |
|--|---|
| Power to make, amend, revoke or re-enact byelaws | Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978. |

~~Text Version of Table of functions relating to power to make, amend, revoke or re-enact byelaws~~

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~~Function:-~~

~~Power to make, amend, revoke or re-enact byelaws.~~

~~Provision of Act or Statutory Instrument: Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.~~

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**G.F. Functions relating to power to promote or oppose local or personal Bills**

**Table of functions relating to power to promote or oppose local or personal Bills**

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| Function   | Provision of Act or Statutory Instrument      |
|--|---|
| Power to promote or oppose local or personal Bills | Section 239 of the Local Government Act 1972. |

~~Text Version of Table of functions relating to power to promote or oppose local or personal Bills~~

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~~Function:-~~

~~Power to promote or oppose local or personal Bills.~~

~~Provision of Act or Statutory Instrument: Section 239 of the Local Government Act 1972.~~

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## H.G. Miscellaneous functions

### Part I: Functions relating to public rights of way

#### Table of Part I: Functions relating to public rights of way

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| Function   | Provision of Act or Statutory Instrument                |
|--|---|
| 1. Power to create footpath or bridleway by agreement.   | Section 25 of the Highways Act 1980 (c. 66).            |
| 2. Power to create footpaths and bridleways.   | Section 26 of the Highways Act 1980.                    |
| 3. Power to stop up footpaths and bridleways.  | Section 118 of the Highways Act 1980.                   |
| 4. Power to determine application for public path extinguishment order.  | Sections 118ZA and 118C(2) of the Highways Act 1980.    |
| 5. Power to make a rail crossing extinguishment order.   | Section 118A of the Highways Act 1980.                  |
| 6. Power to divert footpaths and bridleways.   | Section 119 of the Highways Act 1980.                   |
| 7. Power to make a public path diversion order.  | Sections 119ZA and 119C(4) of the Highways Act 1980.    |
| 8. Power to make a rail crossing diversion order.  | Section 119A of the Highways Act 1980.                  |
| 9. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980. | Section 121B of the Highways Act 1980.                  |
| 10. Power to decline to determine certain applications.  | Section 121C of the Highways Act 1980.                  |
| 11. Duty to assert and protect the rights of the public to use and enjoyment of highways.                                  | Section 130 of the Highways Act 1980.                   |
| 12. Power to extinguish certain public rights of way.  | Section 32 of the Acquisition of Land Act 1981 (c. 67). |
| 13. Power to extinguish public right of way over land acquired for clearance.  | Section 294 of the Housing Act 1985 (c. 68).            |
| 14. Power to authorise stopping-up or diversion of footpath or bridleway.  | Section 257 of the Town and Country Planning Act 1990.  |
| 15. Power to extinguish public rights of way over land held for planning purposes.   | Section 258 of the Town and Country Planning Act 1990.  |

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~~Function:-~~

~~1.—— Power to create footpath or bridleway by agreement.~~

~~Provision of Act or Statutory Instrument: Section 25 of the Highways Act 1980 (c. 66).~~

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~~Function:-~~

~~2. Power to create footpaths and bridleways.~~

~~Provision of Act or Statutory Instrument: Section 26 of the Highways Act 1980.~~

~~Function:-~~

~~3. Power to stop up footpaths and bridleways.~~

~~Provision of Act or Statutory Instrument: Section 118 of the Highways Act 1980.~~

~~Function:-~~

~~4. Power to determine application for public path extinguishment order.~~

~~Provision of Act or Statutory Instrument: Sections 118ZA and 118C(2) of the Highways Act 1980.~~

~~Function:-~~

~~5. Power to make a rail crossing extinguishment order.~~

~~Provision of Act or Statutory Instrument: Section 118A of the Highways Act 1980.~~

~~Function:-~~

~~6. Power to divert footpaths and bridleways.~~

~~Provision of Act or Statutory Instrument: Section 119 of the Highways Act 1980.~~

~~Function:-~~

~~7. Power to make a public path diversion order.~~

~~Provision of Act or Statutory Instrument: Sections 119ZA and 119C(4) of the Highways Act 1980.~~

~~Function:-~~

~~8. Power to make a rail crossing diversion order.~~

~~Provision of Act or Statutory Instrument: Section 119A of the Highways Act 1980.~~

~~Function:-~~

~~9. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.~~

~~Provision of Act or Statutory Instrument: Section 121B of the Highways Act 1980.~~

~~Function:-~~

~~10. Power to decline to determine certain applications.~~

~~Provision of Act or Statutory Instrument: Section 121C of the Highways Act 1980.~~

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Function:-

11. — Duty to assert and protect the rights of the public to use and enjoyment of highways.

Provision of Act or Statutory Instrument: Section 130 of the Highways Act 1980.

Function:-

12. — Power to extinguish certain public rights of way.

Provision of Act or Statutory Instrument: Section 32 of the Acquisition of Land Act 1981 (c. 67).

Function:-

13. — Power to extinguish public right of way over land acquired for clearance.

Provision of Act or Statutory Instrument: Section 294 of the Housing Act 1985 (c. 68).

Function:-

14. — Power to authorise stopping up or diversion of footpath or bridleway.

Provision of Act or Statutory Instrument: Section 257 of the Town and Country Planning Act 1990.

Function:-

15. — Power to extinguish public rights of way over land held for planning purposes.

Provision of Act or Statutory Instrument: Section 258 of the Town and Country Planning Act 1990.

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## Part II: Other miscellaneous functions

### Table of Part II: Other miscellaneous functions

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| Function  | Provision of Act or Statutory Instrument   |
|---|--|
| 16. Functions relating to sea fisheries.  | Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).                                       |
| 17. Power to make standing orders.  | Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c. 70).                       |
| 18. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).               | Section 112 of the Local Government Act 1972.  |
| 19. Power to make standing orders as to contracts.  | Section 135 of the Local Government Act 1972.  |
| 20. Duty to make arrangements for proper administration of financial affairs etc.   | Section 151 of the Local Government Act 1972.  |
| 21. Power to appoint officers for particular purposes (appointment of "proper officers").   | Section 270(3) of the Local Government Act 1972.   |
| 22. Power to make limestone pavement order.   | Section 34(2) of the Wildlife and Countryside Act 1981 (c. 69).  |
| 23. Power to make closing order with respect to take-away food shops.   | Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).                                   |
| 24. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.   | Section 4(1) of the Local Government and Housing Act 1989 (c. 42).   |
| 25. Duty to designate officer as the monitoring officer, and to provide staff, etc.   | Section 5(1) of the Local Government and Housing Act 1989.   |
| 26. Duty to provide staff etc. to person nominated by monitoring officer.   | Section 82A(4) Local Government Act 2000.  |
| 27. Powers relating to overview and scrutiny committees (voting rights of co-opted members)   | Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.   |
| 28. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be). | The Accounts and Audit Regulations 2003  |
| 29. Powers relating to the protection of important hedgerows.   | The Hedgerows Regulations 1997 (S.I. 1997/1160).   |
| 30. Powers relating to the preservation of trees.   | Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892). |
| 31. Powers relating to complaints about high hedges.  | Part 8 Anti-Social Behaviour Act 2003.   |
| 32. Power to make payments or provide other benefits in cases of maladministration etc.   | Section 92 of the Local Government Act 2000.   |
| 33. Power to make an order identifying a place as a designated public place for the   | Section 13(2) Criminal Justice and Police Act 2001.  |

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| Function  | Provision of Act or Statutory Instrument |
|---|--|
| purposes of police powers in relation to alcohol. |  |

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~~Text Version of Table of Part II: Other miscellaneous functions~~

~~Function:-~~

~~16. — Functions relating to sea fisheries.~~

~~Provision of Act or Statutory Instrument: Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).~~

~~Function:-~~

~~17. — Power to make standing orders.~~

~~Provision of Act or Statutory Instrument: Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c. 70).~~

~~Function:-~~

~~18. — Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).~~

~~Provision of Act or Statutory Instrument: Section 112 of the Local Government Act 1972.~~

~~Function:-~~

~~19. — Power to make standing orders as to contracts.~~

~~Provision of Act or Statutory Instrument: Section 135 of the Local Government Act 1972.~~

~~Function:-~~

~~20. — Duty to make arrangements for proper administration of financial affairs etc.~~

~~Provision of Act or Statutory Instrument: Section 151 of the Local Government Act 1972.~~

~~Function:-~~

~~21. — Power to appoint officers for particular purposes (appointment of "proper officers").~~

~~Provision of Act or Statutory Instrument: Section 270(3) of the Local Government Act 1972.~~

~~Function:-~~

~~22. — Power to make limestone pavement order.~~

~~Provision of Act or Statutory Instrument: Section 34(2) of the Wildlife and Countryside Act 1981 (c. 69).~~

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~~Function:-~~

~~23. — Power to make closing order with respect to take-away food shops.~~

~~Provision of Act or Statutory Instrument: Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).~~

~~Function:-~~

~~24. — Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.~~

~~Provision of Act or Statutory Instrument: Section 4(1) of the Local Government and Housing Act 1989 (c. 42).~~

~~Function:-~~

~~25. — Duty to designate officer as the monitoring officer, and to provide staff, etc.~~

~~Provision of Act or Statutory Instrument: Section 5(1) of the Local Government and Housing Act 1989.~~

~~Function:-~~

~~26. Duty to provide staff etc. to person nominated by monitoring officer.~~

~~Provision of Act or Statutory Instrument: Section 82A(4) Local Government Act 2000.~~

~~Function:-~~

~~27. Powers relating to overview and scrutiny committees (voting rights of co-opted members)~~

~~Provision of Act or Statutory Instrument: Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.~~

~~Function:-~~

~~28. — Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).~~

~~Provision of Act or Statutory Instrument: The Accounts and Audit Regulations 2003.~~

~~Function:-~~

~~29. — Powers relating to the protection of important hedgerows.~~

~~Provision of Act or Statutory Instrument: The Hedgerows Regulations 1997 (S.I. 1997/1160).~~

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Function:-

30.— Powers relating to the preservation of trees.

Provision of Act or Statutory Instrument: Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).

Function:-

31.— Powers relating to complaints about high hedges.

Provision of Act or Statutory Instrument: Part 8 Anti-Social Behaviour Act 2003.

Function:-

32.— Power to make payments or provide other benefits in cases of maladministration etc.

Provision of Act or Statutory Instrument: Section 92 of the Local Government Act 2000.

Function:-

33.— Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol.

Provision of Act or Statutory Instrument: Section 13(2) Criminal Justice and Police Act 2001.

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## Schedule 1a

### Additional Functions not to be the Responsibility of the Cabinet

- 1 The function of:
  - a. imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted –
    - i. in the exercise of a function specified in column 1 of Schedule 1; or
    - ii. otherwise than by the Cabinet, in the exercise of any function under a local Act;
  - and
  - b. determining any other terms to which any such approval, consent, licence, permission or registration is subject
2. The function of determining whether, and in what manner, to enforce:
  - a. any failure to comply with an approval, consent, licence, permission or registration granted as mentioned in paragraph 1a. above;
  - b. any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or
  - c. any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of the Cabinet
3. The function of:
  - a. amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in paragraph (1) above, or any condition, limitation or term to which it is subject; or
  - b. revoking any such approval, consent, licence, permission or registration
4. The function of making any scheme authorised or required by regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989, or of amending, revoking or replacing any such scheme. This function must be exercised by the council.
5. The function of determining:
  - a. the amount of any allowance payable under –
    - i. subsection (5) of section 3 (Chair's expenses) of the Local Government Act 1972;
    - ii. subsection (4) of section 5 (vice-Chair's expenses) of that Act;
    - iii. subsection (4) of section 173 (financial loss allowance) of that Act;
    - iv. section 175 (allowances for attending conferences and meetings) of that Act;
  - b. the rates at which payments are to be made under section 174 (travelling and subsistence allowances) of that Act;
  - c. the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989, or the rates at which payments by way of any such
  - d. whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of the cabinet; and

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- e. where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge

Functions a, b and c must be exercised by the Council.

- 6. Subject to any provision of regulations under section 20 (joint exercise of functions) of the Local Government Act 2000, the function of:
  - a. making arrangements for the discharge of functions by a committee or officer under section 101(5) of the 1972 Act; and
  - b. making appointments under section 102 (appointment of committees) of the 1972 Act.
- 7. Any function of a local authority that may be discharged only by an authority, by virtue of any enactment passed or made before the making of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), unless otherwise provided by those regulations.

## Schedule 2

### Functions which may be (but need not be) the Responsibility of the Cabinet (Local Choice Functions)

#### Table of Functions which may be (but need not be) the Responsibility of the Cabinet (Local Choice Functions)

~~A text version is shown following this table.~~

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| Function   | Recommended Responsible body  |
|--|---|
| 1. Any function under a local Act other than a function specified or referred to in Schedule 1 or Schedule 1A above.   | Cabinet   |
| 2. The determination of an appeal against any decision made by or on behalf of the authority   | Cabinet or Council as appropriate                                     |
| 3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.  | Council   |
| 4. The conducting of best value reviews and making decisions arising therefrom in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.  | Council on the advice of Cabinet and Overview and Scrutiny Committees |
| 5. Any function relating to contaminated land under Part 11A of the Environmental Protection Act 1990 and subordinate legislation under that Part.   | Cabinet   |
| 6. The discharge of any function relating to the control of pollution or the management of air quality under the Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part I of the Environmental Protection Act 1990 and the Clean Air Act 1993. | Cabinet   |
| 7. The service of an abatement notice in respect of a statutory nuisance under section 80 of the Environmental Protection Act 1990.  | Cabinet   |
| 8. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area under section 8 of that Act.  | Cabinet   |
| 9. The inspection of the authority's area to detect any statutory nuisance under section 79 of the Environmental Protection Act 1990.  | Cabinet   |
| 10. The investigation of any complaint as to the existence of a statutory nuisance under section 79 of the Environmental Protection Act 1990.  | Cabinet   |
| 11. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.  | Cabinet   |
| 12. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.   | Cabinet   |
| 13. The making of agreements for the execution of highways works under section 278 of the Highways Act 1980.   | Cabinet   |
| 14. The appointment of any individual:   | Cabinet   |

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| Function  | Recommended Responsible body |
|---|------------------------------|
| a. to any office other than an office in which he is employed by the authority;<br>b. to any body other than –<br><br>i. the authority;<br>ii. a joint committee of two or more authorities; or<br><br>c. to any committee or sub-committee of such a body, and the revocation of any such appointment. |                              |
| 15. The functions in relation to the management of the Hastings and St. Leonards Museums  | Cabinet                      |
| 16. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.  | Cabinet                      |
| 17. The determination of appeals against any decisions made by the Head of Finance in consultation with the Leader of the Council in respect of applications for discretionary non-domestic rate relief – Cabinet   | Cabinet                      |

~~Text Version of Table of Functions which may be (but need not be) the Responsibility of the Cabinet (Local Choice Functions)~~

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~~Function:-~~

~~1. Any function under a local Act other than a function specified or referred to in Schedule 1 or Schedule 1A above.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~2. The determination of an appeal against any decision made by or on behalf of the authority.~~

~~Recommended Responsible Body: Cabinet or Council as appropriate.~~

~~Function:-~~

~~3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.~~

~~Recommended Responsible Body: Council.~~

~~Function:-~~

~~4. The conducting of best value reviews and making decisions arising therefrom in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.~~

~~Recommended Responsible Body: Council on the advice of Cabinet and Overview and Scrutiny Committees.~~

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~~Function:-~~

~~5. Any function relating to contaminated land under Part 11A of the Environmental Protection Act 1990 and subordinate legislation under that Part.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~6. The discharge of any function relating to the control of pollution or the management of air quality under the Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part I of the Environmental Protection Act 1990 and the Clean Air Act 1993.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~7. The service of an abatement notice in respect of a statutory nuisance under section 80 of the Environmental Protection Act 1990.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~8. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area under section 8 of that Act.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~9. The inspection of the authority's area to detect any statutory nuisance under section 79 of the Environmental Protection Act 1990.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~10. The investigation of any complaint as to the existence of a statutory nuisance under section 79 of the Environmental Protection Act 1990.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~11. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

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~~12. — The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~13. — The making of agreements for the execution of highways works under section 278 of the Highways Act 1980.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~14. — The appointment of any individual:~~

~~a. — to any office other than an office in which he is employed by the authority;~~

~~b. — to any body other than —~~

~~i. — the authority;~~

~~ii — a joint committee of two or more authorities; or~~

~~c. — to any committee or sub-committee of such a body;~~

~~and the revocation of any such appointment.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~15. — The functions in relation to the management of the Hastings and St. Leonards Museums.~~

~~Recommended Responsible Body: Cabinet.~~

~~Function:-~~

~~16. — The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.~~

~~Recommended Responsible Body: Cabinet.~~

### Schedule 3

#### Functions which by Regulation are not to be the Sole Responsibility of the Cabinet

##### Table of Functions which by Regulation are not to be the Sole Responsibility of the Cabinet

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| Plans and strategies  | Reference   |
|---|---|
| Local Performance Plan  | Section 6(1) of the Local Government Act 1999.        |
| Community Strategy  | Section 4 of the Local Government Act 2000.           |
| Crime and Disorder Reduction Strategy   | Sections 5 and 6 of the Crime and Disorder Act 1998.  |
| Plans and alterations which together comprise the Development Plan, including the approval, for the purposes of consultation in accordance with regulation 10 or 22 Town and Country Planning (Development Plans)(England) Regulations 1999, of draft proposals relating to alterations or replacement of the Development Plan. | Section 54 of the Town and Country Planning Act 1990. |
| Development Plan documents.   | Section 15 Planning and Compulsory Purchase Act 2004. |

##### ~~Text Version Table of Functions which by Regulation are not to be the Sole Responsibility of the Cabinet~~

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~~Plans and Strategies:-~~

~~Local Performance Plan:~~

~~Reference: Section 6(1) of the Local Government Act 1999.~~

~~Plans and Strategies:-~~

~~Community Strategy:~~

~~Reference: Section 4 of the Local Government Act 2000.~~

~~Plans and Strategies:-~~

~~Crime and Disorder Reduction Strategy:~~

~~Reference: Sections 5 and 6 of the Crime and Disorder Act 1998.~~

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Plans and Strategies:-

Plans and alterations which together comprise the Development Plan, including the approval, for the purposes of consultation in accordance with regulation 10 or 22 Town and Country Planning (Development Plans)(England) Regulations 1999, of draft proposals relating to alterations or replacement of the Development Plan.

Reference: Section 54 of the Town and Country Planning Act 1990.-

Plans and Strategies:-

Development Plan documents:

Reference: Section 15 Planning and Compulsory Purchase Act 2004.

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## Schedule 4

### Circumstances In which Functions are not to be the Responsibility of the Cabinet (Subject to Urgency Exceptions)\*

1. The Cabinet cannot determine any matter relating to the budget or concerned with capital expenditure which is:-
  - a. Contrary to the authority's approved budget
  - b. Contrary to any agreed plan or strategy for borrowing or capital expenditure
  - c. Not authorised by financial regulations, standing orders or any other approved rules or procedures
2. The Cabinet cannot take any decision relating to an approved plan or strategy in a way contrary to the approved plan or strategy.

Paragraph 2 above applies equally to any individual or body to whom any of the powers of the Cabinet have been delegated.

Paragraphs 1 and 2 above shall not apply in circumstances that can reasonably be considered urgent.

\* Urgency requires a statement signed by the Chair of the appropriate Overview and Scrutiny Committee or in his/her absence the Mayor or, in his/her absence, the Deputy Mayor.

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**Hastings Borough Council  
Constitution of the Council**

**Part 4**

**Rules of Procedure**

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## 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:

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- 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

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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), ~~or~~ 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.

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Ordinary petitions should be presented to the Mayor or to the Chief Legal Officer at the Muriel Matters House, Breeds Place, ~~Town Hall, Queens Road,~~ Hastings, TN34 4UY, ~~TN34 1QR~~

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### 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.

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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~~ ~~hosted~~ by ~~Modern.Gov~~ ~~East Sussex County Council~~ 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), matters relating to an individual e.g. a taxi driver's licence application or relating to a current planning application.~~

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## 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

~~At the same time as giving the notification, the notification will be published on the Council's website unless the Council considers it would be inappropriate to do so in all the circumstances.~~

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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

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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.

### 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 ~~and publish the results of the review on the Council's Website unless in all the circumstances it considers it inappropriate to do so.~~

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## 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 Hastings Borough Council, The Constitution, Part 4 (July 2017 ~~April 2016~~)

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affects the Borough;

- it is defamatory, frivolous or offensive
- 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.**

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## 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.

## Response

- 12.2 An answer may take the form of:
- a. a direct oral answer;

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

## 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 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 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 or, or which affects Hastings and/or its residents.** The ruling of the Monitoring Officer in consultation with the Mayor shall be final as to the relevance of the motion.
- Further, a motion may not be tabled in any of the following circumstances:-
- 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;
  - 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;
  - 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;
  - any other matter which would require the disclosure of exempt information as defined by Schedule 12A to the Local Government Act 1972.

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- 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~~<sup>five</sup> 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;

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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.

### **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 the Town Hall 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 the Town Hall. 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.

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## 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 14 days before the start of the period covered. The Chief Legal Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

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- a. that key decisions are to be taken on behalf of the Council;
- b. that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- c. that the plan will contain details of the key decisions to be made for the four month period following its publication;
- d. that each plan will be available for inspection at reasonable hours, free of charge, at the Council's offices;
- e. that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- f. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- g. that other documents may be submitted to decision takers;
- h. the procedure for requesting details of documents (if any) as they become available; and
- i. the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

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.

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## 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

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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;

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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 4UY~~~~The Town Hall, Queens Road, Hastings,~~ 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.

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## 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,
  - 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.

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## 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.

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## 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.

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## 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)

29.19 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.

29.20 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 29.19 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.

29.21 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.

29.24 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;

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- 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 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

“Chief Officer” means the Directors.

“Deputy Chief Officer” means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more of the Chief Officers outlined above. However, for the purposes of these Rules, a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a Chief Officer or Deputy Chief Officer.

### Recruitment and appointment

#### 30.3a 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

- 30.4 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

- 30.5 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

- 30.6 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

- 30.7 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. This includes deputy chief officers, other than where that officer is also the Chief Finance Officer.

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#### 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

- 30.8 a No disciplinary action in respect of the Head of Paid Service (unless he is also a council manager of the authority), its monitoring officer or its Chief Finance Officer, except action described in paragraph (b), may be taken by the authority, or by a committee, a sub- committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- b. The action mentioned in paragraph (a) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension

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must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

## Dismissal

- 30.9 Councillors will be involved in appeals against the dismissal of the Head of Paid Service or a chief officer. The Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal from 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, a Chief Officer, or Chief Finance Officer 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.

## Consultation with members of the Cabinet on appointments and dismissals

30.10a This rule applies on the appointment or dismissal of any of the following

- The Head of Paid Service
  - The Chief Finance Officer
  - Chief Officers
  - Deputy Chief Officers
- b. Before appointing or dismissing any of those officers described in paragraph (a) above,
- the appointor or dismissor, i.e. the authority, committee, sub-committee or officer discharging that function on behalf of the Council, must give notice to the Chief Legal Officer of the proposed appointment or dismissal and any relevant information.
  - the Chief Legal Officer must notify every member of the Cabinet of the authority of the name of the person concerned, the relevant information provided to the Chief Legal Officer and the date by which any objection to the appointment/dismissal is to be made by the Leader to the Chief Legal Officer on behalf of the Cabinet.
  - No action can be taken by the appointor/dismissor until one of the following has occurred:-
    - i. the leader has indicated that there is no objection
    - ii. the Chief Legal Officer has notified the appointor/dismissor that no objection has been received in the prescribed time
    - iii. the appointor/dismissor is satisfied that the objection received is not material or is not well founded.

## **31. Procedural Appendices**

**Minute's Silence at Council Meetings**

**Honorary Freedom of the Borough**

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# 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~~<sup>three</sup> or more letters of objection from different households or businesses, or a petition as defined in Standing Orders where the Assistant Director Housing and Built Environment or his nominee intends to recommend permission, consent or approval, 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.

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## 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 issues 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

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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

- 53.54. 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.
- 54.55. 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

- 55.56. The procedures for public speaking allow members of the public to address the Planning Committee where a petition of objection ~~against the recommendation of the planning officer~~ 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.
- 56.57. 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

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questions by Members of the Planning Committee.

| 57.58. 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**

**58.59.** 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**

**59.60.** 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**

**60.61.** 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.

61.62. 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.

62.63. 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.

63.64. 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.

64.65. 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.

65.66. 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

66.67. 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.

67.68. 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.

68.69. 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**

69.70. 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**

70.71. 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

- | 71.72. 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

- | 72.73. 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.
- | 73.74. 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 attend a minimum of two training sessions within each municipal year. 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. 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 Aquila House~~ Matters House to be placed on the planning application file.

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**Hastings Borough Council  
Constitution of the Council**

**Part 8**

**Standing Instructions to Authorised Officers**

The Constitution, Part 8

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## Standing Instructions to Authorised Officers

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

### Introduction

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

### Definitions

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

### Assumption of full delegation

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

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

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

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

### **Limitations on powers to act**

15. The power to act of the Directors or any other officer is subject to compliance with:
- a. Council policy and decisions;
  - b. Cabinet, Council Committee or Cabinet Committee decisions;
  - c. All relevant legal requirements;
  - d. The provisions of this Constitution including the Financial Rules.

### **Urgency provisions**

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

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

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

17. The Authorised Officers acting under these Instructions must ensure that the relevant Lead member is made aware of all issues of significant public interest or sensitivity before taking action.
18. The Authorised Officers acting under these Instructions are not obliged to exercise the powers delegated to them under these Instructions and may, whenever they deem it appropriate, consult the relevant Lead member or refer the matter to the Cabinet for decision.

## Part 1: Matters Reserved to Council

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

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

## Part 2: Matters Reserved to the Chief Legal Officer

### Statutory Responsibilities

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

Local Government Act 1972:-

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

Local Government Act 1974:-

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

Local Government (Miscellaneous Provisions) Act 1976:-

Section 41 - Evidence of resolutions and minutes.

Highways Act 1980:-

Section 321 - Authentication of documents.

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

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

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

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

Local Government and Housing Act 1989:-  
Section 2 – Lists of Politically Restricted Posts  
Section 5 – Monitoring Officer  
Sections 15-17 Schedule 1 and Local Government (Committees and Political Groups) Regulations 1990 – Political group and political group balance

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

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

#### **Other Responsibilities**

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

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

### **Part 3: Matters Reserved to Authorised Officers**

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

## **Part 3a: Assistant Director Environment and Place**

### **Statutory Responsibilities**

31. The Assistant Director Environment and Place is the Council's Proper Officer for the purposes of the provisions of the legislation described in these Instructions insofar as it provides for there to be a 'proper officer' or 'authorised officer' authorised to act for the Council including:
- a. Building Act 1984;
  - b. East Sussex Act 1981;
  - c. Food Safety Act 1990
  - d. Prevention of Damage by Pests Act 1949;
  - e. Public Health Acts 1936 and 1961;
  - f. Public Health (Control of Disease) Act 1984;
32. The Assistant Director Environment and Place, (and certain subordinate staff) are appointed inspectors, authorised officers or duly appointed officers for the purposes of enforcing:
- a. Environmental Protection Act 1990; and
  - b. Health and Safety at Work Act 1974.
33. The Assistant Director Environment and Place is responsible for professional work and advice to the Council, the Cabinet, the Directors and Officers on public health, environmental control and regulation issues and the statutory regulation of licensing matters. The Assistant Director Environment and Place is also responsible for professional work and advice to the Council and Cabinet the Directors and Officers on the Council's functions in relation to highways, traffic management and parking whether as agent for the highway authority or as principal authority.
34. The Assistant Director Environment and Place (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function including but not limited to:

#### **A. Regulation of**

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

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

- A.2 Animal welfare and management, including:-

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

Slaughter of Poultry Act 1967  
Zoo Licensing Act 1981.

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

Gambling Act 2005.

A.4 Boats, including:-

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

A.5 Camping and caravan sites, including:-

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

Including:-

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

D.1 Noisy premises, including:-

Anti-Social Behaviour Act 2003.

D.2 Graffiti and Flyposting, including:-

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

D.3 Sale of aerosol paints, including:-

Anti-Social Behaviour Act 2003.

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

#### **E. Dogs**

E.1 Control of Dogs:-

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

E.2 Control of stray dogs

Environmental Protection Act 1990

E.3 Control of Dangerous Dogs, including:-

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

## **F. Civil Contingencies**

Civil Contingencies Act 2004

## **G. Highways, Traffic and Parking**

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

Town Police Clauses Act 1847

Highways Act 1980

Road Traffic Regulation Act 1984

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

Road Traffic Act 1991

The Traffic Management Act 2004

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

Clean Neighbourhoods and Environment Act 2005

Control of Pollution (Amendment) Act 1989

## **H. Seashore and Access**

East Sussex Act 1981 including:-

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

Section 12 – Removal of boats from seashore.

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

## **I. Abandoned Property, Litter and Waste**

Including:-

I.1 Refuse Disposal (Amenity) Act 1978

I.2 Clean Neighbourhoods and Environment Act 2005.

I.3 Environmental Protection Act 1990, including:-

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

Section 34 - Duty of care as respects waste

Section 46 - Receptacles for household waste

Section 47 - Receptacles for commercial and industrial waste

Section 55 - Recycling waste

Section 59 - Removal of waste unlawfully deposited

Section 60 - Interference with receptacles for waste

Section 87 - Offence of leaving litter

Section 88 - Fixed penalty notices

Section 92 - Summary proceedings by litter authorities  
Section 93 - Street litter control notices  
Section 99 and Schedule 4 - Shopping Trolleys

I.4 Removal and Disposal of Vehicles Regulations 1986

**J. Travellers**

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

## **Part 3b: Assistant Director Housing and Built Environment**

### **Statutory Responsibilities**

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

#### **A. Homelessness and Allocation of Housing**

Including:-

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

#### **B. Private Sector Housing**

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

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

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

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

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

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

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

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

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

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

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

B4 Anti-Social Behaviour, Crime and Policing Act 2014

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

B5 Prevention of Damage by Pests Act 1949 s.4

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

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

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

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

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

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

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

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

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

### **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:

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43. Applications:

- a. \_\_\_\_\_ Planning permission including approval or reserved matters; Listed buildings consent and conservation area consent;
  - b. \_\_\_\_\_ Consent for the display of advertisements;
  - c. \_\_\_\_\_ Hazardous substances consents;
  - ~~d. Approvals required under the Town and Country Planning (General Permitted Development) Order 1995 and determining whether prior approval is required;~~
  - ~~e. 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;~~
  - ~~f. All applications for prior determination for telecommunications apparatus.~~
- g.a. 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 Head of Housing and Planning Services~~ is authorised to amend the agreement in consultation with the Chair of the ~~Planning~~ Committee.

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44. This authority is subject to the following exceptions:

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

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45. Any matters in the application of the:

- a. Town and Country Planning General Regulations 1992;
- b. Town and Country Planning (General Permitted Development) Order 1995;  
Hastings Borough Council, The Constitution, Part 8 (July 2017, ~~October 2015~~)

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

List of relevant Acts:

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

List of relevant Statutory Instruments:

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

Hastings Borough Council, The Constitution, Part 8 (~~July 2017~~~~October 2015~~)

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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, 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.

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- 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.

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46.49. All consents under the Tree Preservation Order Regulations.

47.50. All certificates of lawfulness of existing use or development or of proposed use or development.

48.51. 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.

49.52. The making of emergency tree preservation orders and confirming them if no objections are received.

50.53. Service of notices in respect of dangerous trees (Section 23 of the Local Government (Miscellaneous Provisions) Act 1976).

51.54. The Council's functions in relation to high hedges under Part VIII Anti-Social Behaviour Act 2003.

52.55. 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.

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Hastings Borough Council, The Constitution, Part 8 (July 2017 ~~October 2015~~)

| 54.57. 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

55.58. 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**

56.59. 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

57.60. 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.

58.61. 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**

59.62. 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;

60.63. 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**

61.64. 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**

62.65. 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**

63.66. 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:

64.67. 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.

65.68. Financial Approvals: to decide whether or not to give any approval required under these instructions or Regulations.

66.69. Mortgage Interest Rates: to fix interest rates for the purposes of Part XIV Housing Act 1985.

| 67.70.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.

| 68.71. 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.

| 69.72. 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**

70.73. 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.

71.74. 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**

72.75. 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.

73.76. The Director of Corporate Services and Governance is the Electoral Registration Officer.

74.77. 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**

75.78. 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.

### **Capital Spending**

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

### **Contract Administration**

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

### **Personnel Management**

78.81. All matters pertaining to the management of staff are delegated to the Directors and his/her nominees provided:

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

### **Land and Property Management**

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

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

### **Financial and Other Assistance**

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

### **Charges for Services**

81.84.The Directors and their nominees are authorised:-

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

### **Protecting Council Property**

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

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

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

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

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

### **Closure Order under Section 76 Anti-Social Behaviour, Crime and Policing Act 2014**

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

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

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

### **Responding to outside parties**

| 86.89. Responding to consultation invitations from outside parties, and commenting on any matters on behalf of the Council.

### **General**

| 87.90. 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.

15 MAY 2017

Present: Councillors Chowney (Chair), Forward, Fitzgerald, Poole, Beaney, Lee and Patmore

Apologies for absence were noted for Councillor Cartwright

**89. REVIEW OF CONSULTATION AND IMPLEMENTATION PUBLIC SPACE PROTECTION ORDERS**

The Assistant Director, Environment and Place, presented a report which summarised the consultation feedback on draft Public Space Protection Orders (PSPOs), relating to anti-social behaviour and dog controls. The report sought agreement for proposed changes to the draft PSPOs, as a result of the consultation feedback, and approval for the Chief Legal Officer to make the Orders in accordance with the regulations published by the Secretary of State.

At its meeting on 6 March 2017, Cabinet had approved the rationale for making 2 PSPOs. The report had recommended a 4 week public consultation on the draft PSPOs between 24 March 2017 and 21 April 2017. The consultation process had engaged with statutory agencies, representatives of the local business and voluntary sector, animal welfare groups and the general public.

Concerns had been raised during the consultation process that the dogs on lead requirements of the draft PSPO's were too restrictive. Consequently, the dogs on lead restriction for St Leonards Gardens and Linton Gardens would be in force between 9.00am and 5.00pm, rather than 8.00am to 6.00pm as originally proposed. The existing dogs on leads restrictions between groynes 1 and 3 on the beach at Rock-a-Nore had also been removed. The Assistant Director, Environment and Place, commented that a key aim of the new PSPO's was to encourage enjoyment of the town's parks and open spaces by the whole community.

Cabinet noted that the draft PSPO for anti-social had been broadly supported. Following comments made during the consultation period, the scope of this PSPO had been extended to address incidents of anti-social behaviour in the council's parks and gardens. The Police had also recommended simplifying the scope of some restrictions, to promote a clearer understanding amongst the public and assist with enforcement activities.

The Assistant Director, Environment and Place, added that it was possible to amend and adapt the PSPOs in future. Following Cabinet approval, it was proposed to make the PSPOs on 16 May 2017; however, the new restrictions would not come into effect until 12 June 2017 to allow for appropriate signage to be installed and further awareness raising through media releases and social media channels. The council would continue to take a proportionate effect to enforcement activities, to maintain and improve the local street scene and drive behavioural changes amongst the anti-social minority.

Councillor Fitzgerald proposed approval of the recommendations to the Assistant Director, Environment and Place's report, which was seconded by Councillor Beaney.

## CABINET

15 MAY 2017

**RESOLVED (unanimously) that the proposed amendments to the draft Dog Control and Anti-Social Behaviour PSPOs to reflect the feedback received during the consultation, and authorise the Chief Legal Officer to make the Orders on 16 May to take effect on 12 June, in accordance with regulations published by the Secretary of State.**

**Authorise the Chief Legal Officer to correct any minor drafting errors that may be identified, and make minor amendments including deletions and insertions that may be necessary to ensure the PSPOs are accurate.**

The reason for this decision was:

PSPOs replace existing controls such as those relating to dog fouling, under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014. The existing provisions are superseded in October 2017.

They also enable local authorities and their partners such as the Police to address serious anti-social behaviour in public places.

The deterrent effect of PSPOs and enforcement where appropriate, will contribute to the council's vision for a safer cleaner town.

(The Chair declared the meeting closed at. 6.30 pm)

# Public Document Pack

## CABINET

10 JULY 2017

Present: Councillors Chowney (Chair), Forward, Poole, Batsford, Beaney, Fitzgerald and Lee

Apologies for absence were noted for Councillor Patmore

1. **MINUTES OF THE MEETING HELD ON 3 APRIL 2017 AND THE SPECIAL CABINET MEETING HELD ON 15 MAY 2017**

**RESOLVED** that the minutes of the meeting held on 3 April 2017 and the Special Cabinet meeting held on 15 May 2017 be approved and signed by the Chair as a correct record

**RESOLVED** the Chair called over the items on the agenda, under rule 13.3 the recommendations set out in minute number 6 were agreed without being called for discussion

2. **HASTINGS & ROTHER REDUCING HEALTH INEQUALITIES PROGRAMME**

The Assistant Director, Housing and Built Environment, presented a report which updated members on the delivery of the council-led projects within the NHS Hastings and Rother Clinical Commissioning Group's (CCG) Healthy Hastings and Rother (HHR) programme 2015/16 and 2016/17. The report also sought approval for the enhanced programme of council-led projects funded from the CCG's HHR programme in 2017/18, 2018/19 and 2019/20.

Richard Watson, Programme Manager for the CCG, attended the meeting. He explained that the CCG acknowledged the high levels of deprivation and health inequality in some parts of the Hastings and Rother. The programme had been designed to address the key thematic areas of preventing ill health, supporting people experiencing ill health, health and wellbeing centres and healthy housing – people and places. He added that the CCG valued the opportunity to work in partnership with partners across the statutory and community sector to deliver the programme.

CCG funding of £1.711 million had been allocated over this financial year and the two subsequent financial years until 31 March 2020. The funding had been allocated to support a variety of initiatives to address domestic violence, adult learning, healthy homes and rough sleeping.

The report also provided an update on projects from the 2015/16 and 2016/17. It was noted that some of the projects had been delayed, and would therefore be extended into subsequent programme.

Cabinet thanked all those involved in supporting the programme.

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Cabinet amended the third recommendation of the report, as set out in the resolution below. Councillor Batsford proposed approval of the amended recommendations to the Assistant Director, Housing and Built Environment's report, which was seconded by Councillor Lee.

**RESOLVED (unanimously) that:**

- 1. Progress with the delivery of the Hastings Borough Council led projects within the CCG Healthy Hastings and Rother Programme,**
- 2. To approve the enhanced programme of council-led projects as described in the report, within the financial resources available as follows:**

**2017/18 - £107,752**  
**2018/19 - £1,145,924**  
**2019/20 - £457,600**

- 3. To authorise the Director of Operational Services to take the necessary steps to develop and deliver the projects in consultation with the Lead Member for Housing and Leisure**

The reason for this decision was:

To update members on the council-led projects within the NHS Hastings and Rother Clinical Commissioning Group's (CCG) Healthy Hastings and Rother (HHR) programme for 2015/16 and 2016/17. Cabinet are also asked to agree the enhanced programme for 2017/18, 2018/19 and 2019/20.

### **3. COMPULSORY PURCHASE OF LONG TERM EMPTY HOMES**

The Assistant Director, Housing and Built Environment, presented a report for cabinet to consider making compulsory purchase orders (CPO) in respect of twelve privately owned empty homes as part of the Empty Homes Strategy Enforcement Programme. A part II report, which had been included later on the agenda, set out further details of the twelve properties.

CPO action formed part of the enforcement model used by the council to bring long term empty properties back into use. Such actions helped to maintain a supply of housing within the town and address concerns from the local community regarding the condition of empty properties which, in some cases, may also become a target for anti-social behaviour. The Assistant Director, Housing and Built Environment, commented that the council had used this approach successfully on a number of occasions in the past, which had significantly reduced the number of empty and dilapidated properties in the town. He added that CPO action was only considered when all other options to bring the properties back into use had been exhausted. In many cases it had also not been necessary to pursue the full course of CPO action to its conclusion.

Councillor Forward proposed approval of the recommendations to the Assistant Director, Housing and Built Environment's report, which was seconded by Councillor Lee.

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**RESOLVED (unanimously) that Cabinet approved the detailed recommendations set out in Part 2 report and approves the making of compulsory purchase orders in respect of the twelve long term empty homes**

The reason for this decision was:

The council's empty homes strategy sets out a number of enforcement powers available to the council, including the compulsory purchase of long term empty homes. In addition to taking action to bring empty homes back into use, it is hoped that taking this action will demonstrate to the owners of empty homes that it is unacceptable to leave property empty for an unreasonable period of time. This action will demonstrate to owners of these empty homes that the council will take the necessary action to bring these homes back into use from the benefit of the community.

#### **4. HOUSING RENEWAL FINANCIAL ASSISTANCE POLICY**

The Assistant Director, Housing and Built Environment, presented the revised Housing Renewal Financial Assistance Policy. The draft policy set out the financial tools available to the council for providing housing renewal help to households in the Borough.

The government recently announced increased funding to the Better Care Fund, which is used for Disabled Facility Grant (DFG) allocations. The allocation for Disabled Facilities Grants in 2017/18 was £1,543,547.

Local authorities across East Sussex have been working in partnership with the county council and Clinical Commissioning Groups East Sussex Better Together to utilise discretionary powers under the Regulatory Reform Order. The draft policy was sufficiently flexible to enable the council to support innovative projects to improve the lives of disabled residents.

Councillor Batsford proposed approval of the recommendations to the Assistant Director, Housing and Built Environment's report, which was seconded by Councillor Beaney.

**RESOLVED (unanimously) that:**

- 1. Cabinet approve the revised Housing Renewal Financial Assistance Policy 2017-2020, and;**
- 2. Delegated authority is given to the Assistant Director, Housing and Built Environment, in consultation with the Housing and Leisure Portfolio Holder to introduce and develop new types of assistance that enable existing and new sources of funding to be targeted at eligible clients**

The reason for this decision was:

In order to provide financial assistance for housing renewal the council must have an adopted policy.

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To be able to respond promptly to new freedoms provided by the provision of Disabled Facilities Grant funding through the Better care Fund delegated authority is requested to develop and adopt new funding tools.

### 5. ENVIRONMENTAL HEALTH SERVICE ENFORCEMENT POLICY

The Assistant Director, Environment and Place, submitted a report which recommended approval of an updated Environmental Health Service Enforcement Policy.

The Environmental Health Service Enforcement Policy covered a range of enforcement activities, including food safety, health and safety, environmental protection (air, water, and land), stray dogs and pest control. The policy formed part of an umbrella corporate policy, which covered all enforcement activities carried out by the council, and reflected the principles of the 2014 Regulators Code. Adopting the policy would help to ensure that the council continued to carry out enforcement activities in a fair, proportionate and consistent manner.

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

#### **RESOLVED that:**

- 1. The revised Environmental Health Service Enforcement Policy is approved, as attached at appendix 1 to the report, and;**
- 2. In future, in consultation with the Lead Member for Environment and Equalities, the Director of Operational Services, the Assistant Director Environment and Place and the Chief Legal Officer, to review and update the council's Environmental Health Service Enforcement Policy on an ongoing basis as and when necessary, in response to legislative changes, developing best practice and revised statutory guidance.**

The reason for this decision was:

1. To ensure that enforcement action by the Environmental Health Service continues to be undertaken in a fair, proportionate and consistent manner.
2. To provide evidence to courts, defendants, businesses and the public that the Environmental Health Service undertakes its enforcement activities in accordance with an approved framework.
3. To incorporate the principles set out in the Regulators Code which came into statutory effect in April 2014 to provide a clear, flexible and principles-based framework for how regulators should engage with those they regulate.

### 6. CABINET APPOINTMENTS TO COMMITTEES, WORKING GROUPS AND PARTNERSHIPS

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The Chief Legal Officer submitted a report regarding the appointment of Cabinet members to committees, working groups and partnerships. Nominations had been received from both group leaders to fill the places available.

The Chief Legal Officer advised that the following nominations had been received since the agenda was published. Councillors Patmore and Edwards were appointed to sit on Museums Committee, Councillors Batsford and Poole were appointed to sit on Charity Committee, Councillor Clarke was appointed to sit on Member Training and Development Group, Councillor Patmore was appointed to sit on Hastings Country Park Management Forum, Councillor Rankin was appointed to sit on the Order of 1066, Councillors Poole, Forward, Chowney and Rankin were appointed to sit on Personnel Consultative Group, Councillor Atkins was appointed to sit on the Stade Partnership, Councillor Lee was appointed to sit on Hastings Local Strategic Partnership, Councillor Beaver was appointed to sit on Hastings Athletics Track Committee, Councillor Fitzgerald was appointed to sit on East Sussex Community Safety Partnership, Councillor Forward was appointed to sit on Hastings and Rother Transport Action Group.

Councillor Lee advised that Councillor Cooke was to be appointed to Working Arrangements Group.

A copy of the schedule of nominations agreed at the meeting is attached at Appendix A and B to the minutes.

Councillor Poole proposed approval of the recommendations to the Chief Legal Officer's report, subject to the above amendments, which was seconded by Councillor Lee.

**RESOLVED (unanimously) that:**

- 1. Members be appointed to committees, working groups, partnerships, and representative bodies as set out in Appendix A and B to the minutes, and;**
- 2. Chairs and Vice Chairs of Charity Committee and Museums Committee be appointed, as listed in Appendix A to the minutes**

The reason for this decision was:

Members are required to serve on the committees, working groups, partnerships and representative bodies to which Cabinet appoints. Chairs and Vice Chairs are required for the committees that report to Cabinet.

**7. MINUTES OF THE MUSEUMS COMMITTEE MEETING HELD ON 19 JUNE 2017**

This item was deferred until a later meeting.

**8. MINUTES OF THE CHARITY COMMITTEE MEETING HELD ON 26 JUNE 2017**

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The minutes of the Charity Committee meeting held on 26 June 2017 were submitted.

**RESOLVED that the minutes of the Charity Committee meeting held on 26 June 2017 be received and agreed**

Councillor Chowney proposed a motion for the exclusion of the public from the meeting.

**RESOLVED (unanimously) 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.**

### **9. COMPULSORY PURCHASE OF LONG TERM EMPTY HOMES**

The Assistant Director, Housing and Built Environment, presented a report which set out details of the properties approved for compulsory purchase action (CPO) in minute 4 and the statement of reasons for utilising these powers.

The Assistant Director, Financial Services and revenues, provided some updated financial information at the meeting.

Councillor Forward proposed approval of the recommendations to the Assistant Director, Housing and Built Environment's report, which was seconded by Councillor Lee.

**RESOLVED (unanimously) that:**

- 1. Cabinet resolve to take the action by means of making Compulsory Purchase Orders for the twelve long term empty homes, listed in the report, under Section 226 (1)(a) of the Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 2004).**
- 2. Cabinet give authority to the Assistant Director, Housing and Built Environment, or his delegated nominee to execute all relevant documentation required for the compulsory purchase of the twelve homes set out in recommendation one of the report, and;**
- 3. Cabinet give authority to the Assistant Director, Housing and Built Environment, or his delegated nominee to execute and complete the onward sale of the homes set out in recommendation 1 of the report, once they have been acquired.**

The reason for this decision was:

These are long-term empty homes and without compulsory purchase action, officers are of the view that these homes will continue to remain empty. Officers have spent time working to engage with the owners and assist them in bringing their empty homes back into use. These actions have not achieved the desired

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result and it is believed that these homes will now be returned to use without CPO action.

It is hoped that taking this action will demonstrate to the owners of empty homes that it is unacceptable to leave homes empty for an unreasonable time. This action will demonstrate that the council will take the necessary action to bring these homes back into use for the benefit of the community.

In deciding to take compulsory purchase action, regard has to be taken to the provisions of article 1 of the First Protocol to the European Convention on Human Rights and, in the case of dwellings, Article 8 of the Convention. The council has to weigh the human rights interest of public need as against private property rights and to consider that sufficient justification exists for the making of these Compulsory Purchase Orders. By authorising these orders the council is therefore of the opinion that a compelling case exists in the public interest.

The Chief Legal Officer has advised that it is in the public interest that the details of the properties and ownership should not be disclosed since the properties are the subject of report by reason of their being empty homes and disclosure of the detail would expose the properties to possible criminal activity as well as squatting and anti-social behaviour. Further the council's negotiating position might be prejudiced by disclosure of details of valuation.

(The Chair declared the meeting closed at. 6.58 pm)

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**CABINET  
APPOINTMENTS TO COMMITTEES, WORKING GROUPS, PARTNERSHIPS ETC. JULY 2017**

**COMMITTEES, WORKING GROUP / PARTNERSHIPS**

| COMMITTEES                             | SEATS TO BE FILLED | ALLOCATION TO POLITICAL GROUPS 2017/18 |     | APPOINTMENTS for 2017/18   |                    | NOTES   |
|--|--------------------|--|-----|--|--------------------|---|
|  |                    | LAB                                    | CON | LABOUR GROUP   | CONSERVATIVE GROUP |   |
| Museums Committee                      | Up to 10           | 6                                      | 2   | Forward –Chair<br>Bacon Vice-Chair<br>Howard<br>Sinden<br>Street<br>Cartwright | Edwards<br>Patmore | A Chair and Vice Chair is required for this committee<br>Lead Member is chair.    |
| Charity Committee                      | 3                  | 3                                      |     | Beaney (Chair)<br>Batsford<br>Poole  |                    | Chair to be non-portfolio holder<br>member of Cabinet for the<br>majority group   |
| Discretionary Rate Relief Appeal Panel | Up to 7            | 5                                      | 2   | Batsford<br>Beaney<br>Fitzgerald<br>Forward<br>Poole                           | Lee<br>Patmore     | All Members of Cabinet,<br>excluding the Leader, to be<br>appointed to the Panel. |

**APPENDIX A**

|   |         |   |   |  |                |   |
|---|---------|---|---|--|----------------|---|
| Licensing Committee (Scrap Metal Dealers) | Up to 7 | 5 | 2 | Batsford<br>Beaney<br>Fitzgerald<br>Forward<br>Poole | Lee<br>Patmore | All Members of Cabinet, excluding the Leader, to be appointed to the committee. Functions relating to the licensing of Scrap Metal Dealers as set out in the Scrap Metal Dealers Act 2013 or by virtue of any amending or consolidating legislation and any regulations made under the Act as such amending or consolidating legislation. |
| Income Generation Board                   | 3       | 2 | 1 | Chowney<br>Forward                                   | Rankin         | Leader and Deputy Leader of the Council and Chair of the Audit Committee  |

**APPENDIX A**

| WORKING GROUPS ETC                     | SEATS TO BE FILLED | ALLOCATION TO POLITICAL GROUPS 2017/18 |     | APPOINTMENTS for 2017/18                                     |                    | NOTES  |
|--|--------------------|--|-----|--|--------------------|--|
|  |                    | LAB                                    | CON | LABOUR GROUP   | CONSERVATIVE GROUP |  |
| Working Arrangements Group             | 5                  | 4                                      | 1   | Street – Chair<br>Cartwright<br>Rogers<br>Scott              | Cooke              | Opposition member is Vice-Chair                                      |
| Member Training and Development Group  | 4                  | 3                                      | 1   | Poole – Chair<br>Sinden – Vice Chair<br>Cartwright           | Clarke             | Lead Member is chair   |
| Hastings Country Park Management Forum | 5                  | 4                                      | 1   | Fitzgerald – Chair<br>Street – Vice-Chair<br>Poole<br>Turner | Patmore            | Lead Member is chair   |
| Order of 1066                          | 4                  | 3                                      | 1   | Rogers<br>Sinden<br>B.Dowling                                | Rankin             | To comprise Mayor, Deputy Mayor & 1 member from each Political Group |
| Joint Waste Committee                  | 2                  | 2                                      |     | Chowney<br>Fitzgerald  |                    | Leader of the Council and Lead Member for Env & Highways             |
| Personnel Consultative Group           | 4                  | 3                                      | 1   | Poole<br>Forward<br>Chowney                                  | Rankin             |  |

**APPENDIX A**

| PARTNERSHIPS  | SEATS TO BE FILLED | ALLOCATION TO POLITICAL GROUPS 2017/18 |     | APPOINTMENTS for 2017/18 |                    | NOTES                 |
|---|--------------------|--|-----|--------------------------|--------------------|-----------------------|
|   |                    | LAB                                    | CON | LABOUR GROUP             | CONSERVATIVE GROUP |                       |
| Stade Partnership   | 2                  | 2                                      |     | Bacon<br>Poole           |                    | Old Hastings members  |
| Hastings Overseas Student Advisory Council                        | 3                  | 2                                      | 1   | Roberts<br>Sinden        | Atkins             | Known as HOSAC        |
| Hastings Local Strategic Partnership                              | 2                  | 1                                      | 1   | Chowney                  | Lee                |                       |
| Safer Hastings Partnership  | 1                  | 1                                      |     | Fitzgerald               |                    | Relevant Lead Member  |
| Jt. Advisory Cttee. the High Weald AONB                           | 1                  | 1                                      |     | Street                   |                    |                       |
| Combe Valley (formerly Pebsham) Countryside Park Management Forum | 2                  | 2                                      |     | Howard<br>Webb           |                    |                       |
| Hastings and Rother Task Force Steering Group                     | 1                  | 1                                      |     | Chowney                  |                    | Leader of the Council |
| Hastings Athletics Track Committee                                | 2                  | 1                                      | 1   | Batsford<br>Rogers       | Beaver             |                       |
| AmicusHorizon Hastings Area Panel                                 | 1                  | 1                                      |     | Batsford                 |                    | Relevant Lead Member  |

**APPENDIX A**

|  |   |   |  |            |  |  |
|--|---|---|--|------------|--|--|
| Sussex Police & Crime Panel                      | 1 | 1 |  | Fitzgerald |  | Lead Member  |
| East Sussex Health Overview & Scrutiny Committee | 1 | 1 |  | Turner     |  | Needs to be a non-executive Member.  |
| East Sussex Community Safety Partnership         | 1 | 1 |  | Fitzgerald |  | Needs to be either the Chair of the Safer Hastings Partnership or a member of the Sussex Police and Crime Panel. |
| Big Local North East Hastings                    | 1 | 1 |  | Charman    |  | Must be Baird, Ore or Tressell member.   |
| Hastings and Rother Transport Action Group       | 1 |   |  | Forward    |  | Relevant Lead Member   |

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**CABINET – JULY 2017****APPOINTMENT OF MEMBERS TO REPRESENTATIVE BODIES**

| <b>ORGANISATION</b>  | <b>SEATS TO BE FILLED</b>         | <b>APPOINTMENTS FOR 2017/18</b>            |
|--|-----------------------------------|--|
| East Sussex Energy Infrastructure and Development Ltd (Sea Change)<br>(This is a directorship) | 1                                 | Lead Member for Regeneration - Forward     |
| Love Hastings<br>(formerly Hastings & St Leonards Town Centre Management Group)                | 1                                 | Leader – Peter Chowney                     |
| Hastings Health Improvement Network  | 1                                 | Rogers                                     |
| Health & Wellbeing Board   | 1 (not Health O & S Cttee member) | Beaney                                     |
| Local Gov. Assoc. – National Body  | 1                                 | Leader – Peter Chowney                     |
| Local Gov. Assoc. – Urban Commission   | 1                                 | Lead Member for Regeneration – Kim Forward |
| Local Gov. Assoc. – Coastal Issues Group   | 1                                 | Lead Member for Regeneration – Kim Forward |
| South East England Councils  | 1 (The Leader of the Council)     | Chowney                                    |

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# Public Document Pack

## CABINET

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Present: Councillors Chowney (Chair), Poole, Batsford, Fitzgerald, Beaney and Lee

Apologies for absence were noted for Councillor Forward and Patmore

### 11. DECLARATIONS OF INTEREST

The following Councillors declared an interest in the minutes:

| Councillor | Minute Number  | Interest  |
|------------|--|---|
| Chowney    | 18 – Acquisition of Land in Ore Valley from HBRL and 19 – Community Housing Fund | Prejudicial – he is the council’s appointed Director of Hastings and Bexhill Renaissance Limited  |
| Chowney    | 12 – Petition: More Public EV charging facilities in Hastings                    | Personal – he owns a hybrid vehicle and has used the charging points  |
| Poole      | 18 – Acquisition of Land in Ore Valley from HBRL and 19 – Community Housing Fund | Prejudicial – she attended the HBRL Board meeting when the licence for land in Ore Valley was discussed (although she did not vote on this item). Councillor Poole has also attended board meetings in past as a substitute for Councillor Chowney. |
| Lee        | 18 – Acquisition of Land in Ore Valley from HBRL and 19 – Community Housing Fund | Prejudicial – he has signed up to the Heart of Hastings pledge  |

### 12. PETITION: MORE PUBLIC EV CHARGING FACILITIES IN HASTINGS

The Sustainability Policy Manager presented the report of the Director of Corporate Services and Governance, which responded to a petition calling for the council to install and encourage local businesses to install additional public charging facilities for electric cars.

The council has worked with other authorities through the Sussex Air Quality Partnership to secure government funding to support the Energise Network. Two public EV charging points were installed at Pelham place and Marina car park. Usage

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of the two sites has been gradually increasing, which reflects the rise in electric vehicle ownership and wider awareness of the national EV network. The council is keen to expand the network, however, this would need to be based on a financial sustainable model, including ongoing maintenance costs. There is currently limited grant funding available which could be used to support the expansion of the network. However, the council will continue to explore funding opportunities which may arise in the future and consider the possibility of expanding the EV charging network as part of its broader income generation ideas.

A number of large supermarket chains have begun install EV charging facilities in their publically accessible car parks. The council will contact local supermarkets and encourage them to install these facilities in their car parks.

Councillor Poole proposed approval of the recommendations to the Director of Corporate Services and Governance's report, which was seconded by Councillor Beaney.

**RESOLVED (unanimously) that:**

- 1. Cabinet acknowledges the petition but recognises that there is currently limited grant funding available to expand the public EV charging network**
- 2. The petitioner is advised about the limited grant funding available to expand the public EV charging network currently, but that the council will actively seek external funding to support an expansion as appropriate funding becomes available**
- 3. In addition, that as part of the council's income generation work full consideration will be given to the possibility of expanding the public EV network as part of the review, and;**
- 4. The council contact large supermarkets within the borough to find put about their plans to install EV charge points in their car parks and encourage them to do so**

The reason for this decision was:

The petition has been received whilst the council are in the process of researching income generation opportunities and investigating grant funding opportunities for low carbon projects that could include expanding the local EV charging network.

**13. CORPORATE PLAN RETROSPECTIVE REPORT ON PERFORMANCE DURING 2016/17 AND PROPOSED PERFORMANCE INDICATOR TARGETS FOR 2017/18**

The Director of Corporate Services and Governance submitted a report which advised Cabinet of year-end performance for 2016/17 and the proposed performance indicator targets for 2017/18. The report included the comments which had been received from Overview and Scrutiny Committee on these items; it also gave an outline of performance arrangements for the year ahead.

The corporate plan sets out the council's strategic direction. The report gave an update on performance on a range of key activities throughout 2016/17, it also set out

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the proposed performance indicator targets for 2017/18. Cabinet has delegated authority to agree year end performance and performance indicator targets for the year ahead, prior to publication on the council's website.

Overview and Scrutiny Committee had considered the proposed performance indicator targets at their meeting on 15 June 2017. Scrutiny members had recommended that the performance indicator 2.1, which related to the number of people attending White Rock Theatre performances, continue to be reported to Overview and Scrutiny Committee during 2017/18, given continued council investment in the theatre.

The recommendations of the Director of Corporate Services and Governance's report were agreed without being called for discussion.

**RESOLVED that:**

- 1. The comments of the Overview and Scrutiny Committee be considered**
- 2. Year-end performance for 2016/17 and proposed performance indicator targets for 2017/18 be approved, and;**
- 3. Cabinet support intentions to continue to improve corporate performance and planning arrangements in line with the council's transformation intentions**

The reason for this decision was:

The council's corporate plan is one of the key documents by which the council is held to account for its performance, therefore honest and transparent reporting back of how well we performance against targets in the previous year is essential. Local people and staff also need to be aware of the targets and standards we have set for ourselves, and where any of these targets have changed from previous years we need to be clear about the reasons why.

#### **14. FINAL ACCOUNTS 2016/17**

The Assistant Director, Financial Services and Revenues, submitted a report which set out the draft final accounts position for 2016/17. The draft accounts are subject to an external audit.

The Accounts and Audit Regulations, required the council's section 151 officer to certify the statement of accounts by 30 June each year and to publish them by 30 September.

The final accounts set out variances in the council's income and expenditure since the budget was set for 2016/17, the report included the outturn results for the general fund and capital programme for this period. The council continuously seeks to improve value for money and any over or underspends identified in the final accounts were being investigated to help inform the budget setting process for future years.

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Councillor Chowney proposed approval of the recommendations to the Assistant Director, Financial Services and Revenues, report which was seconded by Councillor Poole.

**RESOLVED (unanimously) that:**

- 1. Cabinet has reviewed the outturn position on the General Fund for 2016/17**
- 2. Cabinet has reviewed the capital outturn position for 2016/17, and;**
- 3. The 2016/17 outturn position, along with the revised estimates for 2017/18 be taken into account when preparing the 2018/19 budget**

The reason for this decision was:

Compliance with statutory requirements and good practice. The council is accountable for the use of public money and continuously seeks to improve value for money.

The outturn position informs the budget setting process. Where there are under or overspends the reasons behind these are investigated with a view to reallocating resources to meet priorities.

### **15. PRIORY MEADOW - SUPPLEMENTARY CAPITAL BUDGET**

The Assistant Director, Financial Services and Revenues, presented a report which sought agreement to fund the council's share of enhancement work at Priory Meadow shopping centre in Hastings.

The council has a 10% stake in Priory Meadow. A range of works are planned over the next 3 years, which will help to ensure the shopping centre remains attractive for retail and investment, which in turn provides employment opportunities. The council also benefits directly if the additional investment results in income growth.

The recommendations of the Assistant Director, Financial Services and Revenues, report were agreed without being called for discussion.

**RESOLVED that:**

- 1. A sum of £250,000 (representing the council's 10% share) be allocated towards a programme of work to be undertaken at Priory Meadow shopping centre**

The reason for this decision was:

Works, estimated at some £2.5 million in total are to be undertaken at Priory Meadow shopping centre on a couple of units, new car park machines and signage and potentially a new small development. The council has a 10% stake in Priory Meadow shopping centre, and if this is to be preserved is required to provide a matched contribution.

The council needs to ensure that the town remains attractive for the future to ensure businesses are attracted to, and remain in, Hastings – particularly so as the council will need to ensure business rate growth in the future. The continued updating of the

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centre is welcome for Hastings and the council in particular. The centre provides a significant income stream for the council and these additional works will look to preserve and enhance the income stream in future years.

### **16. SOCIAL LETTINGS AGENCY 2 YEAR REVIEW**

The Assistant Director, Housing and Built Environment, presented a report which advised members of the current financial position of the social lettings agency and presented options for the future of the scheme in light of recent changes to local government funding for homelessness prevention.

The social lettings agency aimed to reduce homelessness, by improving access to private sector accommodation. The scheme had secured leases to 49 units of accommodation over the past 2 years, which had provided housing for over 50 vulnerable households.

In autumn 2016, the government announced a review of funding for temporary accommodation. The acquisition of further leases was suspended until the outcome of the review was known. In March 2017, the government announced that the existing Temporary Accommodation Management Fee would be replaced for a 2 year period by a Flexible Homelessness Support Grant.

The changes to funding arrangements had necessitated a review of the social lettings agency scheme. The report set out three potential options for the future of the scheme; to continue to expand the private sector leasing scheme and increase the level of flexible homelessness support grant used to fund it, to terminate the private sector leasing scheme or to wind down the existing private sector leasing scheme and develop a business case for a new property management service that would operate on a commercial basis similar to that offered by some high street agents, in order to help sustain the current private sector lease scheme tenancies and grow the social lettings agency.

The report recommended that the third option be explored further, as this enabled the council to sustain the current private sector leases within the social lettings agency, whilst continuing to prevent homelessness by improving access to accommodation in the private rented sector. The approach also complimented the council's broader income generation intentions, which were likely to include the creation of a new council-owned housing company.

Councillor Batsford proposed approval of the recommendations to the Assistant Director, Housing and Built Environments report, which was seconded by Councillor Beaney.

**RESOLVED (by 5 votes for, to 1 against, with 0 abstentions) that:**

- 1. Members consider the impact of the new financial arrangements introduced by central government on the operation of the current social lettings agency scheme, and;**

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### **2. Members consider the options outlined in the report and agree that option 3 should be pursued as the best way forward**

The reason for this decision was:

In February 2015 Cabinet gave approval to pilot a private sector leasing (PSL) scheme as part of the development of a social lettings agency (SLA). The report to cabinet in February 2015 included a feasibility study (carried out by Shelter on behalf of the council) which recommended the formation of an SLA within which two distinct modes of service delivery could be adopted by the council:

- I. Lease accommodation in the private rented sector in order to make accommodation available for people with a housing need and assist with homelessness prevention.
- II. Manage accommodation on behalf of private landlords in competition with high street letting agents

The PSL scheme (described at (I.) above) was set up in April 2015. The PSL scheme was 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. The model proved to be financially viable and was delivering a small surplus to the council on the 49 properties leased.

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. This change to the funding model has changed the nature of the PSL scheme project from an income generating initiative (which successfully provided affordable housing solutions to households) to one which now represents a net cost to the council. As such, the cost effectiveness of the PSL model needs to be compared to the full-range of homelessness prevention activity available while, in addition, its longer-term viability needs to be reviewed.

### **17. MANAGEMENT RESPONSE TO THE REVIEW OF SCRUTINY ARRANGEMENTS**

The Director of Corporate Services and Governance presented a report which responded to the recommendations of a review of current scrutiny arrangements.

In May 2016 the council adopted a single overview and scrutiny committee, combining the responsibilities of the previous services and resources committees. Members had agreed to review the new arrangements six months after the new arrangements had been introduced.

Councillor Howard, as chair of the review team, presented the recommendations to Cabinet. He explained that the team had considered in detail the strengths, weaknesses, opportunities and threats to council's scrutiny arrangements. Members were keen that the overview and scrutiny work programme reflects issues of local concern. The team considered examples of good practice from other authorities and

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changes to working practices which may help to increase the capacity of members and officers. The review team were also keen that overview and scrutiny members explore links with other groups within the council, such as the member training and development group.

The management response recommended that overview and scrutiny members reconsider their proposals in respect of the management response arrangements, as it was considered the present suggestion may not allow for sufficient collective debate.

Councillor Poole proposed approval of the recommendations to the Director of Corporate Services and Governances report, which was seconded by Councillor Fitzgerald.

**RESOLVED (unanimously) that:**

- 1. Cabinet thank the scrutiny team for their report and recommendations**
- 2. Cabinet accept the following scrutiny review recommendations:**
  - a. That existing Scrutiny arrangements are continued and this report is forwarded to the Leaders of both political parties as a basis for further discussions in specific relation to the capacity issues identified.**
  - b. That Democratic Services draft more detailed roles and responsibilities in relation to key committees starting with Scrutiny. Setting these roles and responsibilities out may assist in the selection of Members for associated committees prior to appointment, ensuring clarity on the demands of the role and key responsibilities.**
  - c. That the Scrutiny Chair meet with the Member Training and Development Group Chair in advance of setting the next work programme to explore opportunities for shared updates and associated training.**
  - d. Scrutiny committee and all members receive a briefing covering: progress on taking a project management style approach to work planning, delivery and review to date and associated opportunities and challenges; and, an outline of tools available to assist in this approach and expectations around use and take up.**
  - e. That Scrutiny consider the following ideas raised by the council's senior managers as potential areas of focus for the 2017/18 Scrutiny work programme as set out in [Appendix A](#) to this report.**

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- f. **Scrutiny Steering Group to consider how we can apply examples of good practice from other authorities to the 2017/18 work programme, for example Inquiry Days\***

**\*Inquiry Day: an inquiry day is a focussed, structured one-off event with presentations and group work. They can be attended by Councillors, community and partner representatives, other stakeholders and council officers to take an overview of a particular issue and provide a forum for questioning invited speakers and witnesses. After the inquiry, recommendations are drafted by the overview and scrutiny team before being sent to the relevant decision maker. This approach may address some of the capacity issues experienced recently, by holding the event on a single day. It would also provide scope to involve members from outside the scrutiny function, if appropriate**

- 3. That recommendation g is not accepted in its current form and that O&S are asked to reconsider this in the light of the management response set out in paragraph 45 of the report**

The reason for this decision was:

To submit and respond to the recommendations arising from the work undertaken by the scrutiny review team.

### **18. ACQUISITION OF LAND IN ORE VALLEY FROM HBRL**

The Director of Operational Services submitted a report which sought approval for the council to take ownership of an area of land known as the former Broomgrove Power Station site and areas of green space in Ore Valley. The site is currently owned by Hastings and Bexhill Renaissance Limited (HBRL). HBRL is in the process of being wound up and its assets transferred to East Sussex Energy Infrastructure and Development Limited (trading as Sea Change Sussex).

The Broomgrove Power Station sit was originally intended for residential use, however, the challenging nature of the site meant the development has not yet been realised.

The report sought approval for the transfer of the land from HBRL to council, together with £700k for the future development of the site, subject to the satisfactory completion of due diligence work. HBRL had agreed to share all previous reports on the condition of the land with the council; however, it will be necessary to commission a further study of options that will inform the future development of the site. A further report would then be brought to Cabinet which will include recommendations on the future use of the site and proposed management arrangements.

The recommendations of the Director of Operational Services report were agreed without being called for discussion.

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### **RESOLVED that:**

- 1) **In consultation with the Deputy Leader of the Council, the Director of Operational Services and the Assistant Director Financial Services and Revenues are authorised to:**
  - a. **Conclude arrangements for the acquisition of the site and the capital receipt subject to satisfactory outcome of due diligence**
  - b. **Commission a report examining the optimum way(s) in which the site could be developed for the benefit of the local community**
  - c. **Agree the details of an agreement with HBRL or its successor bodies about the future use of the site and financial receipt this is informed by the outcome of the due diligence work and a study of potential development options as set out in section 16 of the report**
- 2) **That a future report be brought forward with proposals for the development of the site to include any recommendation for disposal if applicable**

### **The reason for this decision was:**

To facilitate the social and economic regeneration of Ore Valley and the surrounding are.

## **19. COMMUNITY HOUSING FUND**

Councillors Chowney, Lee and Poole, having declared a prejudicial interest in a related matter, left the chamber during the debate on this item. Councillor Fitzgerald took the chair for this item.

The Assistant Director, Housing and Built Environment, presented a report which advised members of an allocation of £244,000 of Community Housing Funds from central government and to outline planned expenditure in respect of the grants funding.

The government has produced guidelines as to how funding can be used to promote community led housing to support and enable local people to play a lead role in solving local housing problems. The criteria to meet the definition of community-led housing schemes included a requirement for the community to be integrally involved throughout the process in key decisions, a presumption in favour of community groups that are taking a long term formal role in ownership, management and stewardship of homes and a requirement that the benefits to the local area and specified community must be clearly defined and legally protected into perpetuity.

The report set out a number of benefits of this approach to housing authorities, such as the ability to provide genuinely affordable housing and promoting community cohesion.

The report noted a £50,000 allocation from the grant to Heart of Hastings Community Land Trust, which was in the process of developing a proposal for the Broomgrove power station site. Further funding had also been set aside to encourage any further community land trust (CLT) proposals which may be brought forward.

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Councillor Batsford proposed approval of the recommendations to the Assistant Director, Housing and Built Environments, report which was seconded by Councillor Beaney.

**RESOLVED (unanimously) that:**

- 1. The allocation of £50,000 to the Heart of Hastings Community Land Trust from the Community Housing Fund is noted.**
- 2. Up to £50,000 is set aside from the Community Housing Fund for council expenditure that will assist bringing forward a plan and assist with the redevelopment of the former power station site at the Ore Valley.**
- 3. Up to £50,000 is set aside for the council to support any CLT proposals that might be encouraged and enabled in other areas of the borough.**
- 4. £10,000 is committed in support of a county-wide partnership to help share expertise in respect of community-led housing groups.**
- 5. The Assistant Director, Housing and Built Environment, in consultation with the Assistant Director, Financial Services and Revenues, and the Lead Member for Housing, are granted delegated powers to allocate the remaining £84,000 at a later date to the CLT's or other groups, subject to suitable progress being made in respect of Community Self-Build Plans on the former power station land or alternative sites**

The reason for this decision was:

On 23 December 2016, the Department for Communities and Local Government (DCLG) confirmed a £60 million fund to support community-led housing developments in areas where the impact of second homes is particularly acute. Community-led housing is about local people playing a leading role in solving local housing problems, creating genuinely affordable homes and strong communities in ways that are difficult to achieve through mainstream housing.

The community housing fund is set at £60 million a year for 5 years. Hastings Borough Council has been given an initial award of £244,098, any subsequent awards will be dependent on how the initial fund is spent. As the funding is ring-fenced the first year's funding in 2016/17 was awarded in two tranches, the second on the basis of an outline expenditure plan submitted by the council which set out its broad plans and commitment to enabling community housing development.

The first year's funding of £244,098 was received after the annual budgets were set. Therefore, there is a requirement for this funding to now form part of the council's budget and for a plan to be formulated setting out how it should be spent.

## **20. FUTURE WASTE & CLEANSING SERVICES**

The Assistant Director, Environment and Place, presented a report which updated members on urgent developments associated with the provision of waste and cleansing services, when the existing contract ends.

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Members of the joint waste partnership and the contractor had agreed to a mutual early termination of the waste and street cleansing contract. It was therefore necessary for the local authority partners to begin the procurement process for a new contract, which will come into effect from 29 June 2019.

Local authorities wishing to participate in a joint procurement exercise for waste services are required to sign an inter-authority agreement by 18 July 2017. The outcome of the procurement exercise will be reported back to Cabinet in autumn 2018 for decision.

The report also sought authority to develop arrangements for a potential in-house street and beach cleansing, bulky waste and fly tip removal service to operate in Hastings from 29 June 2019, subject to this meeting best value requirements.

Councillor Fitzgerald proposed approval of the recommendations to the Assistant Director, Environment and Place's report, which was seconded by Councillor Batsford.

**RESOLVED (unanimously) that Cabinet authorises:**

- 1. The Chief Legal Officer in consultation with the Director of operational Services to sign the Joint Waste Partnership Inter Authority Agreement attached at appendix one to the report. Committing the council to procure waste services to commence 29 June 2019**
- 2. The Assistant Director, Financial Services and Revenues, in consultation with the Leader of the Council, to increase the 2017/18 budget allocation in support of waste procurement to £75,000. To enable the council to commit to and participate in the East Sussex Joint Waste Partnership joint waste procurement**
- 3. The two Hastings Borough Council members appointed to the Joint Waste Committee, to take key waste services procurement decisions on behalf of the council, in accordance with the constitution of the Joint Waste Committee**
- 4. The Director of Operational Services to develop comprehensive fully costed arrangements for a potential Hastings street cleansing direct services organisation (DSO), which subject to meeting best value criteria, could provide street and beach cleansing, fly tip removal and bulky waste collection services in Hastings from 29 June 2019**

The reason for this decision was:

The existing waste services contract provided through the East Sussex Joint Waste Partnership ends on 28 June 2019, and new arrangements must be in place ready to commence on 29 June 2019, to ensure seamless transition for residents.

### **21. FLEXIBLE HOMELESSNESS SUPPORT GRANT EXPENDITURE**

The Assistant Director, Housing and Built Environment submitted a report which advised members of changes in the way central government funds temporary housing for homelessness households.

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There has been a significant increase in the number of homeless applications the council receives, which reflects broader national trends. A new Homelessness Reduction Act, which was scheduled to be implemented in April 2018, will place additional duties on housing authorities in respect of homelessness prevention. The government had introduced a Flexible Homelessness Support Grant (FHSG) to support these activities.

The report proposed directing these resources towards a variety of homelessness prevention activities over a two year period. The grant can also be used to meet the cost of temporary accommodation. A monitoring group, comprising housing and finance colleagues, will meet on a quarterly basis to review the effectiveness of these initiatives in reducing homelessness.

The recommendations of the Assistant Director, Housing and Built Environments, report were agreed without being called for discussion.

**RESOLVED that the new flexible homelessness support grant is committed in support of the proposals outlined in the report and to authorise the Assistant Director, Housing and Built Environment, in consultation with the Chief Finance Officer and Lead Member for Housing, to approve variations to the budget which might occur in response to legislative changes and housing needs over the funding period**

The reason for this decision was:

A new Flexible Homelessness Support Grant (FHSG) has been awarded to local authorities by the Department for Communities and Local Government (DCLG) to help cover the additional costs associated with temporary housing costs for homeless households. This ring-fenced grant is finite and fixed for a period of two years covering 2017/18 and 2018/19. It can be applied flexibly for prevention activity and interventions that will help minimise the impact of additional accommodation costs on authorities.

The new funding model replaces the demand led Temporary Accommodation Management Fee (TAMF) previously paid by the Department of Works and Pensions (DWP) and administered by housing benefit departments. The fee helped bridge the gap between standard housing benefit payments and the additional costs associated with the use of temporary accommodation for homeless households. In applying the new funding model the government is seeking to encourage council's to prioritise homelessness prevention measures. This will provide councils with a means of controlling and reducing future expenditure on temporary housing solutions which have a high cost, such as the extended use of commercial bed and breakfast accommodation.

The changes in funding should be viewed within a context of rising levels of homelessness and rough sleeping both nationally and locally. This is resulting in significant increases in service demand and is hampering the ability of councils to achieve successful homelessness preventions. The reasons for increasing numbers of people presenting as homeless are complex; however, they are driven by a lack of affordable housing in both the private and social sector, alongside a lack of adequate

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financial support to enable some low-income households to attain or retain suitable accommodation for their needs.

Councillor Chowney proposed a motion for the exclusion of the public from the meeting.

**RESOLVED (unanimously) 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.**

### **22. COMMERCIAL PROPERTY PURCHASE**

The Assistant Director, Financial Services and Revenues, presented a report for Cabinet to consider the potential purchase of a retail park in Hastings.

Councillor Chowney proposed approval of the recommendations to the Assistant Director, Financial Services and Revenues, report which was seconded by Councillor Poole.

**RESOLVED (by 5 votes for, to 1 against with 0 abstentions) that:**

- 1. Cabinet agree to purchase the property, subject to the satisfactory completion of due diligence work**
- 2. Delegated authority is given to the Chief Finance Officer, in consultation with the Leader of the Council, to purchase the property at the best possible price up to the figure set out in the report (plus stamp duty, land tax, registration fees, and agents fees plus associated costs). The expected yield on the investment was set out in the report.**

The reason for this decision was:

The retail park has a number of well-known national retailers. It remains important to Hastings that sufficient affordable retail space to be retained in the town to ensure there are attractive locations for companies to base themselves. The premises are currently fully occupied but the leases in place have relatively short durations remaining, negotiations are being undertaken, at the request of the major occupier, to increase the lease period. This would reduce some of the risk to the council.

The council needs to ensure that key areas remain attractive for the future to ensure businesses are attracted to, and remain in, Hastings – particularly so as the council will need to ensure business rate growth in the future.

(The Chair declared the meeting closed at. 8.00 pm)

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