

# NEW FOREST DISTRICT COUNCIL CONSTITUTION

1. This Constitution was adopted by New Forest District Council on 23 April 2001 and came into effect on 1 August 2001.

## 2. Amendment of Constitution

Unless anything in this Constitution provides otherwise, only the Council may amend this Constitution. The Council shall take into account a recommendation from the Executive, and the views of any Overview and Scrutiny Panels and Committees that will be affected by the amendment. The Executive shall make a recommendation to the Council in respect of any proposal for amendment submitted to it by an Overview and Scrutiny Panel or Committee. All amendments shall comply with the requirements of the Local Government Acts and regulations thereunder. If the Constitution is found not to comply, the Chief Executive and the Monitoring Officer can take all necessary steps to ensure compliance without recourse to full Council, the Executive or Panels.

## 3. Interpretation

- 3.1 For the purposes of this Constitution, the following definitions, except where otherwise stated, shall apply:-
  - Budgets – means the preparation of the annual budget of the Council which is to be used for the purposes of setting the Council Tax, all the components of the budget, such as budgetary allocations to different services and projects, proposed taxation levels, contingency funds (reserves and balances), and any plan or strategy for the control of the Council's borrowing or capital expenditure.
  - Cabinet – means the formal body consisting of the Leader, and those councillors appointed to the executive by the Leader.
  - Chief Executive – The Head of the Council's Paid Service under Section 4 of the Local Government Housing Act 1989.
  - Chief Finance Officer – means the Officer appointed by the Council under Section 151 of the Local Government Act 1972 with responsibility for the proper administration of the Council's Officers.
  - Committees – means the Planning Committee, the General Purposes and Licensing Committee, the Appeals Committee, the Audit Committee and any other Committees comprising of only Councillors as voting Members established by the Council to undertake any of its functions.
  - Council – means the Members of the Council acting together at formal meetings convened under the provisions of the Local Government Act 1972 or its successors.
  - Forward plan means a document containing particulars of matters on which key decisions are likely to be made, as prescribed in the Local Authorities ((Executive Arrangements) (Meetings and Access to Information) Regulations.

- Key decision - means an executive decision which is likely either:
  - i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - ii) to be significant in terms of its effect on communities living or working in an area comprising two or more wards in the Council's area.
- Leader – means the Councillor elected as leader of the executive by the Council.
- Monitoring Officer – means the Officer appointed under Section 5 of the Local Government and Housing Act 1989.
- Panel – means Overview and Scrutiny Panel.
- Portfolio Holder – means the Councillor appointed by the Leader as responsible for a specific Portfolio.
- Portfolios – means activities which are the responsibilities of Portfolio Holders
- Strategic Plans – means the Council's corporate plan, performance plan, community strategy, community safety strategy, Local Development Framework, and such other similar plans or strategies as the Council may determine.

#### **4. EXECUTIVE ARRANGEMENTS**

##### **4.1 Form of Executive**

The Executive shall be in the form of a Leader and Cabinet executive as provided in section 11 (2A) of the Local Government Act 2000.

##### **4.1A Responsibilities of the Executive**

Annex 1 shows the extent of the Executive's responsibilities for functions that Schedule 2 to the Local Authorities (Functions and Responsibilities) Regulations 2000 provides may be (but need not be) the responsibility of the executive.

Annexes 2 and 3 show the extent of the Executive's responsibilities for functions that Schedules 3 and 4 to the Regulations provides are not to be the sole responsibility of the executive. (These are plans or strategies specified in the Regulations, and other plans or strategies that the Council has determined it should decide whether to adopt or approve).

##### **4.2 Membership and Powers of Cabinet**

The Cabinet shall comprise the Leader and a minimum of two other Councillors appointed to it by the Leader, up to a maximum within the limits laid down by legislation.

The Leader shall decide the extent to which Executive powers are to be discharged by him/herself, by the Cabinet, by a member or members of the Cabinet, or by an officer of the authority. The Leader may amend

his/her decisions in this respect at any time by giving notice to the Chief Executive.

Those Executive powers which the Leader has for the time being decided are to be discharged by himself or by a member or members of the Executive, or by an officer of the authority, are set out in Annexes 4 and 5. All other Executive powers are to be discharged by the Cabinet.

The procedure for executive decision making is set out at Annex 6.

#### **4.3 Cabinet Meetings**

Procedures for holding and convening Cabinet meetings are laid down in the Council's Standing Orders for Meetings.

#### **4.4 Leader - Duties and Appointment**

The Leader of the Council shall be the principal political leader in all respects. The Leader's duties and responsibilities shall be as described in Chapter 2.

The Leader of the Council shall be appointed by the Council under the procedures in Standing Orders for Meetings. The Leader of the Council shall be eligible for re-election.

The Council may terminate the appointment of the Leader under the procedures in Chapter 3, provided that no proposal to terminate his or her appointment shall be made solely for the purpose of resolving a single dispute under paragraph 4.16 below.

#### **4.5 Cabinet members - Duties and Appointment**

The procedure for:

- i) deciding the content of Portfolios,
  - ii) appointing, and terminating the appointment of, Cabinet members, and
  - iii) deciding the duties and responsibilities of Cabinet members,
- shall be as set out in Standing Orders for Meetings.

Members of the Cabinet shall take collective responsibility for those issues determined by Cabinet.

#### **4.6 Deputy Leader - Duties and Appointment**

The Leader shall appoint a Deputy Leader, as set out in Standing Orders for Meetings. In addition to any other responsibilities arising from his/her membership of the Cabinet, if the Leader is for any reason unable to act, or the office of Leader is vacant, the Deputy Leader must act in his place.

#### **4.7 Notification of Cabinet Appointments**

The Chief Executive shall make arrangements to notify all Councillors of Cabinet appointments and make such other arrangements as are necessary to bring the appointment and responsibilities of those councillors to the attention of the public.

#### **4.8 Delegation of Executive Functions to Portfolio Holders and Officers**

The duties and responsibilities of Cabinet members, and the powers delegated to them, as currently determined by the Leader, are at Annex 4.

They may be amended by him/her at any time by giving notice to the Chief Executive.

The Leader may delegate any of his/her functions to a committee of the Cabinet or to officers of the Council, and may amend those delegations at any time by giving notice to the Chief Executive.

The Cabinet may delegate any of its functions to a committee of the Cabinet or to officers of the Council, subject to compliance with legislation and this Constitution.

The scheme of delegations to officers, as currently determined by the Leader, is at Annex 5.

The procedure for executive decision making, as currently determined by the Leader, is set out at Annex 6.

The Chief Executive shall ensure that a comprehensive Register of powers delegated to individual councillors and officers is maintained at all times. The Register shall be held at the office of the Chief Executive, and shall be available for public inspection during office hours. No fee shall be payable for public inspection.

#### **4.9 Decision making by the Executive**

The duties of the Leader, Cabinet, Portfolio Holders, officers (when making key decisions), and the Chief Executive or Monitoring Officer in making executive decisions shall be as laid down in Chapter 6.

#### **4.10 Absence of Cabinet member from Cabinet meeting**

Where a Cabinet Member is absent from a Cabinet meeting, the procedures laid down in Standing Orders for Meetings shall apply.

#### **4.11 Interests of Cabinet Members**

Standing Orders for Meetings lay down the procedure where a Cabinet member has a disclosable pecuniary interest or a non-pecuniary interest in a matter which is to be considered by the Cabinet.

Where a decision in which he has a disclosable pecuniary interest, or a non-pecuniary interest and Standing Orders do not permit him to make the decision, is delegated to the Cabinet member personally, it shall be referred to the Leader. The Leader may either:

- i) make the decision himself, or
- ii) refer the matter to Cabinet for determination, or
- iii) delegate responsibility to another Cabinet member or an Officer.

The Deputy Leader shall deal with any matters in which the Leader has an interest of the above nature.

In all cases the member with the interest shall take no part in consideration of the issue, either at its determination or in discussions or negotiations leading up to the decision being made, and shall comply in all respects with the requirements of the law and the Council's Standing Orders.

#### **4.12 Decisions outside or not wholly in accordance with Policy and Budget, and key decisions not in the forward plan**

Subject to the provisions relating to urgent decisions below, all Executive decisions shall be in accordance with the Council's approved policies and budgets (or authorised under Financial Regulations if not within budget). (See Chapter 19 for the procedures for formulating, preparing, reviewing and amending strategic plans, policies and the budget).

##### Urgent decisions:

Chapter 7 prescribes the procedure where it is considered that a decision on any matter that is contrary to, or not wholly in accordance with, policy or budget and Financial Regulations, is required urgently in the interests of the functions and services administered by the Council.

Chapter 7 also prescribes the procedure for making a decision which is a key decision and which has not been included in the forward plan for decision at the appropriate time.

#### **4.13 Scrutiny of Executive Decisions**

Executive decisions may be reviewed under the "call-in" provisions in Chapter 8.

#### **4.14 Executive's role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, policies and strategies (as laid down in the Annex 2 of this Constitution, including any other plans or strategies that it is appropriate for full Council to approve), overall budgets and taxation levels of the Council. The Executive's responsibility for submitting proposals to the Council is set out in Chapter 19.

#### **4.15 Disputes between Council and Executive**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Executive, the arrangements for resolving the disagreement shall be as set out in Chapter 21.

### **5. OVERVIEW AND SCRUTINY**

#### **5.1 Overview and Scrutiny Panels - Appointment and Terms of Reference**

The Council shall appoint such Overview and Scrutiny Panels as it, at its sole discretion, deems necessary to ensure that effective arrangements are in place to facilitate the involvement of all members, who are not Members of the Cabinet, in the processes described in Chapter 9.

The terms of reference of Overview and Scrutiny Panels shall be as described in Chapter 9.

#### **5.2 Overview and Scrutiny Panels' role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, policies and strategies (as laid down in Annex 2 to this Constitution), overall budgets and taxation levels of the Council. The Overview and Scrutiny Panels may make representations on these matters, as set out in Chapter 19.

#### **5.3 Overview and Scrutiny Panels' right to call in Executive Decisions**

This is set out in Chapter 8.

#### **5.4 Overview and Scrutiny Panels' rights in relation to key decisions**

This is set out in section 9 of Annex 6.

#### **5.5 Overview and Scrutiny Panel Chairmen**

The roles of the Chairmen of the Overview and Scrutiny Panels shall be as described in Chapter 11.

Chapter 7 sets out the role of Overview and Scrutiny Panel Chairmen if the executive considers that it needs to make an urgent decision outside policy or budget, or an urgent key decision not included in the forward plan.

## **5.6 Operational Rights and Rights of Access to Information**

The Panels shall have the operational rights and rights of access to information described in Chapter 10 to assist them in their work.

# **6. NON-EXECUTIVE FUNCTIONS**

## **6.1 Full Council**

In addition to any responsibilities described or referred to elsewhere in this Constitution, the Council shall discharge those functions and make decisions on all matters which legislation specifically requires the full Council to make. (See also 6.9 below).

## **6.2 Appointment of Ordinary Committees**

The Council shall appoint such Committees as it deems necessary to undertake its non-executive functions. Procedures for appointing ordinary Committees are laid down in Standing Orders for Meetings.

The scheme of delegations to Committees is shown in Chapter 12.

The terms of reference of ordinary Committees, and any Sub-Committees they appoint, are shown in Chapter 13.

## **6.3 Area Committees**

The Council may appoint Area Committees only on the recommendation of the Executive. Before making any recommendation to Council in relation to Area Committees, the Executive will have consulted the Council's Overview and Scrutiny Panels and Committees.

If the Council decides to appoint Committees for any area of the District, the procedures shall be as laid down in Standing Orders for Meetings.

## **6.4 Delegations by Council, Committees and Sub-Committees to Officers**

The Council, and every Committee and Sub-Committee of the Council, shall be empowered to delegate any of its functions to officers of the Council, subject to compliance with any provisions in legislation and this Constitution. A list of all delegations shall be maintained by the Chief Executive and shall be kept available at the Council's main office for public inspection. No fee shall be payable for public inspection.

## **6.5 Chairmen of Committees**

The role of the Chairmen of Committees appointed by the Council shall be as described in Chapter 14 and the Annexes thereto.

## **6.6 Ceremonial Duties - Chairman and Vice-Chairman**

The Chairman of the Council shall be, and known to be, the Civic Head of the Council. The Chairman of the Council shall represent the Council, or shall be entitled to appoint another Councillor to represent the Council, at all formal ceremonial occasions within and outside the District. The duties and responsibilities of the Chairman and Vice-Chairman of the Council are set out in Chapters 15 and 16.

## **6.7 Non-Executive Role of all Members**

For the purposes of clarification, Chapter 17 describes the main roles, duties and responsibilities, and key tasks of Members in their representative, regulatory and review roles.

## **6.8 Leader of Opposition Groups**

The Council acknowledges the benefits of each group on the Council appointing a Leader with the role described in Chapter 18.

## **6.9 Council's Role in setting Strategy, Policy, and the Budget**

The Council shall be responsible for determining the strategic direction, overall budgets and taxation levels of the Council. Full procedures for strategic plan, policy and budget setting are set out in Chapter 19.

Column 2 of Annexes 2 and 3 state the extent of the Executive's responsibility for the functions listed in column 1. The Council shall be responsible for all other aspects of the functions listed in Column 1 of those Annexes, including approval of the plans and strategies listed in column 1, and approval of any other plans and strategies that it is appropriate for full Council to approve.

## **6.10 Disputes between Council and Executive**

If the Council is unwilling to adopt a policy, proposal or a budget submitted to it by the Executive, the arrangements for resolving the disagreement shall be as set out in Chapter 21.

## **7. GENERAL PROVISIONS**

### **7.1 Officer support**

The Chief Executive shall ensure that appropriate arrangements are made to provide adequate Officer support to the Executive, Overview and Scrutiny Panels, Committees and any other democratic meetings or processes. Such arrangements may, from time to time, be amended following consultation with the Executive, Overview and Scrutiny Panels and Committees as appropriate.

### **7.2 Additional provisions in Constitution**

The Constitution shall include the following:

#### **(a) Parish & Town Councils - Statement of Partnership**

The current Statement is at Chapter 22. The Statement shall be reviewed regularly. It may be amended by the Council upon a recommendation from the Executive, provided that it shall always include details of the manner and extent of information to be provided to those Councils, and the processes the District Council will adopt in its consultations with them. References in the Statement to Committee, Sub-Committee and Chairmen shall include the Executive and Panels, as appropriate.

#### **(b) Standing Orders for Meetings**

These are at Chapter 23. They shall apply, to the extent specified in them, to all meetings of the Council, Executive, Committees, Sub-Committees, Panels and other formal meetings of Councillors.

They shall provide proper authority for preparing a scheme or schemes permitting the public to participate at meetings (Chapter 24).

#### **(c) Financial Regulations**

The Council's financial affairs shall be controlled in accordance with the Financial Regulations contained in Chapter 25.

#### **(d) Procurement Rules and Standing Orders for Contracts**

All contracts made on behalf of the Council shall comply with the Procurement Rules, Regulations and Contract Standing Orders at Chapter 26. They may be amended in accordance with the procedures specified in them.

**(e) Standing Orders for General Procedures.**

These are at Chapter 27. They shall provide the proper authority for:

- i) The roles of the Executive and the Council in recruiting the Chief Executive and Chief Officers
- ii) Preparation of Codes and schemes for:
  - Appointing employees (other than Chief Executive and Chief Officers) (Chapter 28)
  - Members allowances (Chapter 29)
  - Relationships between members and officers (Chapter 30)

**(f) Resident Involvement Arrangements**

These are set out at Chapter 31.

**(g) Codes of Conduct**

The Codes of Conduct detailed below shall apply to all councillors and other persons serving on the Executive, Committees, Sub-Committees, Panels or other bodies established by the Council.

For the purposes of this part of the Constitution, Codes of Conduct shall be deemed to include protocols and other documents that set standards of behaviour and probity applicable to elected members of the Council, persons co-opted to Panels or Committees and to Officers.

- Code of Conduct – New Forest District Council – Chapter 32
- Local Code for Councillors and Officers dealing with Planning Matters – Chapter 33
- Code of Conduct for Employees - Chapter 34
- Policy Statement on Access to Information – Chapter 35
- Indemnity of Members and Officers - Chapter 36
- ICT Security Policies and Guidance for Members and Officers - Chapters 37A and 37B
- Anti-Fraud, Bribery and Corruption Policy - Chapter 38
- Whistleblowing at Work Policy - Chapter 39

- The Role and Responsibilities of the Monitoring Officer – Chapter 40
- The Roles and Responsibilities of the Chief Finance Officer – Chapter 41

Where the Council approve and adopt further Codes of Conduct, copies shall be appended to this Constitution.

**FUNCTIONS ALLOCATED UNDER SECTION 11(2)(b) LOCAL GOVERNMENT ACT 2000 AND REGULATION 3 AND 4 OF THE LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) REGULATIONS 2000**

**A. Regulation 3 (Schedule 2) Functions – Functions which may be (but need not be) the responsibility of an Authority's Executive**

1. Any matter under a local Act
2. Discharge of any functions relating to contaminated land.
3. The discharge of any function relating to control of pollution or management of air quality.
4. The service of an abatement notice in respect of a statutory nuisance.
5. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
6. The inspection of the authority's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.
7. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.
8. 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 to any Committee or Sub-Committee of such a body,and the revocation of any such appointment.
9. The making of agreements for the execution of highways works
10. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities
11. Any function of the Council in its capacity as a harbour authority (to the extent that the function does not fall within paragraph 1. of this Annex)

12. The obtaining of information as to interest in land, or of particulars of persons interested in land, under section 330 of the Town and Country Planning Act 1990 or section 16 of the Local Government (Miscellaneous Provisions) Act 1976, in connection with the functions of the Executive.

## ANNEX 2

### B. Regulation 4 (Schedule 3) Functions – Functions not to be the sole responsibility of an Authority's Executive

Function	Extent of Responsibility
1. Crime and Disorder Reduction Strategy under Section 5 and 6 of the Crime and Disorder Act 1998	1. To initiate and take the lead on the preparation and management of the strategy and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
2. Development Plan documents within the meaning of section 15 of the Planning and Compulsory Purchase Act 2004	2. To initiate and be responsible for the preparation and alteration of all plans including public consultation in liaison with the Planning Committee and to make recommendations thereon to Council.
3. Statement of gambling principles under section 349 of the Gambling Act 2005	3. To prepare and recommend to Council the strategy, following full consultation with the General Purposes and Licensing Committee any other relevant persons, bodies or organisations.
4. Strategy for promoting or improving the economic, social and environmental well being of the area under Section 4 of the Local Government Act 2000.	4. To prepare and recommend to Council the strategy, identifying all financial and other implications, following full consultations with:-  (i) the appropriate Overview and Scrutiny Panel (ii) the appropriate Committees of the Council; (iii) Parish and town Councils and Hampshire County Council; (iv) other statutory agencies as the Executive deems appropriate; and (v) any other relevant persons, bodies or organisations as the Council may direct or the Executive deems appropriate.

**FUNCTIONS ALLOCATED UNDER SECTION 11(2)(B) OF THE LOCAL GOVERNMENT ACT 2000 AND REGULATION 5 OF THE LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) REGULATIONS 2000**

**PLANS OR STRATEGIES WHERE THE AUTHORITY DETERMINES THAT THE PLAN OR STRATEGY SHOULD BE ADOPTED OR APPROVED BY THE COUNCIL**

**Regulation 5 (Schedule 4) Functions**

<b>Function</b>	<b>Extent of Responsibility</b>
1. Housing Investment Programme	1. To initiate and take the lead on the preparation and management of the strategy and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
2. Local Agenda 21 Strategy	2. To initiate and take the lead on the preparation and management of the strategy and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
3. Corporate Plan	3. To initiate and take the lead on the preparation and management of the strategy and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
4. Food Law Enforcement Plan under Section 13(1) of the Food Standards Act 1999.	4. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

<b>Function</b>	<b>Extent of Responsibility</b>
5. Community Safety Strategy	5. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
6. Leisure Strategy	6. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
7. Housing Strategy	7. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
8. Health and Safety Enforcement Policy	8. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.
9. Health and Social Exclusion Policy	9. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

**Function****Extent of Responsibility**

10. Air Quality and Contaminated Land Strategies

10. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

11. Tenant Participation Compact

11. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

12. Enforcement Concordat

12. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

13. Local Government Improvement Programme

13. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

14. Coastal Management Plan

14. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

## **Function**

## **Extent of Responsibility**

15. Asset Management Plan

15. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

16. Electronic Governance Strategy

16. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

17. ICT Strategy

17. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

18. Economic Strategy

18. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

19. Anti-Social Behaviour Orders - Joint Police and Local Authority Policy Document

19. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

**Function**

**Extent of Responsibility**

20. Corporate Identity

20. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

21. Freedom of Information Act – Access to Information Policy

21. To initiate and take the lead on the preparation and management of the plan and make recommendations thereon to Council following full consultations with the Overview and Scrutiny Panels and Committees of the Council during its preparation and any amendments thereto.

## EXECUTIVE DECISION MAKING – PORTFOLIO HOLDER POWERS

*(See Paragraph 4.8 of main Constitution document)*

### GENERAL CONDITIONS

1. A Portfolio Holder may make a decision only if all the following conditions are satisfied:
  - a) Section 3 of Annex 6 has been complied with (or, if a decision needs to be made urgently, section 10 of Annex 6 has been complied with).
  - b) The decision is wholly in accordance with the Council's approved budget and policy framework. For these purposes, a decision shall not be regarded as being within the approved budget if:
    - (i) it would require a supplementary revenue or capital estimate; or
    - (ii) it would involve virement exceeding £25,000; or
    - (iii) it would involve virement (up to £25,000) from a budget within a different Portfolio, unless the Portfolio Holder responsible for the budget from which the sum is being vired agrees in writing to the virement.
  - c) If, in the opinion of the Monitoring Officer, the matter significantly affects one other Portfolio, the relevant Portfolio Holder has been consulted and agrees in writing with the decision.
  - d) In the opinion of the Monitoring Officer, the decision does not significantly affect more than one other Portfolio. If it does, the full Cabinet must take the decision.
  - e) The decision is not reserved for the Cabinet by legislation or statutory guidance.
  - f) The Monitoring Officer and the appropriate professional advising officer consider that it is prudent for the Portfolio Holder to decide the matter under his delegated authority.
3. So long as the above conditions are complied with, individual Portfolio Holders are hereby authorised to take executive decisions, and to provide political vision and leadership, on each of the service areas contained within his/her Portfolio as set out below.

## **Leader and Corporate Affairs**

1. Political Structures
2. Employee Engagement
3. Corporate Plan
4. Emergency Planning
5. Staff Matters
6. Organisational Strategy
7. Town and Parish Council Matters

## **Community Affairs**

1. Community Engagement
2. Community Grants and Support
3. Customer Services
4. Elections and Electoral Registration
5. Community Safety Partnership (Safer New Forest)
6. CCTV
7. Careline
8. Communications

## **Environment and Regulatory Services**

1. Refuse Collection and Recycling
2. Street Cleaning
3. Abandoned Vehicles
4. Environmental Health Services
5. Coastal Protection and Drainage Issues
6. Grounds Maintenance Services
7. Cemeteries
8. Public Toilets
9. Sustainability

## **Finance, Corporate Services and Improvement**

1. Medium Term Financial Plan
2. Financial Services
3. Business Rates and Council Tax
4. Information and Communication Technology
5. Legal Services
6. Democratic Services
7. Human Resources
8. Performance and Risk Management

## **Housing Services**

1. Housing Strategy (Local Housing Need)
2. Council House Management (inc Building Works)
3. Improvement Grants
4. Housing Benefits
5. Homelessness

## **Leisure and Wellbeing**

1. Health and Leisure Centres
2. Local Leisure, Arts and Heritage
3. Health and Wellbeing Board
4. Older Persons' Affairs
5. Children and Youth Affairs

## **Local Economic Development, Property and Innovation**

1. Economic Development Strategy
2. Business Engagement and Growth
3. New Forest Business Partnership
4. Local Enterprise Partnerships
5. Asset Management/Property Matters
6. Smarter Working
7. Collaboration and Innovation

## **Planning and Infrastructure**

1. Local Plan
2. Development Control
3. Building Control
4. Listed Buildings and Conservation
5. Open Space Infrastructure
6. Car Parking and Traffic Management Matters

## **DELEGATIONS TO OFFICERS – EXECUTIVE FUNCTIONS**

*(see paragraph 4.8 of main Constitution document)*

The Scheme of Delegations to Officers relating to functions that are a matter for the Executive that existed prior to 21 November 2017 is retained as the new Scheme of Delegations to Officers relating to functions that are a matter for the Executive from 21 November 2017 (subject to deleting the reference to previous Portfolios which have subsequently changed).

## **PROCEDURE FOR EXECUTIVE DECISION MAKING**

*(see paragraph 4.8 of main Constitution document)*

**The Leader of the Council undertakes to follow this procedure, as it applies to Portfolio Holders, in respect of decisions he takes himself.**

### **1. INTRODUCTION**

1.1 The Cabinet, individual Portfolio Holders, and officers, are authorised to take certain executive decisions. This procedure identifies the responsibilities and processes to be followed in carrying out those tasks.

1.2 This procedure applies to:

decisions made by the Cabinet;

decisions made by individual Portfolio Holders; and

key decisions made by officers under delegated powers.

### **2. ACTION PRIOR TO REACHING A DECISION - CABINET**

2.1 The provisions of Standing Orders for Meetings relating to convening meetings and issue of documentation shall apply to all meetings of the Cabinet.

### **3. ACTION PRIOR TO REACHING A DECISION – PORTFOLIO HOLDERS**

3.1 In all cases, prior to taking any decision on any matter, the Portfolio Holder shall be responsible for:-

- (i) ensuring that the decision to be made is within his/her delegated powers;
- (ii) obtaining, in writing (which may be transmitted electronically) a summary of the issues from the Head of Service responsible for the matter under consideration;
- (iii) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
- (iv) determining whether the proposed action has any effect on the responsibilities of other Portfolio Holders;
- (v) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision; and

- (vi) if the decision is a key decision (see Appendix):
  - a) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant provisions of Chapter 7 of this Constitution are followed;
  - b) ensuring that any report or other written information that he/she intends to take into consideration when he/she makes the decision was available for public inspection as soon as reasonably practicable after he/she received it, and has been so available for at least five clear working days before the decision is made; and
  - c) ensuring that any report or other written information that he/she intends to take into consideration when he makes the decision has been forwarded to the Chairman of the relevant Overview and Scrutiny Panel.
  
- 3.2 Where any matter considered by a Portfolio Holder is outside his/ her delegated powers, the matter shall stand referred to the Leader for consideration whether to determine it him/herself or whether to refer it to the Cabinet. No action that commits the Council shall be taken on that matter until after the issue has been determined by the Leader or Cabinet.
  
- 3.3 Where any matter considered by a Portfolio Holder is outside the legal powers of the Council or contrary to the Council's strategies, policies or budgets, no action that commits the Council shall be taken on that matter until after the issue has been determined by the Cabinet.  
EXCEPT that where a decision which does not comply with the Council's strategies or policies, or would not be wholly in accordance with the budget, or is a key decision which a forward plan does not specify is for decision at that time, is required urgently, that matter may be determined in accordance with the provisions of Chapter 7 of this Constitution.
  
- 3.4 Where a decision would have an effect on the responsibilities of another Portfolio Holder or has implications which might affect the corporate strategies of the Council, the Portfolio Holder shall consult with any other Portfolio Holder and the Leader prior to reaching any decision.

#### **4. ACTION PRIOR TO REACHING A KEY DECISION – OFFICERS**

- 4.1 In all cases, prior to taking a key decision (see Appendix) on any matter, the Officer shall be responsible for:-
  - (i) ensuring that the decision to be made is within his/her delegated powers;
  - (ii) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's strategies, policies and budgets;
  - (iii) ensuring that details of the subject of the decision are contained in the relevant forward plan for consideration at that time, and if they are not that the relevant provisions of Chapter 7 of this Constitution are followed;
  - (iv) ensuring that any report that he intends to take into consideration when he makes the decision was available for public inspection as soon as

- reasonably practicable after he received it, and has been so available for at least five clear working days before the decision is made;
- (v) ensuring that any report that he intends to take into consideration when he makes the decision has been forwarded to the Chairman of the relevant Overview and Scrutiny Panel; and
  - (vi) ensuring that where the matter affects a specific part of the District Council's area, the views of the relevant Ward Members, and where appropriate, the local Parish or Town Council's views have been obtained and taken into account in reaching a decision.

## **5. ACTION AT POINT OF DECISION MAKING – PORTFOLIO HOLDERS**

- 5.1 In reaching a decision on any matter referred to him/her the Portfolio Holder shall:-
- (i) take into consideration the views expressed by the Head of Service responsible for the matter under consideration;
  - (ii) where appropriate, take account of the views of other Portfolio Holders, the Leader, the Ward Members and the local Parish or Town Council;
  - (iii) endorse the written documentation prepared by the appropriate Head of Service with his/her decision and where that decision is contrary to the Officer's recommendation or views submitted by the Ward Member or local Town or Parish Council, the reasons for reaching the different conclusion; and
  - (iv) endorse all written documentation giving options considered with the reasons why particular options were rejected.

## **6. ACTION AFTER DECISION - CABINET**

- 6.1 As soon as reasonably practicable after a meeting, the Chief Executive or Monitoring Officer shall ensure that a written statement that includes the information set out below is produced in respect of every decision made at that meeting:
- (i) a record of the decision;
  - (ii) a record of the reasons for the decision;
  - (iii) details of any alternative options considered and rejected by the Cabinet at the meeting;
  - (iv) a record of any conflict of interest in relation to the matter decided which is declared by any member of the Cabinet; and
  - (v) in respect of any declared conflict of interest, a note of any dispensation granted.
- 6.2 The Chief Executive or Monitoring Officer shall also:-
- (i) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by the Cabinet in making a decision;
  - (ii) make the notice prepared under 6.1, the reports and supporting papers (including a list of background papers) available for inspection at the

Council's main office by any Member of the Council during normal office hours; and

- (iii) make the notice, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **7. ACTION AFTER DECISION – PORTFOLIO HOLDERS**

7.1 On reaching a decision the Portfolio Holder shall:-

- (i) give instructions to the appropriate Head of Service to take the necessary action to implement the decision;
- (ii) personally, or arrange for the proper officer to, notify Members of the decision taken;
- (iii) ensure that the decision is not implemented until such time as the period for, and the conditions of, the procedures for calling in executive decisions have been complied with;  
and;
- (iv) supply a copy of all papers (which may be transmitted electronically) considered by him/her to the Chief Executive – together with a copy of the decision with reasons.

7.2 Upon notification of a decision, the Head of Service will:-

- (i) subject to compliance with the procedure for calling in executive decisions in Chapter 8, ensure implementation within any specified time scales and, if none given, within a reasonable period;
- (ii) ensure that a copy of the decision and appropriate supporting papers are placed on the relevant file;
- (iii) where instructed by the Portfolio Holder to arrange for a report on the decision taken to be circulated to all Members of the Council.
- (iv) immediately notify Parish & Town Councils, together with any other persons or organisations, consulted about the proposals, of the decision taken.

7.3 As soon as reasonably practicable after a decision is taken the Chief Executive or Monitoring Officer shall ensure that a written statement that includes the information set out below is produced in respect of that decision:-

- (i) a record of the decision
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected at the time by the Portfolio Holder when he made the decision;
- (iv) a record of any conflict of interest in relation to the matter decided which was declared by any Cabinet member who the Portfolio Holder making the decision consulted; and

- (v) in respect of any declared conflict of interest, a note of any dispensation granted.
- 7.4 The Chief Executive or Monitoring Officer shall also:-
- (i) maintain a register or registers, which may be held in electronic form, of decisions taken by Portfolio Holders under delegated powers;
  - (ii) maintain copies, which may be held electronically, of all the reports and supporting papers provided by the Portfolio Holder;
  - (iii) make the notice under 7.3, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours;  
and;
  - (iv) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **8. ACTION AFTER KEY DECISION – OFFICERS**

8.1 As soon as reasonably practicable after an officer has made an Executive decision, or a non-executive decision where the following action is required by the Openness of Local Government Bodies Regulations, he or she shall produce a written statement that includes the information set out below:-

- (i) a record of the decision;
- (ii) a record of the reasons for the decision;
- (iii) details of any alternative options considered and rejected by him or her at the time he or she made the decision;
- (iv) a record of any conflict of interest in relation to the matter decided which was declared by any member.

8.2 The Chief Executive or Monitoring Officer shall:-

- (i) maintain a register or registers, which may be held in electronic form, of the above decisions taken by officers under delegated powers;
- (ii) maintain copies, which may be held electronically, of all the reports and supporting papers taken into account by an officer in making a key decision;
- (iii) make the notice under 8.1, the register, reports and supporting papers (including a list of background papers) available for inspection at the Council's main office by any Member of the Council during normal office hours; and
- (iv) make the notice, register, reports and supporting papers (including a list of background papers), except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office

during normal office hours, and on the Council's website. No charge shall be made for inspection of such papers.

## **9. KEY DECISIONS – OVERVIEW AND SCRUTINY PANELS**

9.1 If a decision is taken that was not treated as a key decision (see Appendix), but the relevant Overview and Scrutiny Panel considers that it should have been treated as a key decision, the Panel may require the Leader, or the person responsible for the decision, within a reasonable period specified by the Panel, to submit a report to the Council setting out:-

- (i) the decision and reasons for it;
- (ii) the body or individual who took the decision; and
- (iii) why it was not considered a key decision.

This is in addition to any other rights of Overview and Scrutiny Panels in relation to executive decisions contained elsewhere in this Constitution.

## **10. URGENT DECISIONS**

10.1 Where in the opinion of the Leader, or Head of Service and Monitoring Officer, a decision is required urgently on any matter, whether by the Cabinet or delegated to a Portfolio Holder, the requirements :-

- (i) relating to the information, and (in the case of Portfolio Holder decisions) decision being in writing or electronic form;
- (ii) relating to consultations with Ward Members and where appropriate the local Parish or Town Council;

shall apply only if there is sufficient time to follow these procedures without prejudicing the decision or the Council; provided that as soon as practicable after the matter has been determined, a written record of the issues and the action taken shall be made and circulated in accordance with the remaining provisions of this procedure; and

- (iii) the provisions in Chapter 8 of this constitution, so far as they relate to the date on which the decision may be implemented, shall not apply, and the decision may be implemented immediately.

10.2 Where a Portfolio Holder makes a decision urgently and is unable to endorse any written documentation at the time of making the decision as required in paragraph 5.1 above, he shall instead endorse, as soon as reasonably practicable, the written statement prepared under paragraph 7.3 above.

10.3 Where a decision which is not within policy or budget, or is a key decision which a forward plan does not specify is for decision at that time, is required, the provisions of the procedure at Chapter 7 of this Constitution shall apply.

## **11. VARIATION OF PROCEDURE**

- 11.1 This procedure may be varied at any time by the Leader by giving written notice to the Chief Executive, provided any variations comply with legislative requirements.

## FORWARD PLANS

### 1. Timing of forward plans

- 1.1 The Chief Executive will prepare a forward plan each month. Forward plans may be prepared or updated more frequently than monthly if this is necessary to comply with paragraph 2.2.

### 2. Contents of forward plans

- 2.1 The forward plan will contain information on matters which are intended to be the subject of a key decision to be taken by the Cabinet, any Committee of the Cabinet, individual Portfolio Holders or Officers in the course of the discharge of an executive function.

- 2.2 Information on key decisions will be included in a forward plan at least 28 clear days before the decision is made.

- 2.3 Forward plans will include the following particulars:

- (i) That a key decision(s) is/are expected to be made;
- (ii) The matter on which a decision is to be made;
- (iii) Where the decision is to be taken by an individual, his or her name and title (if any). Where the decision is to be taken by a body, its name and details of membership;
- (iv) The date on which, or the period within which, the decision will be taken;
- (v) A list of the documents submitted to the decision maker for consideration in relation to the matter;
- (vi) The address from which (subject to any prohibition or restriction on their disclosure) copies of, or extracts from, any document listed under (v) is available;
- (vii) that other documents may be submitted to the decision maker; and
- (viii) the procedure for requesting details of those documents (if any) as they become available.

- 2.4 Where a key decision is intended to be made, but the public may be excluded from a meeting at which it is to be discussed and/or documents related to it need not be disclosed to the public because confidential or exempt information would likely be disclosed, the forward plan will contain particulars as in paragraph 2.2, but excluding any confidential or exempt information.

### 3. Publication of forward plans

- 3.1 The forward plan will be available for inspection at the Council's offices during office opening hours, and will be published on the Council's website.