

**PART 3**

**RESPONSIBILITY FOR FUNCTIONS**

- 1 COUNCIL COMMITTEES AND OTHER MEMBER BODIES OBJECTIVES, TERMS OF REFERENCE AND DELEGATION TO OFFICERS

## A **COUNCIL**

### 1.0 **CONSTITUTION**

1.1 Full Council comprises the 28 members of Council. Its quorum is one quarter of the total members (7) – unless more than a 1/3 of the total membership is disqualified, in which case the quorum is ¼ of those remaining qualified.

### 2.0 **OBJECTIVES**

2.1 To run an efficient and effective Council to deliver best value for our residents.

2.2 To build the foundations for the growth of East Cambridgeshire's economy by supporting job and wealth creation whilst improving the quality of life and the environment.

### 3.0 **TERMS OF REFERENCE**

All the matters requiring Council approval will be reported directly to Council (including consultation documents), therefore only the Council will exercise the following functions:

#### 3.1 **Governance**

- (i) Adopting and changing the Constitution, including the Committee structure;
- (ii) Making appointments to the Council's Committees;
- (iii) Adopting, amending or revoking a Members' Allowances Scheme and determining the schedule of allowances;
- (iv) Revise and approve any Petitions Scheme or policy;
- (v) Changing the name of the area or conferring the title of Honorary Alderman;
- (vi) Making requests to the Local Government Boundary Commission for England or functions relating to passing a resolution to change schemes of Elections;
- (vii) Making an order following a Community Governance Review.

#### 3.2 **Policy**

To approve or adopt key policies and procedures as defined below:

- Council's Corporate Plan including corporate objectives and corporate priorities;
- Development Plan Documents (Local Plan);
- [Economic Development and Jobs Growth Strategies](#)
- Local Development Scheme (LDS);
- Approval of the Council's Corporate Risk Register on an annual basis;
- Annual programme of Service Reviews;
- Making, amending, revoking, retracting or adopting by-laws and promoting or opposing the making of local legislation or personal bills;
- Other key policy documents which the law requires are adopted by full Council that includes:

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Community Infrastructure Levy,  
Environmental Enhancement Schemes,  
Statutory strategies related to Crime and Disorder, Children and Young People and  
Health Improvement.

### 3.3 **Budget (Subject to recommendation from Finance & Assets Committee)**

- (i) Council Tax, Revenue and Capital Budgets;
- (ii) Statement of the robustness of the Budget and the adequacy of Reserves;
- (iii) Annual Treasury Management Strategy and Annual Investment Strategy;
- (iv) Plans or strategy for the control of the local authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provisions (to the extent not covered by the Policy Framework).

### 3.4 **Other Matters**

- (i) Confirming the appointment of the Chief Executive/Head of Paid Service (Council may delegate the selection process for this matter to a panel reporting to it);
- (ii) Appointment of the Chief Finance Officer and Monitoring Officer (or other Chief Statutory Officers as defined<sup>[1]</sup>, as may supplement or term replacing the same) on recommendation of the Head of Paid Service or his/her nominee;
- (iii) Senior Officer Pay Policy;
- (iv) Appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (v) Approving the Statement of Principles under the Licensing Act 2003 and Gambling Act 2005 and any revision, and considering a policy to not permit any further casinos in its area;
- (vi) Approval of Compulsory Purchase action proposed by Committee;
- (vii) Make a neighbourhood plan or neighbourhood development order ('make' meaning adopt to all intents and purposes.

Any other decisions that falls within the terms of reference of a Policy Committee or Sub-Committee on the basis that:

- the Committee resolves to refer this decision to Full Council ("Referred-up") in accordance with Council Procedure Rule 25);
- the decision has been referred by three Members of Council ("Council call-in") in accordance with Council Procedure Rule 26

## 4.0 **Delegation to Officers**

- 4.1 The Chief Executive, or officers comprising Corporate Management Team are authorised to act in relation to any matter of immediate urgency, which must be dealt with before the next meeting of the Council provided:

<sup>[1]</sup> Under the Local Government & Housing Act paragraph (a), (c) or (d) of section 2(6), per Local Government (Standing Order Regulations 1993 No 202 as amended; & 2001 No 3384 as amended

- (a) the Leader of the Council (if any), otherwise Group Leaders, are consulted prior to delegated decisions being made;
- (b) Leaders of Groups and the Chairman of the Council are notified immediately of any action taken under this delegated power; and
- (c) action taken shall as soon as practicable be reported to Council.
- 4.2 There shall be delegated to the Chief Executive, and in his absence to the Directors the exercise of any power or function of the Council in routine matters related to the implementation of agreed strategies and programmes and falling within established policies and procedures and within existing budgets after appropriate consultation with the Leader of the Council (if any) or otherwise with all Group Leaders.  
For the avoidance of doubt this delegation shall include the power to authorise others to exercise such powers.  
This delegation shall not be taken to include any matter reserved by law to the Full Council.
- 4.3 There are further delegated to the officers indicated below the exercise of any power or function of the Council relating to the matters set out below.

<b><u>Appointment of Members to Committees</u></b> To make minor in-year changes in committee memberships within the agreed proportionality at the request of Group Leaders	Democratic Services Manager
<b><u>Civil Emergencies</u></b> <b><u>Enforcement and Other Proceedings</u></b> <b><u>Civic Defence Act 1948</u></b> The function of District Controller	Chief Executive
<b><u>Local Government (Miscellaneous Provisions) Act 1976</u></b> Power to make decisions, spend money and take all actions necessary for the immediate alleviation of hardship or suffering in the event of peacetime emergencies in the District	Chief Executive
<b><u>Court Proceedings</u></b> <b><u>Local Government Act 1972 s.223</u></b> To represent the Council in the Magistrates and County Court, at inquiries etc.	Legal Services Manager to delegate to appropriate local authority officers (including Legal Executives/Trainee Solicitors - & other officers as appropriate (Solicitors and Barristers have automatic authority)
<b><u>Council Meetings</u></b> To determine the annual calendar of meetings.	Democratic Services Manager
<b><u>Legal Proceedings</u></b> To commence legal proceedings (including prosecutions, injunctions and other proceedings) in relation to the Council's functions as set out in statute (subject to being satisfied as to evidence).	Legal Services Manager or Chief Executive
<b><u>Sealing of Documents</u></b> Authorisation to affix the Council's seal to all deeds and agreements under seal made in respect of any	Legal Services Manager or Chief Executive

functions of the Council, its committees, proper officer, etc	
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**B. POLICY COMMITTEES**

(I) OPERATIONAL SERVICES COMMITTEE

(II) FINANCE & ASSETS COMMITTEE

**(I) OPERATIONAL SERVICES COMMITTEE****1.0 CONSTITUTION**

1.1 The Committee shall comprise of 9 members of Council who shall be appointed by full Council (from the full membership). Its quorum is 5.

**2.0 OBJECTIVES**

2.1 To formulate policy, monitor and oversee the Service Delivery Plans for the Council's operational services to achieve the Council's corporate objectives and priorities.

2.2 Oversight and approval of Corporate Performance matters (not otherwise the responsibility of the Council or any other Committee).

2.3 To promote and oversee the Council's commitment to exploring the commercial opportunities in the delivery of its operational services.

2.4 To undertake the Shareholder Committee role and functions for East Cambridgeshire Street Scene (ECSS), including the organisation of an annual All Member Seminar, that are not reserved to full Council in accordance with the Shareholder Agreement of those Trading Companies and the Memorandum of Understanding attached as an Appendix to these Terms of Reference.

**3.0 TERMS OF REFERENCE**

3.1 The Committee's terms of reference shall be:-

3.2 To approve and monitor performance against the Service Delivery Plans for the following service areas:-

- Building Control
- Communities & Partnerships
- Customer Services
- Environmental Services & Licensing
- Housing Services & Community Safety
- ~~Information Technology~~
- [Leisure Services](#)
- ~~Performance Management~~
- Planning (Development Control)
- PR & Communications
- Waste

3.3 To approve key policies and procedures as defined within the specific Service Delivery Plans (as defined in paragraph 3.2) and not reserved for full Council, including:

- environmental and enforcement policies and procedures
- Housing Services (Sub strategies to Housing Strategy including the homelessness Strategy and also operational allocation and lettings matters)
- criteria for housing grant schemes and conservation area/historic buildings grants

- Waste Strategy and policies/procedures related to procurement and variations to contract including monitoring the implementation of DCLG 'Supporting Weekly Collections' grant
- Council's IT/IS Strategy
- Award grants for the following grant schemes i.e. Community Projects, Voluntary Organisations and Service Level Agreements in excess of £5000pa
- Responsibilities under the 2004 Children's Act
- Responsibilities under the Police and Justice Act 2006
- Assets of Community value

- 3.5 To consider proposals for closer partnership working for services as defined in paragraph 3.2.
- 3.6 To appoint 'Member Champions' as required.
- 3.7 Approval of matters detailed above must be within the agreed budget and virement rules for the services defined in paragraph 3.2.
- 3.8 To make nominations to any relevant outside bodies for Operational Services Committee from the wider membership of the Council for a period of up to 4 years.
- 3.9 To receive a case and make a decision on proposals for a Public Space Protection Orders (PSPO) made by Officers and the Constabulary.
- 3.10 To consider and accept or reject expressions of interest under the Community Right to Challenge.
- 3.11 To implement, monitor and review a District-wide Tourism Strategy.

[3.12 To approve final parking orders.](#)

[3.13 To receive the minutes of the ARP Joint Committee and make any appropriate recommendations to Joint Committee or Council.](#)

#### **4. Delegation to Operational Services Committee**

- 4.1 Subject to the provisions of the Council's Constitution, the Committee has delegated authority to act on behalf of the Council in relation to the above, unless
- reserved to Council; or
  - delegated to officers under these or the other Committee terms of reference.

#### **5. Delegation to Officers**

- 5.1 The Chief Executive or Directors or appropriate Service Leads, are authorised to act in relation to any matter of immediate urgency, which must be dealt with before the next meeting of the Committee provided:
- the Chairman or Vice-Chairman of the Committee is consulted prior to the delegated decisions being made;
  - spokespersons of minority groups are notified immediately of any action taken under this delegated power;



- action taken is reported to the next Committee; and
- it excludes any decision, which is by law expressly vested in the Council.

5.2 There shall be delegated to the Chief Executive or Directors, the exercise of any power or function of the Council in routine matters related to the implementation of agreed Strategies, Policies and programmes, falling within established policies and procedures and within existing budgets.

For the avoidance of doubt this delegation shall include the power to authorise others to exercise such powers.

This delegation shall not be taken to include any matter reserved to Full Council.

5.3 There are further delegated to the officers indicated below the exercise of any power or function of the Council relating to the matters set out below (whether Policy approval, monitoring or operational matters have been delegated to a Sub-Committee or not) under the Listed Acts or any amendment, modification or re- enactment of those Acts, or Regulations/Orders made under those Acts:

<b>Building Act 1984</b> ss. 59, 60-64, 65, 76, 95	Environmental Services Manager or Director Operations
<b>Clean Air Act 1993</b>	Environmental Services Manager
<b>Clean Neighbourhoods and Environment Act 2005</b>	Environmental Services Manager or Director Operations
<b>Contaminated Land (England) Regulations 2006</b> (as amended)	Environmental Services Manager or Director Operations
<b>Control of Pollution Act 1974</b>	Environmental Services Manager or Director Operations
<b>Control of Pollution Amendment Act 1989</b>	Director Operations
<b>Criminal Justice and Public Order Act 1994</b>	Director Operations or Director Commercial or Housing & Community Safety Manager
<b>Crime and Disorder Act 1998</b>	Environmental Services Manager or Director Operations
<b>Dogs Act 1871</b>	Environmental Services Manager or Director Operations
<b>Dogs (Fouling of Land) Act 1996</b>	Environmental Services Manager or Director Operations
<b>Environment Act 1995</b>	Environmental Services Manager or Director Operations
<b>Environmental Protection Act 1990 (as amended)</b> and all current Environmental Damage, Permitting and Protection Regulations in force	Environmental Services Manager or Director Operations

<b>European Communities Act 1972</b>	Environmental Services Manager or Director Operations
<b>Factories Act 1961</b>	Environmental Services Manager or Director Operations
<b>Food Act 1984</b>	Environmental Services Manager or Director Operations
<b>Food and Environmental Protection Act 1985</b>	Environmental Services Manager or Director Operations
<b>Food Safety Act 1990</b>	Environmental Services Manager or Director Operations
All current <b>Food Safety and Food Hygiene Regulations</b> in force	Environmental Services Manager or Director Operations
<b>Health and Safety at Work etc Act 1974 and Health and Safety (Enforcing Authority) Regulations 1989</b>	Environmental Services Manager or Director Operations
<b>Health Act 2006</b>	Environmental Services Manager or Director Operations
<b>Service of Fixed Penalty Notices</b>	All qualified Environmental Health Officers and appropriately authorised Enforcement Officers
<b>Reports to Legal Services</b>	All qualified Environmental Health Officers and appropriately authorised Enforcement Officers
<b>Preparation of Reports</b>	All qualified Environmental Health Officers and appropriately authorised Enforcement Officers
<b>Decision to submit a report to Legal Services</b>	Environmental Services Manager
<b>Housing Act 1985 (as amended by Housing Act 1996) Part X</b> Service of notice and action to prevent overcrowding in houses	Environmental Services Manager or Director Operations

<p><b>Housing Act 1985</b> (as amended by the Local Government and Housing Act 1989)</p> <p>After consultation with the Head of Finance and Chief Executive to waive the repayment of repairs grants, in accordance with the criteria laid down by the Council.</p>	Environmental Service Manager or Legal Services Manager
Undertake preliminary action to obtain valuations, identify budget and/or find partnering organisation(s) for the purchase/or compulsory purchase orders [for empty properties] in accordance with Acquisition of Land Act 1981/Housing Act 1985 (as amended) legislative procedure.	Environmental Service Manager or Legal Services Manager
<p><b>Local Government and Housing Act 1989</b> Power to grant and refuse grants</p>	Environmental Service Manager or Finance Manager
<p><b>Local Government and Housing Act 1989</b> Power of entry and penalty for obstruction Section 97</p>	Environmental Service Manager or Legal Services Manager
<p><b>Housing Grants, Construction and Regeneration Act 1996</b> Section 13, 18, 24, 76, 115, 131 Power to grant and refuse applications for grants and discretionary assistance.</p>	Environmental Service Manager or Finance Manager
<p><b>Housing Grants, Construction and Regeneration Act 1996</b> Section 82 Power of Entry.</p>	Environmental Service Manager or Legal Services Manager
<b>Housing Act 2004</b>	Environmental Services Manager or Director Operations
<b>Land Drainage Act 1991</b>	Environmental Services Manager or Director Operations
<b>Litter Act 1983</b>	Environmental Services Manager or Director Operations
<p><b>Local Government (Miscellaneous Provisions) Act 1976</b> ss. 16, 20, 35, 50(4), 53(3), 56(3), 56(4), 58(2), 68</p>	Environmental Services Manager or Director Operations
<b>Local Government (Miscellaneous Provisions) Act 1972</b>	Environmental Services Manager or Director Operations
<b>Mines and Quarries Act 1954</b>	Environmental Services Manager or Director Operations
<b>National Assistance Act 1968 and National Assistance (Amendments) Act 1951</b>	Environmental Services Manager or Director Operations
<b>Noise Act 1996</b>	Environmental Services Manager or Director Operations

<b>Noise and Statutory Nuisance Act 1973 and 1993</b>	Environmental Services Manager or Director Operations
<b>Noise Insulation Regulations 1973</b>	Environmental Services Manager or Director Operations
<b>Office, Shops and Railway Premises Act 1963</b>	Environmental Services Manager or Director Operations
<b>The Pollution, Prevention and Control Act 1999 [or The Environmental Permitting (England and Wales) Regulations 2007]</b>	Environmental Services Manager or Director Operations
<b>Prevention of Damage by Pests Act 1949</b>	Environmental Services Manager or Director Operations
<b>Public Health Acts 1936 and 1961</b>	Environmental Services Manager or Director Operations
<b>Rag, Flock and Other Filling Materials Act 1951</b>	Environmental Services Manager or Director Operations
<b>Refuse Disposal (Amenity) Act 1978</b>	Environmental Services Manager or Director Operations
<b>Sunday Trading Act 1994</b>	Environmental Services Manager or Director Operations
<b>The Products of Animal Origin (Third Country Imports) (England) (Amendments) Regulations 2007</b>	Environmental Services Manager or Director Operations
<b>Trade in Animals &amp; Related Products Regulations 2011</b>	Environmental Services Manager or Director Operations
<b>Public Health (Control of Disease) Act 1984</b>	Environmental Services Manager or Director Operations
<b>Public Health (Control of Disease) Act 1984 and The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020</b> To issue Prohibition Notices and Fixed Penalty Notices under the legislation	Environmental Services Manager or Director Operations
<b>Vehicle (Crime) Act 2001<sup>1</sup></b> (or to the extent that it is relevant, from commencement the Scrap Metal Dealer's Act 2013 – see relevant delegation)	Environmental Services Manager or Director Operations
<b>Waste Minimisation Act 1998</b>	Environmental Services Manager or Director Operations
<b>Water Industry Act 1991</b>	Environmental Services Manager or Director Operations

<sup>1</sup> Scrap Metal Dealer's Act 2013 replaces the system of registration for motor salvage, as from 1 October 2013, although transitional provisions apply – see SI 2013/1966. Amendment Monitoring Officer under Article 11.02 (a).

<p><b>Affordable Housing Grant</b> To act as the Council's Signatory to certified claims to Homes England</p>	Infrastructure and Strategy Manager
<p><b>Housing Act 1996 (as amended by Homelessness Act 2002) Part VII</b> The Council's powers and duties to house homeless people who satisfy criteria laid down in the Act and by the Council</p>	Housing & Community Safety Manager
<p><b>Part VII</b> Review of Decisions to determine requests for reviews from applicants against decisions made under the homelessness provisions</p>	Housing & Community Safety Manager

<p><b>Enterprise &amp; Regulatory Reform Act 2013 Redress Schemes for Lettings Agency Work &amp; Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014</b></p> <p>To ensure persons involved in letting agency work and/or property management work are members of a Government approved property redress scheme</p>	Environmental Services Manager
<p><b>Localism Act 2011</b> <u>Chapter 3 Assets of Community Value</u> Register of Assets of Community Value (to consider applications for nomination)</p> <p><u>Appeals</u></p> <p><u>Compensation</u></p> <p><u>First Tier Tribunal claims</u></p>	<p>Communities &amp; Partnerships Manager, Legal Services Manager &amp; Planning Manager</p> <p>Chief Executive or Directors</p> <p>Finance Manager</p> <p>Legal Services Manager</p>
<p><b>Localism Act 2011 and The Community Right to Challenge (Expression of Interest and Excluded Services) (England) Regulations 2012/1313</b></p> <p>Expressions of interest sections 1-83 To consider on a preliminary basis whether the expression of interest meets the statutory requirements and rejection of those that do not meet those requirements.</p>	Chief Executive and Communities & Partnerships Manager
<p>To prepare asset registers in response to an expression of interest.</p>	Chief Executive or Service Lead
<p><b>Grants</b> Determination of all community grant requests under established grant schemes (No limits on grant amounts)</p>	Communities & Partnerships Manager
<p><b>Contract Issues</b> To compile a list/catalogue of consultants and tenderers as appropriate.</p>	Chief Executive or Legal Services Manager
<p><b>Anti-Social Behaviour Crime and Policing Act 2014</b> Power to grant Injunctions</p>	Director Operations or Housing & Community Safety Manager
<p><u>Power to issue Closure Notices</u> 48 hour Closure Notice 24/48 Closure Notice 24 hour Closure Notice</p>	Chief Executive Director Operations Environmental Services Manager

Power to issue closure Order	Chief Executive or Director Operations or Environmental Services Manager
Power to issue and enforce Community Protection Notice	Environmental Services Manager or Housing & Community Safety Manager
<b>To maintain information security policies/procedures</b>	ICT Manager
<b>Street name and numbering</b>	ICT Manager
<b>Traffic Orders</b> To respond to County Council consultations on proposed traffic orders, in consultation with the local Member(s).	Director Operations or Planning Manager
<b>Footpath Orders</b> To make Footpath Orders where no adverse comments are received from Members and other consultees.	Director Operations or Planning Manager
<b>The Planning (Listed Buildings and Conservation Areas) Act 1990</b> Section 57 To award grants of up to £4,000.	Director Operations or Planning Manager
To approve grant applications where there is a clear urgency for an early decision, subject to consultation with the Chairman of the Committee.	Director Operations or Planning Manager or Infrastructure & Strategy Manager
<b>Town and Country (General Permitted Development) Order 1995</b> Service of Article 4 in emergency, restricting development subject to notification of any such action being made as soon as practicable to a meeting of the Committee.	Director Operations or Planning Manager

**(II) FINANCE AND ASSETS COMMITTEE****1.0 CONSTITUTION**

1.1 This Committee shall comprise of 9 members of Council who shall be appointed by full Council (from the full membership). Its quorum is 5.

**2.0 OBJECTIVES**

2.1 Oversight and approval of Financial, ~~Audit~~, Governance, Corporate Strategy or Plans, Risk Management matters (not otherwise the responsibility of the Council or any other Committee).

2.2 To formulate policy, monitor and oversee the Service Delivery Plans for Corporate and support services to achieve the Council's corporate objectives and priorities.

2.3 Oversight and maximisation of Council's assets:

- to achieve the Council's objectives and corporate priorities;
- to deliver the Council's Medium Term Financial Strategy.

2.4 To promote and oversee the Council's commitment to exploring the commercial opportunities in the delivery of its services and the development and management of its assets.

2.5 To undertake the Shareholder Committee role and functions for East Cambridgeshire Trading Company (ECTC), including the organisation of an annual All Member Seminar, that are not reserved to full Council in accordance with the Shareholder Agreement of those Trading Companies and the Memorandum of Understanding attached as an Appendix to these Terms of Reference.

**3.0 TERMS OF REFERENCE**

3.1 The Committee's terms of reference shall be:-

3.2 To approve and monitor performance against the Service Delivery Plans for the following service areas:-

- Democratic Services
- Economic Development
- Financial Services
- Human Resources (HR)
- Infrastructure & Strategic Housing
- Legal Services
- ~~Leisure Services (to Operational Services Committee)~~
- Open Spaces & Facilities
- Reprographics
- Strategic Planning

3.3 To act as the Council's Finance ~~and Audit~~ Committee and the discharge of these duties and responsibilities including:-



- ~~consideration of Annual Audit letter to Members, Annual Audit and Inspection Fee Letter and the External Auditor Annual Governance Report, Annual Audit Plan and Code of Audit Practice and Statement of Responsibilities; (To Audit Committee)~~
  - ~~approve the Annual Governance Statement; (To Audit Committee)~~
  - approve the Medium Term Financial Strategy ~~and Statement of Accounts; (To Audit Committee)~~
  - ~~approval of the Code of Corporate Governance; (To Audit Committee)~~
  - Budget and Annual Treasury Management and Investment Strategy (recommendation to Council).
  - To allocate expenditure of CIL Contributions in accordance with the Community Infrastructure Levy Governance Arrangements.
- 3.4 To undertake quarterly monitoring of revenue and capital expenditure against approved budgets.
- ~~3.5 To agree the Internal Audit Terms of Reference and Internal Audit Plan, review and consider the Plan, any Annual Report and, or Opinion. (To Audit Committee)~~
- 3.56 To investigate financial/budgetary matters pertaining to the Council and make recommendations where appropriate.
- ~~3.7 To oversee and approve the Code of Corporate Governance. To oversee the Council's Corporate Governance arrangements including Anti-Fraud and Corruption Policy. (To Audit Committee)~~
- 3.68 To approve Corporate Policies on enforcement and surveillance and receive any relevant external reports.
- ~~3.9 To oversee the Council's Corporate Risk Register and recommend revisions to the Council's Risk Management Strategy. (To Audit Committee)~~
- 3.749 In respect of Neighbourhood Planning, to receive a report and determine:
- A Neighbourhood Area, where the Neighbourhood Area proposed does not match the parish boundary and objections to the proposed boundary are received
  - if (other than minor non-consequential matters) the examiners recommendations are not accepted in full or if the Council is proposing further modifications (in addition to any modifications recommended by the examiner)
- 3.11 ~~To receive the minutes of the ARP Joint Committee and make any appropriate recommendations to Joint Committee or Council. (to Operational Services Committee)~~
- 3.842 To consider and make recommendations to Council on:
- the Annual Treasury Management Strategy, and Annual Investment Strategy;
  - the Budget;
  - ~~(where appropriate) the Internal Audit Plan to Council; (To Audit Committee)~~

~~the Members' Allowances scheme including the outcome of any Independent Panel reviews. (function of Council)~~

3.943 To approve key policies and procedures as defined within the specific Service Delivery Plans (as defined in paragraph 3.2) and not reserved for full Council, including:

- Councillor conduct including Members Code of Conduct and the establishment of Hearings Sub Committee (if appropriate) to deal with complaints in accordance with procedures

~~Monitoring the Council's corporate objectives and priorities (Function of Council)~~

~~Monitoring the Council's corporate risk register (To Audit Committee)~~

~~Housing Strategy sub strategies including tenancy strategy, also strategic allocation and lettings matters and the Local Investment Plan (LIP) (already a function of Operational Services)~~

- Planning Policy, including:
  - Statement of Community Involvement (SCI)
  - Supplementary Planning Documents

~~Economic Development and Job Growth (to Council)~~

- Matters relating to the implementing of Community Infrastructure Levy
- Freedom of Information Act/Environmental Information Regulation/Data Protection Act
- To approve Policy with respect to all aspects of Human Resources (including Equal Opportunities, pay and grading, Child protection and staff survey)
- Discretionary Rate Relief

~~Approval of final car parking orders (to Operational Services Committee)~~

3.104 To act as the Council's member body in relation to personnel matters including:

- representing the employers side of the Joint Consultative Committee (via two members) and receive the minutes and any recommendation of the JCC, including local Agreements;
- determination of requests for early retirement other than for health reasons;
- acting in accordance with the Council's Disciplinary and Grievance procedure including the establishment of a 3 member Appeals Sub Committee.

3.115 To consider proposals for closer partnership working for services as defined in paragraph 3.2.

3.126 To approve the purchase, disposal and development of the Council's non-operational assets, including land and buildings, and, where appropriate, transfer them to the relevant Local Authority Trading Company (LATC).

- 3.137 To monitor the Council's Asset Development Programme.
- 3.148 To approve and monitor the Council's asset maintenance programme.
- 3.159 To consider the asset development implications of contracts and agreements with third party service providers (prior to their adoption).
- 3.1260 To identify opportunities for maximising asset development through effective partnerships.
- 3.1724 To appoint 'Member Champions' as required.
- 3.1822 To make nominations to any relevant outside bodies for the Finance and Assets Committee from the wider membership of the Council for a period of up to 4 years.

#### **4.0 Delegation to Finance & Assets Committee**

- 4.1 Subject to the provisions of the Council's Constitution, the Committee has delegated authority to act on behalf of the Council in relation to the above, unless
- reserved to Council; or
  - delegated to officers under these or the other Committee terms of reference.

#### **5.0 Delegation to Officers**

- 5.1 The Chief Executive or Director Commercial or appropriate Service Lead, are authorised to act in relation to any matter of immediate urgency which must be dealt with before the next meeting of the Committee provided:
- the Chairman or Vice-Chairman of the Committee is consulted prior to the delegated decisions being made;
  - Spokespersons of minority groups are notified immediately of any action taken under this delegated power;
  - action taken is reported to the next Committee; and
  - it excludes any decision, which is by law expressly vested in the Council.
- 5.2 There shall be delegated to the Chief Executive or Director Commercial the exercise of any power or function of the Council in routine matters related to the implementation of agreed Strategies, Policies and programmes, falling within established policies and procedures and within existing budgets.
- For the avoidance of doubt this delegation shall include the power to authorise others to exercise such powers.
- This delegation shall not be taken to include any matter reserved to Full Council.
- 5.3 There are further delegated to the officers indicated below the exercise of any power or function of the Council relating to the matters set out below (whether Policy approval, monitoring or operational matters have been delegated to a Sub-Committee or not) under the Listed Acts or any amendment, modification or re-enactment of those Acts, or Regulations/Orders made under those Acts:

<b>Health and Safety at Work etc Act 1974</b> Provisions relating to the health and safety at work of Council employees.	Director Commercial or Open Spaces & Facilities Manager
<b>Local Government Act 1972</b> To make appointments below Chief Executive level.	Chief Executive (in consultation with the Human Resources Manager)
To approve payment of additional increments.	Chief Executive or Human Resources Manager
To approve overtime payments to officers graded above Scale 6.	Service Lead (in Consultation with Human Resources)
To permit staff taking approved correspondence courses or attending evening classes to study during working hours.	Human Resources Manager or Service Lead (in Consultation with Human Resources)
To authorise financial assistance to staff undertaking approved courses of study.	Director Commercial or Human Resources Manager
To administer pension matters on behalf of the Council.	Finance Manager or Human Resources Manager
To determine alterations to grades.	Chief Executive or Human Resources Manager
To issue notification as to status under the appropriate pension regulations.	Finance Manager or Human Resources Manager
Classification of posts as "essential" or "casual" users.	Chief Executive or Human Resources Manager
To maintain the register of staff interests and hospitality.	Legal Services Manager
Determination of the Council's establishment within existing budgets.	Chief Executive (Head of Paid Service)

<p><b>Planning Act 2008 &amp; Community Infrastructure Levy Regulations 2010</b></p> <p>To accept a “land payment or”/ note in whole or part payment in kind in settlement of a CIL liability that is due or infrastructure in kind</p>	<p>Chief Executive, Director Commercial</p>
<p><b>To consider a review under Regulation 113</b></p>	<p>Director Commercial</p>
<p><b>To spend Strategic CIL income in accordance with the appropriate allocations</b></p>	<p>Chief Executive, Director Commercial</p>
<p>Business Incentive Grants Scheme – to determine applications within the approved criteria, up to £5,000.</p>	<p>Director Commercial</p>

<p><b>Localism Act 2011</b></p> <p>Assistance to Parish Councils to prepare neighbourhood plans and neighbourhood development orders.</p>	Director Commercial or Strategic Planning Manager
<p><b>Affordable Housing Grant</b></p> <p>To act as the Councils Signatory to certified claims to Homes England</p>	Infrastructure & Strategy Manager
<p><b>Housing Social Grant</b></p> <p>To act as the Council's signatory to certify claims to Homes England for Local Authority Social Housing Grant</p>	Finance Manager
<p><b>The Child Support, Pensions and Social Security Act 2000 and the Discretionary Financial Assistance Regulations 2001</b></p> <p>To hear and determine appeals from applicants for discretionary housing payments.</p>	Finance Manager
<p><b>Council Tax Benefit (General) Regulations 1992</b></p> <p>To determine, award and refuse Council Tax Benefits.</p>	Finance Manager as delegated to the Anglia Revenues and Benefits Partnership
<p><b>Housing Act 1985</b></p> <p>To approve and not refuse, applications for borrowers for housing allowances to vary the terms of repayment of loans by the Council.</p>	Finance Manager or Legal Services Manager
<p>To take appropriate action in cases of default by Council Mortgagors in their repayment, following consultation with the local councillor(s) concerned.</p>	Finance Manager or Legal Services Manager
<p>To consent to a mortgagor effecting a second mortgage.</p>	Finance Manager or Legal Services Manager
<p>Implementation of the higher of the National Standard Rate or Local Average Rate of mortgage interest (NB: House purchase loans advanced prior to October 1980) to review annually in March the interest rate being charged to mortgagors and adjust it to the Standard National Rate.</p>	Finance Manager
<p><b>Local Government Finance Act 1988 – National Non-Domestic Rates (NDR)</b></p> <p>To deal with refunds, part-occupation of hereditaments, mandatory and discretionary rate relief, rebates arrears, including bankruptcies, tenants and lodgers, valuation (including agreements</p>	Finance Manager

and appeals to Valuation Courts), Court proceedings and distress proceedings	
To write-off NNDR not exceeding £10,000	Head of ARP and Strategic Manager (Revenues)
To deal with write-offs exceeding £10,000 but under £20,000, after consultation with the Chairman of the Committee, where recovery is unlikely / uneconomic.	Finance Manager
Section 49 To determine applications for remission of non-domestic rates on hardship grounds.	Finance Manager
To determine applications in respect of partly occupied properties.	Finance Manager
<b>Local Government Finance Act 1992 (as amended) Council Tax</b>  To deal with/authorise issue of completion notices, discounts, recovery and enforcement exemptions, agreement of alternative and voluntary instalment arrangements, determination of joint and several liability, refunds, imposition of penalties, reductions for people with disabilities, second adult rebates, determination of sole or main residence, grant of transitional reductions, write-offs up to £1,000 where recovery is unlikely or uneconomic.	Finance Manager
To take appropriate action on a Referendum on Council Tax in the event of a determination by the Secretary of State.	Finance Manager and Returning Officer
To write-off Council Tax and Housing Benefit Overpayments not exceeding £5,000	Head of ARP and Strategic Manager (Revenues)
To deal with write-offs exceeding £5,000 but under £10,000, after consultation with the Chairman of the Committee, where recovery is unlikely or uneconomic.	Finance Manager
To determine matters where appeals may be made to the Council as billing authority.	Finance Manager
To administer the Collection Fund.	Finance Manager
To agree the settlement of precept payment dates with the Major and Local Precepting Authorities.	Finance Manager
To remit, by way of write-off, any amounts becoming due through the revised policy to remove discretionary Council Tax discount for empty properties, in exceptional circumstances or on hardship grounds,	Finance Manager

after consultation with the Chairman of the Committee.	
To determine the Council Tax Base for the whole and parts of the Council's area for the forthcoming financial year beginning 1 April, with the policy on discounts and premiums to be reviewed by the relevant Committee on at least a three yearly basis.	Finance Manager
<b>Business Rates Retention Scheme</b> To deal with the National Non-Domestic Rates return (NNDR1) by 31 January immediately preceding the financial year to which it relates.	Finance Manager
<b>Localism Act 2011</b> Chapter 7 Recruitment of Independent persons (with final approval reserved to Full Council).	Legal Services Manager or Monitoring Officer
<b>Localism Act 2011</b> <b>District, Town or Parish Councillor complaints</b> To consider and accept/reject complaints relating to a District, Town or Parish Councillor (or co-opted Member) To refer complaint to Town or Parish for consideration and resolution.	Monitoring Officer or Deputy Monitoring Officer
To re-direct complaints that are unrelated to Member Conduct to the appropriate complaints system of the Council/or other authority (including, where relevant, the Police).	Monitoring Officer or Deputy Monitoring Officer
To see to informally resolve a complaint relating to a District, Town or Parish Councillor (or co-opted Member) with a meeting, mediation or training.	Monitoring Officer or Deputy Monitoring Officer
Investigation of complaints against a District, Town or Parish Councillor (or co-opted Member), or appoint internal or external officers or parties to undertake this on their behalf, in accordance with the approved complaints handling procedure having consulted the Independent Person before such a decision is made.	Monitoring Officer or Deputy Monitoring Officer
<b>Local Government Act 1972</b>  Section 111 To effect insurance for all services of the Council and to make arrangements for claims on insurance companies and agree settlements.	Finance Manager
Section 151 To agree terms for the Council's banking arrangements.	Finance Manager
Authority to sign cheques.	Finance Manager



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Section 172 Management of the Council's loan debt and investments.	Finance Manager
Section 215 To accept onto the list closed churchyards.	Legal Services Manager or Open Spaces & Facilities Manager
<b>Housing Benefits</b> To determine and adjudicate in all cases of applications under the Hosing Benefits Scheme, including fixing rent limitations for rent allowances.	Finance Manager
<b>Debts and Financial Claims</b> To institute legal proceedings on behalf of the Council for the recovery of all debts and defence of all claims.	Legal Services Manager
To write off any individual debt which does not exceed £1,000, after consultation with the Legal Services Manager, after ensuring that all action for recovery has been taken.	Finance Manager
To make ex gratia payments to complainants under the Council's complaints scheme or the Ombudsman Scheme.	Chief Executive or Finance Manager
<del>Accounts &amp; Audit Regulations To approve in year amendments to Audit Plan between Committee meetings after consultation with the Chairman of the Committee</del>	<del>Finance Manager (To Audit Committee)</del>
<b>To maintain Freedom of Information Act, Environmental Information Regulation and Data Protection Act Policies</b>	Legal Services Manager
<b>Electoral Matters</b> To act as Returning Officer or Acting Returning Officer, or other role as appropriate.	Chief Executive (or any officer so acting)
To act as Deputy Returning Officer in respect of: - Nominations - Postal Votes - Verification & Count - Accounts	Director Commercial or Electoral Services Team Leader (or any officer appointed by Returning Officer as so acting)
To act as Electoral Registration Officer.	Chief Executive (or any officer so acting)

<p><b>Representation of the People Regulations 1986</b> Section 29 To instigate prosecution proceedings in respect of two-year non-responders as instructed by the Electoral Registration Officer.</p>	<p>Legal Services Manager or Chief Executive</p>
<p><b>Local Government Act 2000</b> Section 92 To make payments where the authority is satisfied that there has been maladministration and that the person concerned has been adversely affected by such maladministration.</p>	<p>Chief Executive</p>
<p><b>Town and Country Planning Act 1990</b> <b>Localism Act 2011</b> <b>Neighbourhood Planning (General) Regulations 2012</b></p> <p><b>Regulation 6 and 7 - Neighbourhood Area Designation:</b></p> <ul style="list-style-type: none"> <li>-Receive and validate application</li> <li>-Advertise application for six weeks</li> <li>-Consider representations and</li> <li>-make a recommendation</li> </ul> <p>Determine applications that</p> <ul style="list-style-type: none"> <li>- match Parish boundary</li> <li>- without objection</li> </ul> <p>Publish decision</p>	<p>Director Commercial Strategic Planning Manager or Strategic Planning Officer</p> <p>Director Commercial</p> <p>Director Commercial Strategic Planning Manager or Strategic Planning Officer</p>
<p><b>Section 3, Schedule 4B of the Localism Act 2011.</b> Advice and assistance to the Parish Council</p>	<p>Director Commercial Strategic Planning Manager or Strategic Planning Officer</p>
<p><b>Regulation 14</b> – Initial Pre-submission six week consultation</p> <p>Supporting the parish council with their six week consultation on their draft Neighbourhood Plan</p> <p>Making any formal representations on the draft Neighbourhood Plan during that six week window</p>	<p>Director Commercial Strategic Planning Manager or Strategic Planning Officer</p>
<p><b>Regulation 16</b> - Submission of Neighbourhood Plan to the Council, and its publication for a further six week consultation</p> <ul style="list-style-type: none"> <li>-Validate the submission documents</li> <li>-Publication and arranging of six week consultation</li> <li>-Making ECDC representations on the Neighbourhood Plan</li> </ul>	<p>Director Commercial Strategic Planning Manager or Strategic Planning Officer</p>

-Collating and summarising the responses received and send to examiner	
<b>Regulation 17 to 19 - examination</b> Appointing an Inspector Arranging examination/hearing Appearing at hearing  Consider the examiners report if the examiners recommendations are accepted in full;  Deciding whether the neighbourhood plan should proceed to a referendum, having taken account of the examiners recommendations Publicising the examiner's report and the decision	Director Commercial Strategic Planning Manager or Strategic Planning Officer  Director Commercial  Director Commercial Strategic Planning Manager or Strategic Planning Officer
<b>Neighbourhood Planning (Referendum) Regulations 2012 – referendum</b>  Arranging, advertising and all other aspects of managing the referendum process  Publicise the results of the referendum	Democratic Services Manager
<b>Regulation 20 – adopting a neighbourhood plan</b>  Publicise decision	Democratic Services Manager
<b>Car Parking</b> The maintenance and running of off-street car parks.	Director Commercial or Open Spaces & Facilities Manager
To institute legal proceedings contravention of off-street car parking orders.	Legal Services Manager

<p><b>Landlord and Tenant Act 1954</b> Service of all notices in connection with renewal of tenancies under the Act.</p>	Legal Services Manager or Finance Manager
<p><b>Land Compensation Act 1973</b> Sections 29, 33 and 37 To approve applications for disturbance payments and removal expenses, and to approve applications for home loss payments.</p>	Chief Executive or Finance Manager
<p><b>Local Government Act 1972</b> Section 111 To arrange negotiations for the acquisition of land which it is anticipated will be required to meet the Council's Forward Capital Programme.</p>	Finance Manager & Legal Services Manager
<p><b>Local Government (Miscellaneous Provisions) Act 1976</b> Section 16 The service of requisitions for information as to the ownership of property.</p>	Legal Services Manager or Environmental Services Manager or Planning Manager or Director Operations
<p><b>Town and Country Planning Act 1990</b> <b>Town and Country Planning (General) Regulations 1976</b> The making of applications for deemed consent for authorised development to be carried out by the Council or in respect of land, which the Council may wish to dispose of with the benefit of planning permission.</p>	Chief Executive or Director Operations
<p><b>Property Issues</b> To approve or refuse requests to dispose of, or lease land identified as suitable for disposal subject to valuation by the District Valuer or any other independent valuer and arrange easements in accordance with the Council's policy and regulation review of landholdings (Safeguard: local members to be consulted).</p>	Chief Executive or Legal Services Manager
<p>To act in the purchase of suitable properties subject to prices being within an appropriate independent valuation, and after consultation with the Chairman of this Committee.</p>	Finance Manager or Legal Services Manager
<p>To sign wayleave agreements affecting property held by the Council.</p>	Legal Services Manager or Finance Manager
<p>To effect the discharge of land charges and releases of covenants in conveyancing of property by the Council or its predecessors (at an independent valuation where appropriate).</p>	Legal Services Manager or Finance Manager

## EAST CAMBRIDGESHIRE DISTRICT COUNCIL

## CONSTITUTION

To enter into licences and arrange for rents and licence acknowledgement for small parcels of land to be reviewed.	Legal Services Manager or Chief Executive
To take all necessary steps to enter into options on land or property, in consultation with the Chairman or Vice-Chairman of Committee, prior to formal approval by Committee.	Legal Services Manager or Chief Executive
<b>Unauthorised Vehicular Accesses</b> To deal with vehicular accesses throughout the District by way of Licence or a Deed of Grant of Easement, or, if this is not possible, by the siting of bollards to prevent vehicular access.	Legal Services Manager or Finance Manager
<b>Proceedings against Trespass on Council Land</b> To commence court proceedings in any case of trespass on Council-owned property.	Legal Services Manager
<b>Proceedings against tenants and licensees</b> To commence court proceedings against tenants or licensees of the property for non-compliance with conditions of tenancy.	Legal Services Manager

**MEMORANDUM OF UNDERSTANDING****THE SHAREHOLDER INTEREST**

The Shareholder Committee recognises its duty to full Council, as the representative of the sole shareholder, to monitor the performance, resilience and risks of the Council's Trading Companies and make recommendations, where appropriate.

The Shareholder Committee, acting as a "critical friend", wants to work in partnership with the Council's trading companies on a proactive basis to ensure their success, specifically:

- Focus and provide effective feedback on the key strategic risks affecting the effectiveness and efficiency of the Council's trading companies;
- Promote an understanding of the Council's trading companies to the membership of the Council and the wider community;
- Learn the lessons from completed projects and make appropriate recommendations.

The Shareholder Committee recognises that:

- The efficient and effective working of the Council's trading companies are essential to the achievement of the Council's corporate objectives;
- The trading companies are central to the achievement of the Council's medium term financial strategy and its long term financial sustainability and self-sufficiency;
- The operational independence and integrity of the Council's trading companies are essential to their effective working and profitability.

**FINANCE & ASSETS HEARINGS SUB-COMMITTEE****1. Constitution**

- 1.1 The Sub-Committee shall comprise of 7 Members of the Council, who shall be appointed annually by full Council from the full Membership, and up to 2 co-opted non-voting Town or Parish Councillors.
- 1.2 The Sub-Committee and any Panel quorum is 3 Members, with the attendance of the appointed Independent Person. Where the Panel considers a complaint against a Town or Parish Councillor, the Town or Parish co-optee must be in attendance at the Panel Hearing.

**2. Objectives**

- 2.1 To support the Finance & Assets Committee in its duty to promote and maintain high standards of Councillor conduct.

**3. Terms of Reference**

- 3.1 To appoint Hearing Panels for Stage 6 complaints handling comprising 3 elected Members, to consider a complaint against an East Cambridgeshire District, Town or Parish Councillor, where there is an allegation that the Councillor has failed, or may have failed, to comply with their Authority's Code of Conduct **and** the Monitoring Officer, or her Deputy or appointed investigator's report has concluded that there appears to have been a breach of their Authority's Code.
- 3.2 The Panel shall be appointed from the Sub-Committee membership, with an elected Member acting as a reserve Member. Such a Panel can be a combination of any of the Members of the Sub-Committee.
- 3.3 In holding a Stage 6 complaints hearing, the Panel:
  - 3.3.1 Will hold the hearing in public session, unless representations have been received from the complainant and/or the Councillor subject to the complaint, by the Monitoring Officer/Deputy Monitoring Officer not to do so, and there is a legal basis under the Local Government Act 1972 to hold in exempt session.
  - 3.3.2 May, with the consent of both the complainant and the Councillor subject to the complaint, consider this without the attendance of the parties (a "paper" hearing).
  - 3.3.3 May, if it considers it reasonable to do so, proceed with any hearing in the absence of one of the parties.
  - 3.3.4 Must ensure that this is conducted having regard to the hearings procedure and any government guidance, or guidance issued by the Monitoring Officer, Deputy Monitoring Officer or legal advisor.
  - 3.3.5 Must ensure that any Councillor that is subject to the complaint is given the opportunity to attend, and/or submit or present evidence and make representations, either orally or if the member chooses, in writing; and (b) either personally, or by legal representative, or with the Panel's consent, any other representative.



- 3.3.6 May arrange or agree to the attendance of such witnesses, as the Monitoring Officer, Deputy Monitoring Officer or investigator considers appropriate.
- 3.3.7 May adjourn the hearing proceedings at any stage prior to the final determination of the complaint.
- 3.3.8 Will allow the Councillor who is subject to the complaint to call such witnesses in support, subject to the Panel limiting the numbers of witnesses that a person may call, if it considers that the number the person proposes to call is unreasonable.
- 3.3.9 Will seek and take into account the views of the Independent Person at the Panel Hearing *before* making its final determination on the matter.
- 3.3.10 **[in cases where the complaint relates to a Town or Parish Councillor]** Will seek and take into account the views of the Town or Parish co-optee at the Panel Hearing *before* making its final determination on the matter.
- 3.3.11 Will determine whether the Councillor subject to the complaint has breached their Authority's Code of Conduct and provide reasons for any decision.
- 3.4 If the Panel concludes that the Councillor subject to the complaint has breached their Authority's Code of Conduct, the Panel may confirm the following sanctions:
- 3.4.1 No action.
- 3.4.2 That the Councillor be trained.
- 3.4.3 That the Councillor be censured.
- 3.4.4 That a recommendation is made to the District Council's full Council to censure the District Councillor.
- 3.4.5 **[in the case where the complaint relates to a Town or Parish Councillor]** recommend to the Town or Parish Council that the Town or Parish Council censures the Councillor at a Town or Parish meeting.
- 3.5 To assist with good governance, if requested by Finance & Assets Committee.
- 4. Delegation to Officers**
- 4.1 The Monitoring Officer is authorised to act in relation to any matter of immediate urgency, which must be dealt with before the next meeting of the Sub-Committee provided the Chairman or Vice-Chairman of the Sub-Committee is consulted prior to delegated decisions being made.
- 4.2 There shall be delegated to the Monitoring Officer, the exercise of any power or function of the Council in routine matters related to the implementation District, Town and Parish Councillor complaint procedures.
- This delegation shall not be taken to include any matter reserved by law to the Finance & Assets Committee or the Full Council.
- 4.3 There are further delegated to the officers indicated below the exercise of any power or function of the Council set out below:

<b>To make arrangements for a Panel hearing</b> including Members sitting on the Panel, and, where relevant, Town or Parish co-optees attendance	Democratic Services Manager or Democratic Services Officer
<b>To make arrangements for the hearing to be held in exempt session</b> , if representations are received and there is a legal basis for the exempt session under the Local Government Act 1972	Monitoring Officer or Deputy Monitoring Officer or Democratic Services Manager
To agree that a reserve Panel Member may substitute for one of the allotted Members at the hearing	Monitoring Officer or Deputy Monitoring Officer in her absence
To undertake any pre or post hearing preparation for the hearing including (although not limited to) notifying and requiring attendance of the complainant, the Councillor subject to the complaint and any witnesses	Monitoring Officer or Deputy Monitoring Officer
<b>To undertake any post hearings decision</b> training or instruct others (internally or externally) to do so	Monitoring Officer or Deputy Monitoring Officer

**FINANCE & ASSETS HEARINGS SUB-COMMITTEE PANEL**  
**HEARING PROCEDURE**

The Finance & Assets Hearings Sub-Committee Panel (“the Panel”) needs to have an efficient and effective hearing process to deal with any hearings regarding allegations that a Councillor has breached their Authority’s Code of Conduct. This will assist Members of the Panel to deal with all the issues that need to be resolved in a way that is fair to the Councillor that is subject of the allegation. This procedure is intended to encourage a consistent approach and promote and maintain high standards of Councillor conduct.

### Interpretation

1. “**Complainant**” means the person who referred the formal complaint relating to the Councillor to the Monitoring Officer.

“**Councillor**”, includes a co-opted Councillor, means the Councillor (or former Councillor) of the authority who is the subject of the allegation being considered by the Panel, unless stated otherwise. This may be a Councillor (or former Councillor) of Council or a Town or Parish Council in the area. It also includes the Councillor’s (or former Councillor’s) nominated representative.

“**Independent Person**”, includes the lead or deputy person appointed by the District Authority under s28 Localism Act 2011.

“**Investigator**” means the Monitoring Officer, Deputy Monitoring Officer or any nominated internal or external investigator or their representative(s).

“**Legal Adviser**” means the officer responsible for providing legal advice to the Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

### Representation

2. The Councillor may be represented or accompanied during the hearing by a Solicitor, Counsel or, with the permission of the Panel, another person.

### Legal Advice

3. The Panel may take legal advice from its Legal Adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Panel will be shared with the Councillor and the Investigator if they are present.

### Voting

4. Each Member of the Panel will have one vote, and all matters/issues will be decided by a simple majority of votes cast, with the Chair having a second or casting vote should that be needed. Abstentions will not be permitted.
5. The Independent person shall be consulted before any final determination, but will not be entitled to vote.
6. If the complaint relates to a Town or Parish Councillor, a co-opted Town or Parish representative will attend the hearing and shall be consulted by the Panel before any final determination, but will not be entitled to vote.

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7. The Panel's decision will record whether it was unanimous or taken by a majority.

#### Quorum

8. The Proper (Democratic Services) Officer or his/her representative will confirm whether the Committee is quorate. A quorum for the Panel will be three elected Members of the authority. The Independent Person must be in attendance throughout the hearing and, where the matter involves an allegation of misconduct against a Town or Parish Councillor, a co-opted Town or Parish representative must be in attendance throughout the hearing. If the Monitoring Officer or Deputy Monitoring Officer has agreed that the reserve Member may substitute for the named Member on that Panel, then the Panel is then deemed to include that Member as part of the Panel with a right to come to a decision on the complaint and any sanctions.

#### Setting the Scene and Preliminary Procedural Issues

9. The Panel Members may consider the hearing as a "paper" hearing, in the absence of the Complainant or Councillor PROVIDING the Complainant or Councillor has agreed to this<sup>2</sup>. In such situations the Investigator may or may not be in attendance, and any report prepared will be considered, together with any evidence or submissions made by the Complainant or Councillor. The Panel will confirm if they are going to consider this as a paper hearing and the reasons for doing so. If the Panel decides that it cannot proceed without the attendance of the Complainant or Councillor or Investigator, the hearing shall be adjourned to arrange attendance.
10. Where there is a hearing with parties in attendance, the Chairman will formally introduce those present, any apologies will be notified and the Chair of the Panel will explain how the Panel is going to handle the hearing.
11. The Panel will then resolve any issues, which may include (although not be limited to) confirming whether they can proceed in the absence [*which does not fall within the category of paper hearing*] of the Complainant or Councillor, or the absence of a witness who has been asked to attend; reasons for any substitutions; admission of late evidence (witness or documentary); the number of witnesses to be called; and any application for lay representation by the Councillor.
12. After dealing with any preliminary issues, the Panel will then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.

#### Findings of fact and whether the Councillor fail to follow the Councillor's Authority Code of Conduct:

13. If there is no disagreement about the facts, the Panel can then move on to the next stage of the hearing.
14. If the Councillor disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, he or she will be required to give good reasons for not mentioning it before the hearing. After considering the Councillor's explanation for not raising the issue at an earlier stage, the Panel may then:-

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<sup>2</sup> As per 3.3.2 of the Finance & Governance Sub-Committee terms of reference.

- a. allow the Councillor to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary and such matters shall be taken into account when the Panel reaches its decision on the facts; or
  - b. postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already in attendance.
15. Where representations on the facts have been made (and have been disputed by the Councillor), the Panel may ask the Investigator (if present), or legal representative, to start by outlining the relevant facts (that are agreed and what disputed).
  16. If there is a disagreement, the Investigator, if present, will be invited to make any necessary representations to support the relevant findings of fact in the report. This may include representations on behalf of the Complainant where appropriate. Subject to any limitation set by the Panel under paragraph 11, the Investigator may call any relevant witnesses (including the Complainant) to give evidence.
  17. The Panel will give the Councillor an opportunity to challenge any evidence put forward by any witness called by the Investigator (directly or through the Chair). The Panel will also consider any verbal or written representations from the Investigator in relation to the alleged breach of the Code of Conduct.
  18. The Councillor will then be given the opportunity to make representations to support his or her version of the facts and reasons why he or she believes he or she has not, or has failed to follow the Code and (subject to any limitation set by the Panel under paragraph 11) to call any witnesses to give evidence.
  19. At any time, the Panel, Independent Person or Town/ Parish Representative may question any of the people involved (including the Complainant) or any of the witnesses, and may allow the Investigator (and the Complainant through the Chair) to challenge any evidence put forward by any witnesses.
  20. The Investigator and then Councillor will be invited to make any final relevant points on fact or the alleged failure to follow the Code.
  21. The Panel Members, Independent Person, any co-opted Town or Parish representative and Legal Advisor will then retire to another room to consider all the documentary and witness evidence and decide what the relevant facts were, followed by whether the Councillor failed to follow the Code of Conduct and reasons for the decision. The Panel shall seek the views of the Independent Person and co-opted Town or Parish representative present, and take these into account when reaching its decision.
  22. On the Panel's return, the Chair will announce the Panel's decision and reasons for its findings of fact and whether or not the Councillor has failed to follow his or her Authority's Code of Conduct. The decision will note any views expressed by the Independent Person and co-opted Town or Parish representative. *Even in the event that the Panel concludes that there has been no failure to follow the Councillor's Authority Code of Conduct, the Panel may still consider whether it should make any recommendations, which the Panel believes will promote and maintain high standards of conduct amongst Councillors or co-opted Councillors.*

**If the Councillor has not failed to follow the Councillor's Authority Code of Conduct:**

23. If the Panel decides that the Councillor has not failed to follow the Code of Conduct, the Panel will announce its decision and reasons.
24. If relevant, the Panel may make any recommendations to the Council or other relevant authority, with a view to promoting high standards of conduct amongst Councillors or co-opted Councillors.

**If the Councillor has failed to follow the Councillor's Authority Code of Conduct:**

25. If the Panel decides that the Councillor has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigator and the Councillor as to:
  - a. whether or not the Panel should impose a sanction; and
  - c. what form any sanction should take.
26. The Panel may question the Investigator and Councillor, and take legal advice, to make sure they have the information they need in order to make an informed decision.
27. The Panel Members, Independent Person, any co-opted Town or Parish representative and Legal Advisor will then retire to another room to consider whether or not to impose a sanction on the Councillor and, if so, what the sanction should be and the reasons for the decision. The Panel shall seek the views of the Independent Person and co-opted Town or Parish representative present, and take these into account when reaching its decision. The Panel may also consider and make general recommendations to the District, Town or Parish Council, which they believe will promote and maintain high standards of conduct by Councillors or co-opted Councillors.

**Sanctions relating to the Councillor:**

28. The Panel may decide to:
  - a. Take no action.
  - b. Recommend that the Councillor undertake training and/ or
  - c. Censure the Councillor, and/or
  - d. Recommend to the District Council that the District Councillor be subject to formal censure at Full Council.
  - e. Recommend to the Town or Parish Council that the Town or Parish Councillor be subject to formal censure at Town or Parish meeting.
29. On its return, the Chair will announce the Panel's decision and reasons.

**The Written Decision**

30. The Panel will announce its decision on breach of the Code and Sanctions on the day as detailed above and will produce a full written decision within 5 working days, which, unless held in exempt session, will be available on the District Council's website within 14 working days, together with any hearing minutes.

