

Central Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



please ask for Kathrin John
direct line 01462 611033
date

CONSTITUTION ADVISORY GROUP MEETING

Date:	Tuesday, 25 August 2009			
Time:	2.00 p.m.			
Venue:	Committee Room 15, Priory House, Monks Walk, Shefford			
Members	Cllrs	Mrs C F Chapman MBE D Jones M Jones	Cllrs	D Lawrence S F Male A J Shadbolt

AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **NOTES OF PREVIOUS MEETING**

(To receive the Notes of the meeting of the Constitution Advisory Group held on 21 July 2009 – to follow)

3. **LICENSING SUB COMMITTEE**

(At the request of the Regulation Committee, to draw the Advisory Group's attention to consideration being given to reviewing the governance arrangements for consideration of liquor licensing applications.

Report of the Assistant Director of Community Safety and Public Protection enclosed)

4. **DEVELOPMENT MANAGEMENT COMMITTEE**

(To review the current arrangement for the Development Management to meet twice a month at alternative venues in the light of the consideration by the Development Management Committee at its meeting held on 5 August 2009 and the consultation with the wider Council membership which has taken place since the last meeting of the Advisory Group. Also to endorse the revised wording on the delegation of Regulation 3 and 4 planning applications.

Report of the Head of Development Management enclosed)

5. **OUTCOMES OF THE CONSTITUTION: REVIEW OF PROVISIONS RELATING TO THE CAPITAL PROGRAMME**

(The Advisory Group at its last meeting agreed to include in its terms of reference, the review of any outcomes of the Constitution, (ie: to review any aspect of the Constitution which appeared to impact upon the efficiency of the Authority or give rise to practical difficulties in terms of implementation.)

This report seeks to review the current provisions relating to approval and amendment of the Capital Programme.

Report of the Director of Corporate Resources to follow).

6. **TOWN CENTRE MANAGEMENT COMMITTEES - CHAIRMANSHIP**

(To clarify the intention with regard to the Chairmanship of Town Centre Management Committees in the light of a recent difficulty which has arisen with regard to interpretation of the terms of reference of one of the Management Committees.

Report of the Head of Democratic Services enclosed)

7. **OUTSIDE BODIES: ADVICE PROVIDED BY THE MONITORING OFFICER**

(The Monitoring Officer has recently circulated to all Members of the Council advice in relation to their role on Outside Bodies: "The Councillors' Roles – General Guidance & Potential Pitfalls and Conflicts". The Chairman of the Advisory Group has asked that this guidance be placed on the agenda, with particular reference to indemnity cover for Members serving on outside bodies.

Copy of Guidance from Monitoring Officer enclosed)

8. **DELEGATION - CHILDREN'S SERVICES**

(Report to follow)

9. **DATE OF NEXT MEETING**

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



CONSTITUTION ADVISORY GROUP
DATE: 25 AUGUST 2009

TITLE	Licensing Sub Committee	ITEM NO.
REPORT OF	Assistant Director of Community Safety and Public Protection	3

PURPOSE	At the request of the Regulation Committee, to draw the Advisory Group's attention to consideration being given to reviewing the governance arrangements for consideration of liquor licensing applications.
----------------	--

ORIGIN OF PROPOSAL	Concerns were expressed by the Licensing Committee at its meeting held on 18 June at the concept of only having one sub committee to deal with liquor licensing applications. The Regulation Committee, at its meeting on 18 June suggested that the Advisory Group's attention should be drawn to this matter.
---------------------------	---

RECOMMENDATION:
(1) That the Advisory Group note that the Licensing Committee, at its meeting to be held on 14 October 2009, will be reviewing the governance arrangements for consideration of liquor licensing applications; and

(2) That any minor consequential adjustments required to the Constitution be reported to the Constitution Advisory Group in due course.

SUPPORTING INFORMATION

1. At the meeting of the Regulation Committee held on 15 July 2009, a view was expressed that there should be more than one Licensing Sub Committee. As the Advisory Group will be aware, the Constitution currently provides for one sub committee comprising 3 members, with the Chairman and Vice-Chairman being appointed by the Licensing Committee (Part E2 - paragraph 3 of the Constitution). The Licensing Committee at its meeting following the annual meeting of the Council on 18 June 2009 appointed three members to serve upon the sub committee but agreed that the Chairman and Vice-Chairman should be appointed at each meeting. In so doing however, some members commented that the establishment of just one sub committee precluded other members of the Licensing Sub Committee from engaging in the consideration of liquor licensing applications.
2. This matter was raised again at the meeting of the Regulation Committee on 15 July and the principle of all members of the Licensing Committee forming a pool from which the sub committee could be drawn was suggested. It was suggested that perhaps this matter should be drawn to the attention of the Constitution Advisory Group.
3. When the Licensing Act 2003 came into force, Counsel's opinion was taken by Mid Bedfordshire District Council which suggested that the legality of operating a "pool" of members was questionable and should therefore be avoided. In the light of the request of the Licensing/Regulation Committee however, and given the length of time since the legal position was last reviewed, further legal advice has now been obtained which suggests that it would indeed be possible to proceed on the basis of a pool of Members.
4. Officers intend to report back to the Licensing Committee at its meeting to be held on 14 October, advising of the latest legal position and inviting the Licensing Committee to determine whether it does wish to proceed on the basis of establishing a pool of members from which the sub committee will be drawn or whether it wishes, on reflection, to appoint more than one sub committee.
5. The Constitution already permits the Licensing Committee to establish **one or more** sub committees to discharge its functions under the Licensing Act 2003.
6. The only potential amendment therefore which might be required, dependent upon the deliberations of the Licensing Committee, is paragraph 3 of Part E2 which sets out the number of members and who appoints the Chairman and Vice-Chairman of the sub committee.

6. The Advisory Group will be advised of any consequential amendment which may be required following consideration by the Licensing Committee.
-

Contact Officer Details:
Jane Moakes Tel: 0300 300 5441 Jane.moakes@centralbedfordshire.gov.uk

Key Background Papers:
None

This page is intentionally left blank

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



CONSTITUTION ADVISORY GROUP
DATE: 25 AUGUST 2009

TITLE	Development Management Committee: Amendments to the Terms of Reference and the Scheme of Delegation to Officers.	ITEM NO.
REPORT OF	Head of Development Management	4

PURPOSE	To request that the Advisory Group endorse the amendments to the Terms of Reference of the Development Management Committee (Part E2 Page 1) and the Scheme of Delegation with regards the handling of Regulation 3 & 4 planning applications and applications for planning permission on Council owned land.
----------------	---

ORIGIN OF PROPOSAL	The proposal originally was put forward by the Chairman and Vice-Chairman of the Development Management Committee with officers' support. It was then considered by this Advisory Group at its meeting on 21 July and has subsequently been subject to consultation with the Development Management Committee and all Members.
---------------------------	--

RECOMMENDATION:
(1) That the revised wording to paragraph 4.3.93.5 and the new paragraph 4.3.93.6 be endorsed by the Advisory Group

- (2) **That the Advisory Group endorse the proposed amendment in respect of the frequency and venue for meetings of the Development Management Committee, as set out in paragraph 3 of this report and recommend the Council to vary the Terms of Reference of the Development Management Committee (Part E2 page 1) accordingly.**

SUPPORTING INFORMATION

1. These issues were originally considered by the Advisory Group on 21 July 2009 (report attached as Appendix A) where the variation to the Scheme of Delegation was agreed. Since that endorsement a form of words has been created to cover the proposed variation and it is requested that the Group support the revised wording. It suggested that paragraph 4.3.93.5 of the Scheme of Delegation (Part H3) be varied to the following -

“The application is made under Regulation 3 of the Town and Country Planning (General) Regulations 1992 or is for development on the Council’s own land and in either case a material planning representation(s) has been received in writing that is contrary to the Officer delegated decision otherwise to be made and in the case of objections these cannot be resolved through the imposition of conditions”

It is then recommended that a new paragraph - 4.3.93.6 - would be inserted to specifically deal with Regulation 4 applications and it is suggested that this would be worded as the following-

“The application is made under Regulation 4 of the Town and Country Planning (General) Regulations 1992”

2. The second issue that was considered by the Group revolved around proposals to change the Development Management Committee cycle from its current two weekly cycle at alternating venues to a three weekly cycle at a single venue. These suggestions were debated and it was agreed that there should be further consultation with all Members, that the views of the Development Management Committee should be made known to the Advisory Group and that the views of the relevant Portfolio Holders should be made known to the Group as well.
3. These issues were formally debated by the Development Management Committee at its meeting on 5 August 2009 and it resolved the following –
1. ***that the Constitution Advisory Group be advised that the Committee endorses the proposed amendment to its Terms of Reference in order that future meetings of the Committee were held at one location, namely Priory House, Chicksands, on a three weekly cycle, subject to resolution 2 below.***

2. ***that the use of Priory House, Chicksands as the single venue for the Committee's meetings take place in conjunction with the introduction of a video link at the Council Offices, Dunstable in order to enable interested parties in the south of Central Bedfordshire to make representations to the Committee without the need to travel to Chicksands.***
 3. ***that the Constitution Advisory Group be advised that the Committee endorses the proposed amendment of the Scheme of Delegation to Directors and other Officers in order that Regulation 3 applications, or other applications where the Council has an interest, would be delegated unless an objection (or contrary representation) was received to the proposed development.***
 4. ***that the Constitution Advisory Group be advised that the Committee endorses the proposed amendment of the Scheme of Delegation to Directors and other Officers in order that Regulation 4 applications would be specifically excluded from the delegations and were determined by the Committee.***
4. The consultation undertaken with Members about the suggestion to hold the Meetings at a single venue and on a three weekly cycle resulted in a number of Members expressing a view on this issue and the comments received are set out in Appendix B attached to this report. Appendix C shows the number of speakers at meetings and the average length of meetings.
 5. After consultation with the Portfolio Holders for Sustainable Communities I am able to inform the Advisory Group that all three are supportive of the suggested changes.
 6. The proposed changes to the Committee venue and cycle continues to evoke strong opinions. The original recommendation to the Advisory Group made on 21 July 2009 set out the reasons why it was suggested that the cycle and frequency of the meetings were changed. These suggestions have been supported by the Development Management Committee and the Portfolio Holders for Sustainable Communities. The removal of Regulation 3 and planning applications for development on Council owned land will assist in reducing the lengths of the agendas and therefore it is anticipated that a less frequent cycle of meetings will not implicitly result in far bigger agendas for the Committee to consider. The legacy District Authorities held meetings on three and four weekly cycles and both maintained a high level of performance against the nationally set performance targets. It is not anticipated at this stage that the changes being suggested would impact on performance or create a situation where the agendas became unmanageable.

The committee agendas of the new Authority have in the main not been geographically based but have contained items from both north and south areas. What has also been evident is that this has not resulted in a lack of participation by supporters and objectors of applications where they have not been debated at the historical legacy venue and some evidence of this was submitted with the original report attached as Appendix A to this report. On the issue of the Authorities ability to provide an electronic link between the two existing Authorities to allow remote participation in the meeting, information is still being gathered on this and will follow.

Contact Officer Details:

Andrew Davie – Head of
Development Management
(North)

Key Background Papers:

None

Item 4 Appendix A

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



CONSTITUTION ADVISORY GROUP
DATE: 21 July 2009

TITLE	Amendments to the Terms of Reference to the Development Management Committee and the Scheme of Delegation to Officers	ITEM NO.
REPORT OF	Head of Development Management	6

PURPOSE	To request that the Advisory Group endorse the amendments to the Terms of Reference of the Development Management Committee (Part E2 Page 1) and the Scheme of Delegation with regards the handling of Regulation 3 and Regulation 4 planning applications
----------------	--

RECOMMENDATION:
(1) That the Advisory Group endorses the amendment to the Terms of Reference of the Development Management Committee so that the meetings are convened in one location on a three weekly cycle.
(2) That the Advisory Group endorses the proposed changes to the Scheme of Delegation with regards the handling of Regulation 3 and 4 Planning Applications.

SUPPORTING INFORMATION

1. Since 1 April 2009, the Council's Development Management Committee has been meeting twice a month at two alternating venues, namely Chicksands and Dunstable. This practice accords with the recommendations set out in the report of the Constitutional and Governance Working Group (12 February 2009) and reflected in the Committee Terms of Reference within the Constitution (Part E2/Page 1).

2. Table 1 below sets out the number of applications considered by the Committee in the period since 1 April 2009 and the relevant split of applications prepared by the North and South Teams of the new Authority.

Table 1

<u>Meeting Date and Venue</u>	<u>North Applications</u>	<u>South Applications</u>
8 April, Chicksands	7	1
29 April, Dunstable	3	6
13 May, Chicksands	3	2
27 May, Dunstable	5	1
24 June, Chicksands	8	2
8 July, Dunstable	0	5

3. Due to the need to meet nationally set performance targets, the Committee meetings have consistently contained applications from both the North and South Teams. This has had the effect of both teams effectively preparing for a Committee every two weeks. This has placed an additional burden upon the administrative team who compile the agendas for the meetings and prepare the presentations for the Committee. In addition, Officers attending the Committee have been required to attend meetings every two weeks at alternative venues.
4. Whilst the majority of the Members of the Sustainable Communities Transitional Task Force had supported a proposal for the Committee to meet at one venue on a three weekly basis, the work undertaken by the Constitution and Governance Working Group recommended the twice monthly, alternating venues option which was endorsed by Full Council. A determining factor in adopting this option was recognition of the commitment given in the Unitary Bid document to be closer to our communities. However, some analysis of public speaking at the Development Management Committee has shown a willingness of interested parties to attend the venues. The table below sets this evidence out.

<u>Meeting Date and Venue</u>	<u>Total Speakers</u>	<u>North items</u>	<u>South items</u>
8 April, Chicksands	16	15	1
29 April, Dunstable	4	0	4
13 May, Chicksands	8	6	1 (+ 1 no show)
27 May, Dunstable	11	9	2
24 June, Chicksands	7	5	2
8 July, Dunstable	5	0	5

By moving to single venue every three weeks the balance between ensuring performance targets are achieved and reducing the administrative burden of preparing for a Committee every 2 weeks will be relieved. This should free up time to ensure that other performance monitored administrative functions such as registration of applications is improved.

5. The second area to which amendment is sought relates to Regulation 3&4 applications.

Regulation 3 applications are applications for planning permission by the Authority to develop any land of that Authority either solely or jointly with another party.

Regulation 4 applications are applications for planning permission to develop land of the Authority where they do not intend to develop the land themselves or jointly with any person.

6. At present the Constitution is unclear on these two types of application. Para 4.3.93 indicates an ability for Regulation 3 applications to be determined by Officers. However, this is contradicted by para 4.3.93.5 which sets out an exception for the purpose of delegation by including cases where the application is made for the Council's own development to be carried out jointly with another party or for development on the Council's own land.
7. It is requested that the scheme of delegation be amended for Regulation 3 applications to be delegated unless an objection is received to the proposed development and that Regulation 4 applications are specifically excluded from the delegations and are determined by the Committee.
8. Therefore, it is recommended that paragraph 4.3.93 remains as drafted but with an additional exception being created to exclude Regulation 3 applications where an objection has been received.
9. Paragraph 4.3.93.5 would then be amended to concern itself solely with Regulation 4 applications which would all be reported to, and determined by, Committee.

A suggested wording would be:

4.3.93.5 The application is made on land owned by the Authority for development which the Authority does not intend to develop either themselves or jointly with any person in accordance with Regulation 4 of the Town and Country Planning (General) Regulations 1992.

As both suggestions related to regulatory functions of the Council it will be necessary to seek the approval of the Development Management Committee.

Contact Officer Details:	Key Background Papers:
Andrew Davie, Head of Development Management (North)	None

This page is intentionally left blank

Item 4 Appendix B

Constitution Advisory Group: Consultation on Development Management Committee

Cllr	Comments
Doreen Gurney	Would have liked to have more information on the background behind the one venue, do you have this or will it be forthcoming as and when discussions take place.
Dr Rita Egan	I agree. I also think we should explore the possibility of video conferencing. This is not a complex technology and neither is it that expensive. (Cllr Egan was replying on what Cllr Bowater had sent below)
David Bowater	<p>As a member representing the most westerly ward in CB I feel this is a very retrograde step. We were elected to serve all of the residents of CB and to provide them with services with some level of equality. Development Management is the committee which deals with the public on a personal level more than any other. Public attendance at DM is higher than any other I have seen. For a resident of the ward I represent to attend a meeting at Priory House without their own motorised transport would require an expensive taxi journey as the bus journey is almost impossible.</p> <p>For this reason I cannot support this proposal. Some DM meetings must be held in Dunstable or facilities for a video link must be installed. Were this to be extended to Town Council offices I might be persuaded to change my mind.</p>
Christina Turner	After experiencing the last 6 meetings I feel that this is eminently sensible. I was on the Task Force when this matter was originally discussed and at that time was all for the twice monthly meetings. But having experienced the actual time and travelling involved I feel this new suggestion would be better by far.

Cllr	Comments
Anthony Brown	<p>This proposal is very close to that of the interim task force recommendation and I for one am completely in favour of its adoption.</p> <p>However I also understand the concerns of the councillors and residents in the location not chosen to be the single venue regardless of which it is. [Priory House or Dunstable]</p> <p>To over come this problem then it would not be to difficult to install a video conferencing link between the two centres which would eliminate the need for excessive travel. The cost of this link could easily be covered by the savings claimed by the report in officer time.</p>
Roy Johnstone	<p>Totally opposed to this. I am against centralising committee meetings at any one venue. I understand the Chairman of DM committee does not drive, is that a factor in this? As I cannot as yet open all attachments, where is the single venue, Dunstable or Chicksands? Can I have the reasoning in simple text please.</p>
Julian Murray	<p>I wonder whether the public should be considered, inasmuch as they should not have to travel too far to attend and speak at meetings concerning applications in their area.</p> <p>If the interval of three weeks is thought better than two weeks, then that is no different from what used to happen in South Beds. Yes, should the agreed alternation of sites be continued, as in my view it should together with meetings of all committees, the effect should be neutral as far as public participation is concerned.</p>
Alan Bastable	<p>I am quite happy that meetings are held every three weeks in the same venue.</p>
Dennis Gale	<p>I think it makes sense looking at the past figures so I am in favour of the 3 week cycle to be held at Chicksands.</p>

Cllr	Comments
Norman Costin	<p>Thank you for the thoughts of the CAG. Please could you give me some information that would be relevant, ie could you please advise me of the numbers who have been attending the DMC for each site since it was set up. I suggest that you break the numbers down between Councillors, Officers, Agents and the Public.</p> <p>Please also let me know the finishing times of each of those meetings.</p>
Tony Green	<p>I note with disappointment the decision reached by the committee, and would therefore propose that as the three largest towns in the Council's area are in the South of the County, the single location for the Development Control committee to meet should be at Dunstable.</p>
Rita Drinkwater	<p>My response to the constitutional advisory group for three weekly meetings in one venue is one of support.</p>
Carole Hegley	<p>My views on this committee are still consistent with those I gave prior to April this year in support of a single venue, having read the report I am still of the same opinion for a single venue and the proposed frequency.</p>

This page is intentionally left blank

Item 4 Appendix C

Development Management Committee – Information for Cllr Costin

8 April 2009

Members attending: 12 members of the Committee
10 others in attendance

Officers attending: 7

Agents attending: Unknown

Public attending: Not recorded (there were 7 public speakers)

Finishing time: 5.55p.m (start 2.00 pm)

29 April 2009

Members attending: 16 members of the Committee
4 others in attendance

Officers attending: 6

Agents attending: 1 known

Public attending: Not recorded (there were 4 public speakers including the
1 agent)

Finishing time: 4.05 pm (start 2.00 pm)

13 May 2009

Members attending: 13 members of the Committee
5 others in attendance

Officers attending: 7

Agents attending: Not recorded

Public attending: Not recorded (there were 6 public speakers)

Finishing time: 4.40 pm (start 12.30, adjourn at 1.30 until 2.00 pm)

27 May 2009

Members attending: 17 members of the Committee
5 others in attendance

Officers attending: 7

Agents attending: Not recorded

Public attending: Not recorded (there were 11 public speakers)

Finishing time: 5.25 pm (start 2.00 pm)

24 June 2009

Members attending: 17 members of the Committee
1 other in attendance

Officers attending: 7

Public attending: Not recorded (there were 5 public speakers)

Agents attending: Not recorded

Finishing time: 4.37 pm (start 2.00pm)

8 July 2009

Members attending: 16 members of the Committee
1 substitute

Officers attending: 5

Agents attending: Not recorded

Public attending: Not recorded. However the public gallery was full which indicates a total of 30 members of the public were present (there were 5 public speakers)

Finishing time: 3.10 pm (start 2.00 pm)

22 July 2009

Members attending: 17 members of the Committee
6 others in attendance

Officers attending: 6

Agents attending: Not recorded

Public attending: Not recorded. 6 public speakers

Finishing time: 4.15 pm (start 2.00pm)

Average length of meeting at Priory House: 3 hours 32 minutes

Average length of meeting at Dunstable Offices: 2 hours 13 minutes

Combined average length of meeting: 2 hours 55 minutes

This page is intentionally left blank

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



CONSTITUTION ADVISORY GROUP

DATE: 25 August 2009

TITLE	REVIEW OF CAPITAL PROGRAMME PROCESSES	ITEM NO.
REPORT OF	Director of Corporate Resources	5

PURPOSE	To review and suggest proposed amendments to the processes for approving the capital programme and capital projects outlined in the Constitution (Section I2 Code of Financial Governance).
----------------	---

ORIGIN OF PROPOSAL	The Leader of the Council, Portfolio holders for Corporate Resources and for Culture and Skills met with the Deputy Chief Executive/Director of Children, Families and Learning and Director of Corporate Resources to discuss problems which have arisen with regard to operation of the provisions within the Constitution relating to the Capital Programme. This report now invites the group to consider a variation of the procedures relating to the Capital Programme.
---------------------------	--

RECOMMENDATION:

That the Constitution Advisory Group consider this report and the suggested amendments to the Code of Financial Governance.

SUPPORTING INFORMATION

1. Introduction

- 1.1 Since the establishment of Central Bedfordshire as a new unitary authority, a number of problem areas have emerged regarding the processes for the incurring Capital Programme expenditure as set out in the Council's Constitution (primarily through the Code of Financial Governance) and the Capital Handbook. Although the Shadow Council approved a Capital Programme for 2009/10, problems in the operation of the scheme were to be expected given that there were not the officer or member structures in place critically to review and evaluate these processes in line with the new authority's emerging priorities.
- 1.2 Key problem areas that have emerged can be summarised as follows:-
- the nature of both the Constitution and Handbook processes which are more relevant for specific, higher-value, projects (rather than rolling programmes and low value schemes)
 - the potentially restrictive nature of the Constitution re: approvals, variances, and virements;
 - confusion and uncertainty regarding the application of processes to legacy authority schemes and the status of the CBC Capital Programme
- 1.3 This report is a discussion paper that suggests an approach towards addressing these issues in the Code of Financial Governance in the Constitution.
- For the avoidance of doubt, the Constitution provides full authority to the Code of Financial Governance and the Capital Handbook contains the necessary detail
- These suggested revisions should then form the policy background for revising Capital Handbook and implementing processes for approving the 2010/11 Capital Programme.
- 1.4 These suggested approaches are then reflected in suggested amendments on a track changes basis to the Code of Financial Governance, which is attached as Appendix A. Where this report suggests two alternative approaches to a particular issue, these are shown as alternative options. The relevant paragraphs of the Code relating to a particular issue are referred to in this report.
- 1.5 The 2009/10 Capital Programme itself was essentially a consolidation of schemes from the demised authorities, and needs to be the subject of a detailed review. This work is outside the scope of this report, but revisions to the Constitution should greatly assist the review and delivery of the programme.

2. Categorisation of Capital Projects / Schemes

- 2.1 At present, the Constitution and the Capital Handbook do not make any distinction between different types of capital project in terms of the approval processes required, although the Handbook does suggest that guidance be sought on the level of detail to be required for individual proposals.

There are indications that this lack of categorisation is creating confusion as to the level and type of documentation required at various stages of the approval process. Review of the current programme suggests that the Capital Programme can be broadly categorised into the three types outlined below. These categorisations can then be used as the basis for determining issues such as approval processes, documentation levels, variance levels, and virement limits. (4.9.4)

2.2 Rolling Programmes (4.9.8)

- 2.2.1 The Council has a number of significant rolling programmes in its Capital Programme, which tend to have the following characteristics:

- Year to year delivery of strategic objectives
- Relate to large service blocks
- May have significant element of government funding
- Largely concentrated on infrastructure and asset improvement and maintenance

- 2.2.2 Examples of rolling programmes include the following:

- Highways Structural Maintenance Allocations
- Affordable Housing Provision
- New Deal for Schools
- HRA Capital Programme

- 2.2.3 It should be noted that no suggested approach to categorisation can be completely definitive. In particular in respect of rolling programmes, an individual project in a rolling programme may be of such significance that it is appropriately regarded as a major scheme (see below) with the commensurate approval and documentation levels.

2.3 Larger Capital Schemes (4.9.9)

- 2.3.1 Review of the current programme has indicated that a major scheme can be broadly defined using a gross expenditure figure of £500k. Typically, these are one-off, named schemes, which entail a specific project outcome and individual procurement. Examples might include provision of a new leisure centre, a major office refurbishment, a major ICT implementation, etc. As noted above, some projects that would generally be regarded as part of a rolling programme could more appropriately fall into this category, such as provision of a new school or construction of a by-pass.

2.3.2 In addition, in practice some schemes under this value may have the characteristics of a large, significant scheme in terms of strategic importance to the Council, and the degree of project analysis and management required. Conversely, some high value projects may entail limited input from the Council, other than the provision of funding, e.g. providing affordable housing in partnership with a RSL. Categorisation by budget is a starting point, but a degree of judgement still needs to be exercised as to appropriate approval and management arrangements.

2.4 **Smaller Capital Schemes (4.9.10)**

2.4.1 Finally, this category would cover those specific smaller schemes under £500k which are not part of rolling programmes.

3. **Suggested Approval Process**

3.1 Appendix B, attached, outlines a suggested approval process for each category, and the level of project documentation to be produced. (4.9.5) The following paragraphs provide some more information on this suggested process. The attachments refer to the “Corporate Asset Management Group”, hereafter referred to as “CAMG”. CAMG is an officer group whose role, in summary, is to review and challenge schemes and provide advice to the Executive and Central Beds Management Team thereon.

3.2 All projects / rolling programmes would require an outline business case to be produced for consideration by CAMG, although this would not preclude the production of a detailed business case at an early stage if this was achievable and was subsequently required in the process. An Outline Business Case (OBC) would normally have best estimates of costs, timescales, deliverables etc.

(These differ from a Detailed Business Case (DBC) which would have fully validated costs, deliverables, and timescales. For example, for a building project the Outline Business Case may have estimates by officers based on previous similar projects, but the Detailed Business Case would have accurate estimates by a Quantity Surveyor or by obtaining quotes from suppliers).

Outline Business Cases are intended to be a first pass indication so that an initial decision can be made as to whether to proceed, with minimal cost incurred to get to that position. An OBC would normally be required in order for a scheme to appear in the Council’s Approved Capital Programme each year.

The Detailed Business Case requirement for a Rolling Programme is intended to cover that programme as a whole. (4.9.6)

- 3.3 Proposals will almost certainly exceed the level of financial resources available to the Council, so CAMG would need to advise on the priority of the OBCs to enable the Executive to consider an overall recommended programme.

This prioritisation needs to link to the annual policy planning and medium term financial planning cycles. The Council's projected revenue position outlined in the medium term financial strategy will determine the quantum of the Capital Programme that is affordable. The function of the Directorate review bodies such as the Learning Transformation Board in the Children's and Families Directorate is to review the project then challenge and improve on the Business Case (Detailed or Outline as the case may be). (4.9.7)

- 3.4 For larger schemes, it is recognised that some further costs may well need to be incurred to take a project up to Detailed Business Case stage. In these circumstances, it is proposed that Directors can authorise expenditure up to a level of 5% of the total scheme cost at this stage, on the understanding that these costs would fall on the revenue budget of the directorate if the scheme ultimately does not proceed for any reason. (4.9.9)
- 3.5 A number of other issues that need to be addressed in the Constitution and the Capital Handbook then flow from this outline approval process, as follows:
- Approval of new projects during the course of the year
 - Approval of variations in scheme costs
 - Virements

4. Approval of New Projects In Year

- 4.1 The approval process outlined above focuses on annual approval by Full Council of a Capital Programme, and this is intended to remain at the core of the process, linking as it does to the annual policy planning process, the Budget and Policy Framework, and the Medium Term Financial Strategy. However, there will always be circumstances in which there may be a need for the approval of new capital projects during the course of the year.

The Code of Financial Governance in the Constitution currently allows for this and Paragraph 4.9.3 states: "In year, the Executive may approve new schemes estimated to cost less than £300,000 that have not previously been included in the Capital Programme. New schemes estimated to cost more than £300,000 must be approved by Full Council. "

- 4.2 This approach may still be a valid one, utilising the proposed approval process and documentation. However, if it is retained it may be useful to revise these limits to £500,000, in line with the proposed scheme categorisation. (4.9.11 Option1)

4.3 A possible alternative approach might be for the Capital Programme approved by Full Council each year to include a Contingency Sum for new projects. This Contingency Sum would already be included within the assessment of affordability of the Capital Programme and could be allocated to new projects with the approval of the Executive. A possible figure for this sum could be, say, around 5% of the Capital Programme. This approach could mean that more account is taken of the overall affordability of the programme, and that fewer proposals need to be made to Full Council for approval. (4.9.11 Option 2).

5. Approval of Variations in Scheme Costs and Virements

5.1 The Code of Financial Governance appears quite onerous in respect of the approval of additional costs on capital schemes. At present, the Code requires variances between £25,000 and £100,000 to be approved by the Executive, with variances above £100,000 being approved by Council. There is no scheme of virement for the Capital Programme.

5.2 It is suggested that a scheme of virement could be introduced for the Capital Programme along similar lines to the revenue budget, with a virement limit being allocated to Directors and Portfolio Holders for virements within the capital schemes in their Portfolios. These approvals would be made in consultation with the Director of Corporate Resources and with the agreement of the relevant Portfolio Holder. (4.9.12)

5.3 The introduction of a virement scheme should reduce the need for approvals to increase the capital programme. However, it is suggested that these could be amended to enable Directors and Portfolio Holders to approve additions within an overall tolerance limit, possibly within a contingency sum on a similar basis to the approval of new projects to above. (4.9.13)

Contact Officer Details:
Clive Heaphy Matt Bowmer Brian Mew

Key Background Papers:
None

12 CODE OF FINANCIAL GOVERNANCE

1. Introduction

- 1.1 The Code of Financial Governance provides the strategic framework for managing the Council's financial affairs, and ensuring the efficient, effective, and economic use of resources. As a strategic document, the Code of Financial Governance is contained in the Council's constitution. The Code is given operational effect by the Council's Financial Procedures, which set out the detailed procedures and processes for the management of the Council's financial affairs. The Code and the Financial Procedures apply to every member and officer and to any person or organisation acting on the Council's behalf in undertaking council business.
- 1.2 The Code of Financial Governance is to be read in conjunction with other sections of the constitution, in particular:-
- the Budget and Policy Framework Procedure Rules
 - the Code of Procurement Governance and supplementary procedures
 - the Scheme of Delegation to Officers
- 1.3 The Code of Financial Governance shall only be suspended on the resolution of the Council, or as varied by any part of the Scheme of Delegation approved by the Council. The Director of Corporate Resources shall ensure that the Code and related documents are reviewed and updated as appropriate. The Constitution Advisory Group is charged with maintaining an overview of this Code and recommending any amendments required thereto to the Full Council.
- 1.4 A range of council policies and documents are referred to in this Code that give operational effect to its principles. It is a requirement of the Code that all members and officers comply with the following policies and documents referred to in the Code:-
- 1.4.1 Financial Procedures
 - 1.4.2 Capital Strategy
 - 1.4.3 Risk Management Policy Statement
 - 1.4.4 Anti Fraud and Corruption Policy
 - 1.4.5 Treasury Management Policy Statement
 - 1.4.6 Annual Treasury Management Strategy
 - 1.4.7 Prudential Borrowing Indicators
 - 1.4.8 IS/IT Strategy
 - 1.4.9 Asset Management Plan
 - 1.4.10 Financial Procedures for Schools

2. Objectives

- 2.1 The Council's objectives in the Code of Financial Governance are:-
 - 2.1.1 To provide a framework applicable to all members and officers for the efficient and proper administration of the Council's financial affairs;
 - 2.1.2 To ensure that all members and officers abide by the highest standards of probity and integrity, have clear standards to work to, and that controls are in place to monitor the meeting of those standards;
 - 2.1.3 To ensure that there is a clear statement of the responsibility of all members and officers to provide for the security of the Council's assets, including money; and
 - 2.1.4 To ensure that the use of resources is legal, properly authorised, and achieves value for money and best value.
- 2.2 In seeking to achieve value for money and best value, all members and officers shall give appropriate consideration to:-
 - 2.2.1 How each activity fits within the strategic corporate objectives and how outcomes can be maximised;
 - 2.2.2 How performance can be compared objectively and evaluated by the local community;
 - 2.2.3 Acquiring resources at an appropriate quality for the minimum cost;
 - 2.2.4 Ensuring that the maximum output is obtained from the resources devoted to an activity; and
 - 2.2.5 Ensuring that the output from any activity is achieving the desired result or target set.

3. Financial Management

- 3.1 Financial management covers all financial accountabilities in relation to the running of the Council. This section of the Code refers to the roles and responsibilities of bodies and officers within the Council in respect of Financial Governance and related governance areas.

- 3.2 **Council:** The Council is responsible for adopting and changing the Code of Financial Governance and for approving or adopting the policy framework and budget within which the Executive operates.
- 3.3 **Executive:** The Executive is responsible for directing the Council's affairs within the policy framework and budget. The Executive shall consider the draft budget and make recommendations to the Council, before the end of February, to enable a meeting of the Council to set the budget and the Council Tax by the statutory date.
- 3.4 **Overview and Scrutiny Committees and Task Groups:** The overview and scrutiny committees and task groups are responsible for scrutinising executive decisions before or after they have been implemented and for holding the Executive to account. The committees and task groups are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.
- 3.5 **Standards Committee:** The Standards Committee is appointed by the Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the Code.
- 3.6 **Audit Committee:** The Audit Committee acts, on behalf of council, to review best practice governance arrangements within the Council. Specifically the Audit Committee is responsible for matters in relation to internal audit, financial management controls, risk management and the external audit service.
- 3.7 **Constitution Advisory Group:** The Constitution Advisory Group is responsible for maintaining an overview of this Code and recommending the Council on any amendments required thereto.
- 3.8 **Head of Paid Service (Chief Executive):** The Head of Paid Service is the Chief Executive. He/she has responsibility for establishing a framework for management direction, style and standards, and for monitoring the overall performance of the organisation.

3.9 Monitoring Officer (Assistant Director Legal and Democratic Services):

3.9.1 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. He/she is also responsible for the reporting of any actual or potential breaches of the law or maladministration to the Council and/or executive, and for ensuring that procedures for recording and reporting Key Decisions are operating effectively.

3.9.2 The Monitoring Officer, in conjunction with the Chief Executive and Chief Finance Officer (Director of Corporate Resources) (see below)), has responsibility for advising executive on whether a decision is likely to be contrary to or not in accordance with the budget and policy framework.

3.10 Chief Finance Officer (Director of Corporate Resources):

3.10.1 This post, as defined in the Constitution, has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:-

Section 151 of the Local Government Act 1972
The Local Government Finance Act 1988
The Local Government and Housing Act 1989
The Accounts and Audit Regulations 2003.

3.10.2 The Chief Finance Officer shall, for the purposes of Section 151 of the Local Government Act 1972, be responsible for the proper administration of the Council's financial affairs and report to the Council, the Executive and the relevant Portfolio Holder on the discharge of this responsibility.

3.10.3 In addition the Chief Finance Officer is the responsible financial officer for the purposes of, Sections 26 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations 2006.

- 3.10.4 The Chief Finance Officer in consultation with the Assistant Director Audit, Risk and Health and Safety Management, will report identified breaches of the Code of Financial Governance or supporting Financial Procedures to the Audit Committee annually where such instances expose the Council to unacceptable risks or financial loss. Directors will be informed of all identified breaches within their service area.
- 3.10.5 Section 114 (c) of the Local Government Finance Act 1988 requires the designated Section 151 Officer to appoint a deputy to act in his/her absence for the purposes of this part of the statutory duty and to make similar arrangements for the purposes of the Accounts and Audit Regulations 2006.
- 3.10.6 The Chief Finance Officer is responsible for advising the Council, the Executive, the overview and scrutiny committees, regulatory committees and Corporate Management Team on all financial matters affecting the Council.
- 3.10.7 The Chief Finance Officer has a statutory responsibility for ensuring that adequate systems and procedures exist to account for all income due and expenditure disbursements made on behalf of the Council and that controls operate to protect the Council's assets from loss, waste, fraud or other impropriety. The Chief Finance Officer shall discharge that responsibility in part by the issue and maintenance of Financial Procedures with which all officers of the Council shall comply.
- 3.10.8 The Chief Finance Officer is the officer responsible for awarding and signing leases, other than property leases, on behalf of the Council. The Chief Finance Officer may delegate this to other specified officers.
- 3.10.9 The Chief Finance Officer shall ensure that Directors, Assistant Directors and Budget Holders receive appropriate support from relevant finance officers, even where a strategic partner provides such support.

3.11 Directors and Assistant Directors:

3.11.1 Directors are fully accountable to the Chief Executive and executive for the financial management of the activities of their Directorates. Directors may delegate aspects of their financial management responsibilities to their Assistant Directors in writing. The Chief Finance Officer must be advised on such delegation. In turn, Assistant Directors may delegate aspects of their financial management responsibilities to other senior managers. Records must be kept of such delegations.

3.11.2 Directors and Assistant Directors are individually responsible for the proper stewardship of all the resources allocated to them. However, it is noted that there is shared responsibility for some assets, which are managed centrally or in pooled/partnership arrangements.

3.11.3 Directors and Assistant Directors are responsible for providing the Chief Finance Officer with any information relating to the services under their control required to fulfill the duties of the Section 151 Officer.

3.11.4 Directors through their Assistant Directors are responsible for ensuring that officers under their control are aware of and comply with the Code of Financial Governance and supporting Financial Procedures and monitoring and reporting any non-compliance by either officers or partners.

3.12 Emergency Procedures: Nothing in this Code or the Financial Procedures shall prevent expenditure being incurred where an emergency or disaster involving destruction of, or danger to, life or property occurs or is imminent. Where in the opinion of the relevant Director, in consultation if possible with the relevant Portfolio Holder, Chief Executive and the Chief Finance Officer, the urgency of the situation will not permit delay, necessary expenditure may be incurred. Action under this paragraph shall be reported at the next available meeting of the Corporate Management Team, Executive, and Audit Committee.

4. Financial Planning and Control:

4.1 Financial planning enables the Council to deliver its priorities through the allocation of resources to services:-

- 4.1.1 The Revenue Budget is a statement of the annual income and expenditure requirements for all services and sets out the financial implications of the Council's policies. It provides Assistant Directors with authority to incur expenditure and a basis on which to monitor the financial performance of the Council.
- 4.1.2 Capital expenditure is an important element in the development and delivery of the Council's services, and maintenance and improvement of council assets.
- 4.2 **The Budget and Policy Framework:** The key elements of financial planning are the Strategic Plan and the Medium Term Financial Strategy, including the Capital Programme and the Revenue Budget.
- 4.3 **Medium Term Financial Strategy:** The Medium Term Financial Strategy is the key tool in ensuring that the Council's resources are used in accordance with its corporate priorities and decisions. The Chief Finance Officer will determine the format of the Medium Term Financial Strategy, subject to any overriding requirements of the Executive.
- 4.4 **Revenue Budget:** The first year of the Medium Term Financial Strategy is the detailed Annual Revenue Budget. The Revenue Budget provides a statement of the annual income and expenditure requirements for all services, and sets out the financial implications of the Council's policies. It provides the Executive, Directors and Assistant Directors with authority to incur expenditure, subject to rules relating to virement (see below). In addition it provides the basis on which to monitor the financial performance of services within the year. The Executive will recommend the Revenue Budget to Full Council for approval each year, following the overview and scrutiny process outlined in the Budget and Policy Framework Procedure Rules.
- 4.5 **Financial Control:**
 - 4.5.1 Throughout the year Directors, Assistant Directors, and Budget Managers shall monitor income and expenditure against budgets for which they are responsible, ensuring that expenditure and income are properly coded and that budget-timing profiles are accurate.

- 4.5.2 Directors, Assistant Directors, and Budget Managers are directly responsible for ensuring that spending and commitments do not exceed the latest approved budget. However, if expenditure in excess of the approved budget is incurred due to an emergency, this emergency expenditure must be reported to the Chief Finance Officer and the appropriate portfolio holder(s) and, if necessary, the Executive as soon as possible thereafter.
- 4.5.3 The Original Budget is used to set the Council Tax level. The approved, or revised, budget is the Original Budget plus any supplementary estimates or budgetary virements agreed in accordance with this Code of Financial Governance.
- 4.5.4 The Chief Finance Officer shall ensure that budget monitoring information is reported monthly to the Corporate Management Team and quarterly to the Executive and the overview and scrutiny committees.

4.6 Virements:

4.6.1 Virement is a transfer of budget provision either within or between budget headings. It is an important facility to assist in managing budgets effectively within a cash limit.

4.6.2 The Council scheme of virements is as follows:-

Category	Virement Levels	Approval Power
Within the same cost centre or between cost centres	Up to £100,000 cumulative (sum of individual virements)	Budget Managers in consultation with Assistant Director Finance
	£100,000 to £200,000 cumulative (sum of individual virements)	Directors in consultation with the Chief Finance Officer (Director of Corporate Resources) and with the agreement of the Portfolio holder(s)
	Over £200,000 cumulative (sum of individual virements)	Executive

Category	Virement Levels	Approval Power
Between portfolios	Up to £200,000 cumulative (sum of individual virements)	Directors in consultation with the Chief Finance Officer (Director of Corporate Resources) and with the agreement of the relevant Portfolio Holder(s)
	Over £200,000 cumulative (sum of individual virements)	Executive

4.6.2.1 The scheme will be administered by the Chief Finance Officer within the guidelines approved by Full Council.

4.6.2.2 Budgets may be adjusted to take account of new grants received during the year outside of the Virement Scheme subject to the reporting of any adjustment over £100,000 in the next Budget Monitoring report to the relevant overview and scrutiny committee.

4.6.2.3 Virement will only apply to direct expenditure and to a current year's revenue budget.

4.6.3 Recognising the special circumstances of 2009/10, for the period 1 April 2009 to 7 June 2009, special arrangements will apply for the correction of allocations in the Council's first revenue budget. During this period, revenue budget allocations can be transferred outside of the scheme of virement with the agreement of the Chief Finance Officer and the Portfolio holder.

4.7 **Supplementary Estimates:**

4.7.1 Budgets are cash limited. If an overspend cannot be met from existing budgets, or virement, or new spending proposals are identified for which financial provision has not been made, supplementary estimates should be treated as a last resort. These will be approved in emergencies only, and where Directors have demonstrated that all other funding options, e.g. virement, have been exhausted. Supplementary estimates should not be requested for in-year increases in expenditure, but should only relate to increases where the increase is estimated to be for more than one year.

- 4.7.2 Any Director proposing a supplementary estimate must prepare a report for the Executive, including a financial appraisal prepared jointly by the Director (or Assistant Directors) and the Chief Finance Officer. If the Executive approves the proposal it must seek approval of the Full Council to proceed in accordance with the Budget and Policy Framework Procedure Rules.
- 4.7.3 No supplementary estimates will be approved for expenditure below £200,000.
- 4.8 **Transfer of Budget between Financial Years:** Revenue budget provision not utilised by the end of the financial year will not normally be transferred to the following year, except in exceptional circumstances. In this situation, a report for the Executive requesting the transfer shall be prepared jointly by the Director (or Assistant Director) and the Chief Finance Officer.
- 4.9 **Capital Programme:**
 - 4.9.1 Investment in capital assets shapes future service delivery and creates future financial commitments. The Capital Programme is a three-year programme of estimated capital expenditure and associated funding. The Full Council will approve a Capital Programme each year, recognising that approving initial estimates is the first stage in the process of progressing a proposed scheme to implementation. Estimates produced at this stage will be liable to change.
 - 4.9.2 The Executive will receive budgetary proposals for inclusion in the Council's Capital Programme and will submit a proposed programme to the Full Council for approval. The programme will include all capital schemes including those proposed to be financed from revenue resources or external funding sources.

- 4.9.3 The Executive will be advised by the Corporate Asset Management Group (CAMG) when considering the Capital Programme for approval. CAMG is an officer advisory group charged with the management of all capital asset interests and ensuring that capital investment and asset management optimise available resources, deliver value for money, support and sustain excellent service delivery and contribute fully to the Council's strategic aims and corporate priorities. CAMG develops and oversees the implementation of the Capital Strategy and the Medium Term Capital Programme. The group oversees capital expenditure to ensure capital spending is managed within the resources available. CAMG reports to the Executive, through the Portfolio holder for Corporate Resources, and to the Corporate Management Team. Formal reporting to the Executive is supplemented by regular briefings with the Portfolio holder.
- 4.9.4 The Capital Programme will be categorised into three categories – Rolling Programmes; Larger Capital Schemes (over £500,000 Gross Expenditure); and Smaller Capital Schemes (under £500,000 Gross Expenditure).
- 4.9.5 The project and programme approval process for each category is outlined in paragraphs 4.9.8 to 4.9.10 below, and is summarised diagrammatically in Figure 1.
- 4.9.6 All projects / rolling programmes require an Outline Business Case to be produced for consideration by CAMG, as a minimum. An Outline Business Case will normally have best estimates of costs, timescales, and deliverables. A Detailed Business Case will have fully validated costs, timescales, and deliverables.
- 4.9.7 CAMG will advise on Outline Business Cases in the light of available financial resources and Council priorities to enable the Executive to consider an overall recommended programme. The function of the Directorate review bodies such as the Learning Transformation Board in the Children's and Families Directorate is to review the project then challenge and improve on the Business Case (Detailed or Outline as the case may be).

4.9.8 Rolling Programmes

Rolling programmes in the Council's Capital Programme tend to have the following characteristics:

- Year to year delivery of strategic objectives
- Relate to large service blocks
- May have significant element of government funding
- Largely concentrated on infrastructure and asset improvement and maintenance

After a Rolling Programme has been approved by the Council for inclusion in the Capital Programme, a single Detailed Business Case will be produced for the whole programme before it proceeds. This Detailed Business Case will be approved by the Chief Finance Officer; the Portfolio Holder (Corporate Resources); the relevant Director; and the relevant Portfolio Holder.

4.9.9 Larger Capital Schemes (over £500,000 Gross Expenditure)

After a Larger Capital Scheme has been approved by the Council for inclusion in the Capital Programme, a Detailed Business Case will be produced for the scheme, and approval will be obtained from the Executive before it proceeds.

For Larger Capital Schemes, some further costs may need to be incurred to take a project up to Detailed Business Case stage. Directors can authorise expenditure up to a level of 5% of the total scheme cost at this stage to enable a Detailed Business Case to be produced. These costs will fall on the revenue budget of the directorate if the scheme ultimately does not proceed for any reason.

4.9.10 Smaller Capital Schemes (under £500,000 Gross Expenditure)

After a Smaller Capital Scheme has been approved by the Council for inclusion in the Capital Programme, the scheme can proceed with the approval of the Chief Finance Officer; the Portfolio Holder (Corporate Resources); the relevant Director; and the relevant Portfolio Holder.

4.9.11 In year, the Executive may approve new Rolling Programmes and Smaller Capital Schemes estimated to cost less than £500,000 that have not previously been included in the Capital Programme, subject to the production of Outline and Detailed Business Cases as required by paragraphs 4.9.8 and 4.9.10. New Larger Capital Schemes estimated to cost more than £500,000 must be approved by Full Council. **(Option 1)**

4.9.11 Each year, the Capital Programme will include a Contingency Sum in respect of new capital schemes and rolling programmes to cover all categories. In year, the Executive may approve new Rolling Programmes and Capital Schemes that have not previously been included in the Capital Programme, up to a cumulative value equal to this Contingency Sum, subject to the production of Outline and Detailed Business Cases as required by paragraphs 4.9.8 to 4.9.10. Over the value of the Contingency Sum, all new schemes will require approval by Full Council. **(Option 2)**

4.9.12 Capital Programme Virements

In consultation with the Chief Finance Officer, relevant Directors and relevant Portfolio Holders are jointly permitted to approve virements between schemes up to a cumulative value of 10% of the Gross Expenditure of the Capital Programme for that Portfolio. Virements over this cumulative value or between Portfolios will require the approval of the Executive.

4.9.13 Capital Programme Variations

Each year, the Capital Programme will include a Contingency Sum in respect of potential increased expenditure that cannot be met by way of virement. Cumulative increases in scheme costs up to the level of this Contingency Sum can be approved by the Chief Finance Officer; the Portfolio Holder (Corporate Resources); the relevant Director; and the relevant Portfolio Holder. Over the value of the Contingency Sum, all increases in scheme costs will require approval by Full Council.

- 4.9.14 The Chief Finance Officer will report to the Executive on the monitoring of the approved Capital Programme, including: expenditure and income to date; projected expenditure and income; approved virements; and approved variations.

4.10 Maintenance of Reserves:

4.10.1 The Council must determine the level of general reserves it wishes to maintain when setting the Council Tax. Reserves must be sufficient to meet unexpected events and protect the Council from over spends should they occur. Earmarked reserves may also be established for specific purposes.

4.10.2 The Chief Finance Officer will advise the Council on the levels of reserves that it is prudent to maintain, and will account for the Council’s reserves in accordance with relevant Codes of Practice, ensuring the purpose and usage of reserves is clearly identified.

5. Risk Management and Control of Resources:

5.1 It is fundamental that robust, integrated systems are in place and maintained for the identification and evaluation of all significant operational risks to the authority. This is a responsibility of every officer and every service. Advice is available from the Assistant Director Audit, Risk, and Health and Safety Management on these matters.

5.2 Risk Management:

- 5.2.1 The Audit Committee is responsible for reviewing the effectiveness of the Council's risk management arrangements, including the approval of the Council's Risk Management Policy Statement.
- 5.2.2 The Audit Committee, in conjunction with the Executive, is responsible for promoting a culture of risk awareness throughout the Council.
- 5.2.3 The Corporate Management Team is responsible for preparing the Council's Risk Management Policy Statement, promoting it to officers.
- 5.2.4 Directors will ensure that procedures are in place to identify, assess, and prevent or contain material known risks and that suitable financial provision is made for remaining risks, for example bad debts.
- 5.2.5 Directors must ensure that insurance covers are regularly reviewed for their adequacy and that any new risks are covered. Directors will notify the Chief Finance Officer immediately of any loss, liability or damage likely to lead to a claim against the Council.
- 5.2.6 The Chief Finance Officer will ensure that corporate insurance cover and insurance cover required by Directors is carried out, either by external cover or by self-insurance, and will negotiate all claims.
- 5.2.7 Directors will prepare and maintain Business Continuity Plans and Disaster Recovery Plans to deal with system failures or other disastrous events.

5.3 Internal Control:

- 5.3.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- 5.3.2 At least once a year the effectiveness of the systems of internal control shall be reviewed and reported to the Audit Committee, who shall review and approve the Statement of Internal Control separately from the Statement of Accounts.

- 5.3.3 The Chief Finance Officer shall ensure that procedure notes/manuals are maintained in respect of the Council's key financial systems.
- 5.3.4 Assistant Directors and Heads of Service shall establish effective control arrangements in order to deliver service objectives and value for money. Typically these would include:-
 - 5.3.4.1 Separation of duties
 - 5.3.4.2 Schemes of delegation
 - 5.3.4.3 Retention of records
 - 5.3.4.4 Security arrangements
 - 5.3.4.5 Risk management information and where appropriate Business Continuity Plans

5.4 Internal Audit:

- 5.4.1 The Chief Finance Officer shall maintain an adequate and effective Internal Audit Service in accordance with the Accounts and Audit Regulations 2006. The Assistant Director Audit, Risk and Health and Safety Management shall arrange for the examination, review and appraisal of:-
 - 5.4.1.1 The soundness, adequacy and application of internal controls;
 - 5.4.1.2 The safeguards for council assets and interests from losses of all kinds arising from theft, fraud, waste, extravagance, inefficient management, poor value for money or any other cause;
 - 5.4.1.3 The suitability and reliability of financial and other management data; and
 - 5.4.1.4 Compliance with rules, legislation, policy and procedures.
- 5.4.2 The Audit Committee will conduct an annual review of the effectiveness of the system of internal audit.
- 5.4.3 The Assistant Director Audit, Risk and Health and Safety Management and all Internal Audit officers have authority to:-

- 5.4.4.1 Enter at any time council premises or land subject to any statutory or contractual restrictions that may apply, e.g. health and safety;
 - 5.4.4.2 Have access to all records, documents, correspondence, information and data relating to all areas of the Council's business and to remove any such records as is necessary for the purposes of their work (including that of the Council's agents and contractors);
 - 5.4.4.3 Require and receive such explanations as are necessary concerning any matter under examination; and
 - 5.4.4.4 Require any member, officer or agent of the council to produce cash, stores or any other Council property under their control.
- 5.4.4 The Assistant Director Audit, Risk and Health and Safety Management shall have unobstructed direct access and the right of report to the Chief Executive, Directors, Assistant Directors, the Monitoring Officer, the Audit Commission, the Executive, the Leader, the Executive member with responsibility for Audit and the Chair of the Audit Committee.

5.5 Preventing Fraud and Corruption:

- 5.5.1 All Council officers, members, agents, contractors and strategic partners have responsibilities to protect the funds they administer on behalf of the Council. Council resources must be administered to the benefit of the taxpayer and not the inappropriate personal benefit of any of the above.
- 5.5.2 The Chief Finance Officer will develop and maintain an Anti Fraud and Corruption Policy.
- 5.5.3 Officers, councillors, agents or contractors of the Council have a responsibility to bring any suspected fraud, corruption or irregularity to the attention of the Assistant Director Audit, Risk and Health and Safety Management, the Chief Finance Officer or any Director.

5.5.4 Directors will notify the Chief Executive, the Monitoring Officer, the Chief Finance Officer, the Leader, and the Portfolio holder immediately, and before any further investigation, of any suspected fraud, theft, irregularity, improper use or misappropriation of council property or resources. Any suspected fraud, bribery, corruption or loss will be investigated in accordance with the Council's Anti Fraud and Anti Corruption Policy.

5.6 Treasury Management:

5.6.1 The Full Council will approve a Treasury Management Policy Statement on a periodic basis. This policy will be reviewed every three years or whenever legislative, regulatory or best practice changes materially affect the effectiveness of the current policy. The Council will approve on an annual basis an Annual Treasury Management Strategy and Prudential Borrowing Indicators.

5.6.2 The Chief Finance Officer is responsible for presenting, implementing and monitoring the approved policy, in compliance with relevant Codes of Practice.

5.6.3 The Chief Finance Officer is responsible for reporting to the Executive at least annually on the activities of treasury management and the exercise of his/her delegated executive powers.

5.6.4 The Chief Finance Officer is responsible for authorising and operating the Council's banking arrangements. All Directors will comply with the detailed rules set for the banking of income and operation of bank accounts.

5.7 Asset Management:

- 5.7.1 The Chief Finance Officer will produce a five-year Asset Management Plan for the purpose of the overall strategic management of the Council's assets.
- 5.7.2 The Chief Finance Officer will ensure that procedures are put in place for the safeguarding and security of the Council's assets, including the keeping of asset registers; a terrier of land and property; inventories of furniture, fittings and equipment; and stores records.
- 5.7.3 The Chief Finance Officer will ensure that detailed arrangements are put in place for the disposal of assets. All sales or purchases of land and buildings will be undertaken in accordance with the scheme of delegations. Full Council, in accordance with the Budget and Policy Framework Procedure Rules, must approve any purchases of land and buildings outside of the Budget and Policy Framework.

6. Systems and Procedures:

- 6.1 Sound systems and procedures are essential to an effective framework of accountability and control.
- 6.2 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and supporting financial records.
- 6.3 Directors are responsible for the proper operation of financial processes in their departments, implementing the detailed Financial Procedures.
- 6.4 Changes to departmental financial procedures and the introduction of new Financial Procedures must not proceed without the approval of the Chief Finance Officer.
- 6.5 The Chief Finance Officer must approve the development, acquisition and implementation of all IT systems. All such activities must conform to the Council's IS/IT Strategy, Standards and Procedures.

7. External Arrangements:

- 7.1 Local authorities provide an important leadership role for the community and bring together the contributions of the various stakeholders. They must also act to promote and improve the economic, social and environmental well being of their respective areas.
- 7.2 **Significant Partnerships:**

- 7.2.1 A significant partnership is one that is material in terms of the amount of money involved and/or the level or nature of service delivery concerned.
- 7.2.3 The Council's strategy and governance arrangements for partnerships are set out in Part J of the constitution.
- 7.2.4 Where the Council is the lead authority for a partnership the Council's Financial Code of Governance, Financial Procedures, and Code of Procurement Governance will apply to carrying out of the business of that partnership.
- 7.2.5 The Chief Finance Officer must ensure that the accounting arrangements for partnerships and joint ventures are satisfactory, that the governance and legal issues have been satisfactorily addressed, and that the risks have been fully appraised.
- 7.2.6 The Chief Finance Officer should ensure that the Partnership Agreement contains details of how resources will be pooled and what controls will be operated in respect of partnership spending to avoid waste. Directors will ensure that the Chief Finance Officer has access to the accounts and records and the right to seek explanations in order to monitor deployment of the Council's funding.
- 7.2.7 Directors will ensure that:-
 - 7.2.7.1 All necessary approvals have been secured before concluding any negotiations with external parties;
 - 7.2.7.2 A register is maintained of all contracts entered into with external parties; and
 - 7.2.7.3 Any agreement will not adversely affect any services provided by the Council.

7.3 External Funding:

- 7.3.1 All members and officers involved in setting up and working for partnerships must comply with the Partnerships Protocol included in Part J of the constitution.
- 7.3.2 The Chief Finance Officer will ensure that the Council's budgets contain sufficient provision for its match funding obligations and that all external funding due to the Council is received and properly recorded.

7.3.3 Directors will ensure that conditions attached to external funding are properly complied with, that such conditions have been agreed by the Corporate Management Team or Executive as appropriate, and that claims are processed by the due date. Directors will ensure that any match funding is in place before committing the Council to any long-term agreement.

7.4 Interests in Companies:

7.4.1 Prior to the Council, or any officer on behalf of the Council, taking an interest (e.g. membership, share holding or directorship) in a company, advice should be sought from the Monitoring Officer and the Chief Finance Officer.

7.4.2 Any clauses required by the Monitoring Officer and/or the Chief Finance Officer to safeguard the Council's position must be included in the company's Memorandum and Articles of Association.

7.4.3 Members must declare any interests (e.g. membership, share holding or directorship) in a company on their Declaration of Interests form.

7.5 Voluntary Funds and Trustees:

7.5.1 A voluntary fund is any fund, which, although not officially owned by the Council, is controlled or administered solely, or in part, by an officer by reason of his/her employment by the Council.

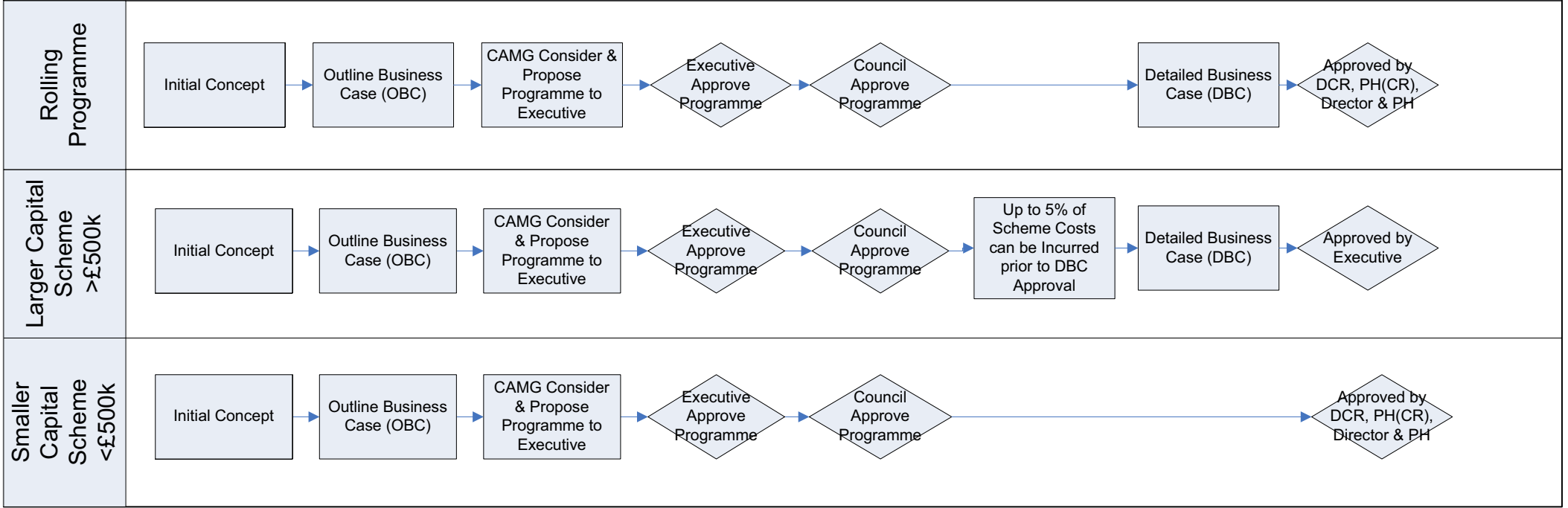
7.5.2 Council officers or partners must not administer voluntary funds, either solely or in part in the course of their duties, unless they have been authorised to do so by a Director, and satisfactory and effective systems of control are in place for management of the fund.

7.5.3 The Chief Finance Officer will have full access to the records of the fund and will be entitled to carry out such checks as considered appropriate.

7.6 Schools: The Code of Financial Governance applies to schools within Central Bedfordshire and schools should conduct their financial affairs in accordance with the Financial Procedures for Schools published separately.

This page is intentionally left blank

Capital Project and Capital Programme Approval



This page is intentionally left blank

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



CONSTITUTION ADVISORY GROUP

DATE: 25 AUGUST 2009

TITLE	TOWN CENTRE MANAGEMENT COMMITTEES - CHAIRMANSHIP	ITEM NO.
REPORT OF	Head of Democratic Services	6

PURPOSE	To clarify the provision at Part J2, page 6, paragraph 9.2 of the constitution regarding chairmanship of the joint committee
----------------	--

RECOMMENDATIONS:

- (1) That the wording of Part J2, paragraph 2 be amended to read “A councillor appointed by Central Bedfordshire Council will take on the role of Chairman and a councillor appointed by the Town Council will take on the role of Vice-Chairman”.
- (2) That parallel amendments be made to clarify the wording of the provisions relating to the chairmanship of both the Dunstable Town Centre Management Committee (Part J2, paragraph 9.2) and the Houghton Regis Town Centre Management Committees (Part J2, paragraph 6.3).

SUPPORTING INFORMATION

1. At a recent meeting of the Leighton-Linslade Town Centre Management Committee a point of contention arose among members over the correct interpretation of Part J2, paragraph 9.2 of the constitution which sets out the Joint Committee’s terms of reference and states:

“A Central Bedfordshire Councillor will take on the role of Chairman and a Town Councillor will take on the role of Vice-Chairman”.

2. This reflected similar provisions which applied previously at South Bedfordshire District Council.
3. Leighton-Linslade Town Centre Management Committee comprises 5 councillors appointed by Central Bedfordshire Council and 5 councillors appointed by Leighton-Linslade Town Council. The 5 Central Bedfordshire members were appointed at the Council’s annual meeting on 18 June 2009.
4. The point of contention at the recent meeting was whether a member who had been appointed by the Town Council, but was also a Central Bedfordshire councillor, was permitted to take the role of Chairman. Officers had been asked prior to the meeting for their interpretation of paragraph 9.2 and advised that, in their view, the intention was that only one of the five councillors appointed to the Joint Committee by Central Bedfordshire Council could take the role of Chairman. That advice was however contested at the meeting.
5. Since the constitution is not explicit on this point, we would ask the Constitution Advisory Group (a) to confirm whether this was indeed their intention; and if so (b) to recommend a minor amendment to the wording of paragraph 9.2 to put the issue beyond doubt.
6. This issue has not been raised by either the Dunstable or the Houghton Regis Town Centre Management Committee but, for consistency, the Advisory Group may wish to apply the same minor amendment to the terms of reference of those two joint committees as well.

Contact Officer Details:	Key Background Papers:
Rob Mills Tel: 0300 300 5274 E-mail: rob.mills@centralbedfordshire.gov.uk	Constitution

**Appointments to Outside Bodies:
The Councillors' Roles – General Guidance & Potential
Pitfalls and Conflicts**

As a Central Bedfordshire Councillor you may be nominated by the Council to sit on various types of outside bodies.

You need to be aware that this does not necessarily mean that you will be representing the Council's interests on that outside body. Indeed there are a number of cases, for example, if you are a trustee or a company director, where you must always act in the interests of the outside body and not in the Council's interests.

This can lead to conflicts of interests between your role as a Councillor and your representative role on the outside body.

How are appointments made?

You can only be appointed to an outside body as a Councillor if this is done in accordance with the Council's Constitution. Part B6 (page3) Local Choice Functions, paragraph 18 of the Constitution requires that initial appointments to outside bodies after a new Council is elected are to be made by the full Council. Thereafter the Assistant Director Legal and Democratic is authorised, in consultation with Group Leaders, to make new appointments, fill vacancies, approve variations to existing appointments and delete organisations from the approved list.

You must ensure that your appointment has been made in accordance with the Constitution and should not purport to act as a Council representative on an outside body unless a formal appointment has been made. This guidance does not cover any situation where a Member chooses to sit on an outside body in their own private capacity (i.e. not as a Councillor).

Set out below are a number of matters that you should take into account if you act as a Council representative on one or more outside bodies.

General Advice and Guidance to Members Appointed to Outside Bodies

- Ensure that you know the legal status of the organisation – read the constitution, rules, trust deed or Memorandum and Articles of Association, etc. - and understand your responsibilities;

Note: the main types of body to which you may be appointed may be:

- a statutory body – undertaking specific duties conferred by law;
 - a registered company – usually a non-profit company limited by guarantee; rarely a company limited by shares (profit making);
 - a registered charity or industrial and provident society providing a voluntary/community service;
 - a grant-making trust (normally a registered charity) disbursing endowed funds;
 - an unincorporated association – often local community groups that are neither companies nor charities, and have no separate identity from their individual members;
 - a consultative or advisory body – which may be a joint forum of local authorities or a partnership arrangement with other public/private/third sector bodies (national, regional or local);
 - a discussion/liaison group with no responsibilities of its own.
- Ensure that if you are represented on the Board of a Company the relevant form 288 is filed upon your appointment and resignation;
 - Make any general declarations of interest at the first board meeting;
 - Ask if there is any insurance or indemnity in place;
 - Clarify whether the organisation will pay allowances or expenses;
 - Ensure the board or management committee, has regular financial and other reports which detail the current financial situation of the organisation and any liabilities – take an interest in the business plan;
 - Ensure the organisation has sound financial practices and procedures;
 - Exercise independent judgement in making decisions;
 - Act with integrity;

- Discuss any new activities with relevant Council officers (you may need to provide them with copy papers) and ensure that risks are properly identified in reports (consistent with local authority decision making – ensure that all relevant information is presented);
- Ask questions and make reasonable enquiries – remember that each enquiry has a cost to the organisation to answer;
- Observe duties of confidentiality (in both directions);
- Carefully consider any conflicts of interest, declare interests, and if appropriate, leave the room for consideration of the business;
- Question responsibility and accountability;
- Take advice from the Monitoring Officer, the Chief Finance Officer and your lead officer contact as appropriate – not just when the organisation is likely to become insolvent, but generally. Occasionally, that advice may be to seek external advice on your position, especially if there is a conflict between the organisation and the Council;
- Manage conflict – usually issues can be balanced, but ensure that when in meetings of the body you act in the body's best interests which may not necessarily be those of the Council – if all else fails, resign. Do not just remain a director and fail to attend meetings or you may find that you are in breach of your duty to act in the best interests of that organisation;
- Finally, question the need for future Council involvement! Does it link in some way with the Council's strategic objectives? Does continued Member representation bring clear benefits for either the Council or the local community? Has the organisation changed direction from when the Council first became involved – what useful purpose would ongoing representation serve?

General Duties of a Representative on an Outside Body

As a representative on the Management Committee or on the board of an independently constituted outside body, you must act in the interests of that body and exercise independent judgement in making decisions, in accordance with your duty of care to the body. You are not there just to vote in accordance with the Council's wishes. You may have regard to the interests of the Council, but this should not be the overriding consideration. In some cases voting in the Council's interests could be a breach of a Director's duty to a company.

(The only exceptions will be certain consultative/advisory bodies such as EERA, the LGA or the LSP, where the representative will normally be expected to act in the Council's interests; each case will need to be considered on its merits).

The overriding responsibility is to seek to avoid the situation where duty and interest conflict. Therefore if you are unsure about declaring an interest, it would be wise to declare and leave the meeting during consideration of the business.

Particular duties and responsibilities of Directors and Trustees

If you are appointed as a company director then you must act in the best interests of the company. The main duties of a director are:-

- To act honestly and in good faith and in the best interests of the company as a whole;
- A fiduciary duty of the company, not to make a personal profit and to take proper care of the assets;
- To attend board meetings and follow the rules on the declaration of interests;
- To exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience) and involves due diligence in the performance of his/her duties as a director. In the case of adult safeguarding or children's safeguarding, take advice from the relevant Director. Just as with Council business you should not become involved in the detail of individual cases or staff below Executive level;
- To comply with statutory obligations imposed by the Companies Acts, other legislation and any procedural rules set out in the Constitution; and
- You should not commit Council resources unless you are sure that Officers can make them available.

If you are appointed as a trustee of a registered charity then the duties of trustees are generally the same as for a director but in addition you must make sure the trust acts in accordance with the aims and objectives of the trust and you should make sure that you have a clear understanding of what these are (there is normally a trust deed which set these out).

Declarations of interest and duties of confidentiality – the Members' Code of Conduct

When outside bodies consider issues related to the Council or where you may have a personal interest in relation to the body's activities, these need to be declared in line with the rules of the outside body and the Members' Code of Conduct. The specific rules adopted by each body will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.

If you are appointed to the Management Committee or board of outside bodies you must declare this interest in meetings of the Council which consider issues related to that body. You will also need to ensure those duties are included on the Register of Interests kept by the Monitoring Officer.

Confidential information must be treated with care and if you have any doubt over the status of any information then you should keep that confidential and check with the relevant officer, whether or not it is something which is already in the public domain or which may be disclosed. Always seek clarification from the outside bodies whether you are permitted to release particular details of decisions of that body if you intend to discuss matters with the Council.

The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it. Deliberate leaking of confidential information will also be a breach of the Members' Code of Conduct.

Where you act as a representative of the Council on an outside body, you must comply with the Council's Code of Conduct, unless that body is another relevant authority which has its own Code; or unless observance of the Code would conflict with any other obligations (e.g. the duty to act in the best interests of the outside body).

Under the Council's Code you must not:-

- Disclose information given to you in confidence by anyone; or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it, or unless you are required by law to do so;
- Prevent another person from gaining access to information to which that person is entitled by law.

Disclosing confidential information may also contravene other parts of the Code, e.g. it may be regarded as bringing the Member or the Council into disrepute; may compromise the impartiality of people who work for the Council; may improperly confer or secure an advantage or disadvantage for the Member or any other person; and in some cases knowledge may give someone a personal interest.

Managing conflicts of interest

In general terms the purposes of the body and what it wants to do often coincide with the Council's interest and so conflicts may be rare. However, there may be difficulty in some circumstances, for example, if the body is not complying with the terms and conditions of a funding agreement between the Council and the body; or the organisation wishes to appeal against a planning decision made by the Council; or where the organisation has wider objects than the reason behind the Council's appointment and wishes to pursue activities which would conflict with Council policy.

You will need to manage the conflicts that will arise appropriately and in certain circumstances may feel that your only option is to resign from the company or body. Similarly, if the Council does not feel that a representative on an outside body is properly fulfilling their role and responsibilities, e.g. the person is not attending meetings or is voting in ways which may be inappropriate, then the Council could choose to change its representation on the outside body. Clearly there is a greater scope for conflicts to arise where you hold an office in the outside body, e.g. Chair, Vice-Chair, Secretary or Treasurer, than if you are a general member.

Reporting back to the Council

Many local authorities require that anyone who is appointed to an outside body provides information and reports periodically to the Council on what the organisation is doing. Central Bedfordshire Council has not adopted any policy on this matter, but you should ensure that the outside body provides you with sufficient information to enable you to make this report back if requested. However, you are not required to disclose anything which is commercially confidential to the outside body as this may be in breach of:-

- the Members' Code of Conduct;
- your duties of confidentiality to the outside body (whether as director, trustee or more generally); or
- confidence in the general sense.

Members' Allowances

The Council's Members' Allowances Scheme defines attendance at meetings of all outside bodies where the Member is attending as the Council's duly authorised representative (whether appointed for a fixed term or authorised on an ad hoc basis) as an approved duty for the purposes of travelling and subsistence allowances, subject to no such allowances being claimed by the Member from the outside body concerned. If the body does pay such expenses, you may not claim from the Council. For further information on allowances contact the Senior Members' Support Development Officer.