

FOLKESTONE AND HYTHE DISTRICT COUNCIL CONSTITUTION

PART 8 – OFFICERS RULES AND PROCEDURES INCLUDING DELEGATION TO OFFICERS

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PART 8.1 – DELEGATION TO OFFICERS

SCHEME OF DELEGATION TO OFFICERS

1. SCHEME OF DELEGATION TO OFFICERS

NOTE: This scheme of delegation does not include functions or powers delegated by the Council, Cabinet or regulatory committees to officers for a specified period not exceeding six months. The delegations to officers are made with the intent that they lead to a streamlining and simplification of the processes of the Council and accordingly should be interpreted widely rather than narrowly. In addition, under paragraph 1.4 below officers may authorise other officers to exercise their delegated powers and it is the intention for this scheme that powers are exercised at the most appropriate level.

- 1.1** Exercise of delegated powers: chief officers (as defined in Article 11 in Part 2 of the Constitution, namely the Head of Paid Service), the Director of Corporate Services, the Director of Place, the Director of Housing and Operations, the Director of Transition and Transformation and the Director of Development – the Second Tier Officers namely the Assistant Director of Governance and Law, the Assistant Director of Housing the Chief Human Resources Officer, the Chief Economic Development Officer, the Chief Planning Officer and the Chief Strategic Developments Officer (all collectively referred to in this scheme of delegation as “the Senior Officers”) can discharge all functions where they have managerial or professional authority except for matters specifically reserved to the Cabinet, a cabinet member, cabinet committees (if any), committees or the Council.
- 1.2** They will not take decisions that are expressly reserved to another decision-making body under this Constitution however chief officers, (or in the absence of all chief officers either the Monitoring Officer or Deputy Chief Finance Officer):
- May make key decisions, as defined in Article 12 of the Constitution, if it is impractical for the Cabinet to do so because of the urgent nature of the decision to be made; and
 - May take decisions that are reserved to Council or Cabinet under this Constitution in an emergency and if it is lawful for them to do so.
- 1.3** They may use whatever means they consider appropriate within budget and in accordance with financial regulations to discharge those functions, including:
- Incurring expenditure and collecting income;
 - Engaging and deploying staff;
 - Deploying other resources within their control; and
 - Placing contracts and procuring other resources within or outside the Council.

In doing so, they must act within the law and the Council's Constitution and follow Council policy and the lawful instructions of Council committees and the Cabinet. If, exceptionally, they need to depart from Council policy or those instructions, they must report to the relevant body as soon as possible.

- 1.4 They may authorise other officers to exercise delegated powers on their behalf. They may also authorise appropriately experienced officers whose services are placed at the disposal of the Council pursuant to section 113 of the Local Government Act 1972 to exercise any powers or functions delegated to them or to specified officers.
- 1.5 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.
- 1.6 Significant decisions taken by Officers will be published and recorded in accordance with the Access to Information Procedure Rules. There will be no requirement to keep a written record of operational decisions within the budget and policy framework.
- 1.7 The Senior Officers of the Council shall be entitled to exercise the powers and functions set out below.

1.8 Decisions Delegated to the Senior Officers after appropriate consultation

The Senior Officers, in respect of matters falling within their remit, may take any action on behalf of the Council, including action relating to executive and non-executive functions, where the proposed action conforms with the policy and budget framework but where in his or her opinion, the matter is politically sensitive or raises issues of public or local concern, after consultation with the Leader and/or relevant portfolio holder, or the chair of the appropriate non-executive committee in the case of non-executive functions, and may respond to consultation documents after consultation as set out above.

1.9 Decisions Delegated to Senior Officers without prior consultation

The Senior Officers in respect of matters falling within their remit, may take any action on behalf of the Council, including action relating to Executive and non-executive functions, where the proposed action conforms with the policy and budget framework and where in their opinion it is not of such political sensitivity or public concern that consideration by members is necessary.

- 1.10 The Head of Paid Service may discharge any of the functions of any other officer unless prohibited from doing so by any legislation or regulatory rule.

2. GENERAL DELEGATION TO THE SENIOR OFFICERS

In addition to those matters expressly delegated to individual officers, all the Senior Officers (save where expressly reserved to chief officers only) shall have the following delegated powers:

2.1 Power to Take Urgent Decisions

Chief officers (and in the absence of all chief officers, either the Monitoring Officer or Deputy Chief Finance Officer) may take urgent decisions if they are of the opinion that circumstances exist which make it necessary for action to be taken by the Council prior to the time when such action could be approved through normal council procedures. They shall, where practicable, first consult with the Leader and relevant portfolio holder or the chair of the appropriate non-executive committee in the case of non-executive functions.

2.2 Staffing Issues

The Senior Officers may deal with any matter relating to staffing other than those expressly reserved to Council, or the Head of Paid Service under paragraph 3.2 below, provided that they are in accordance with approved human resources policies, procedures and within the approved budget framework.

2.3 Orders/Agreements for Work, Goods and Services

In accordance with standing orders, financial regulations and codes of procedure relating to contracts:

- To issue orders for work, goods and services;
- To accept tenders;
- To sign agreements;
- Tenders or quotations may be submitted, and contractual arrangements entered into for carrying out work and / or providing services for other parties with the approval of the head of paid service (in consultation with the other chief officers) provided that the value of such contracts does not exceed £40,000; and
- To appoint specialist advisors or consultants.

2.4 Operational Decisions

To take decisions relating to all operational and professional matters within their remit.

2.5 Ombudsman Matters

To agree local settlements where they consider it in the interests of the Council to do so.

2.6 Land and buildings

In respect of any development of land and buildings which is proposed to be carried out for the purposes of statutory functions within the sphere of his/her responsibility, power to authorise an application for planning permission to the Planning and Licensing Committee, or for any other permission for works or the use of land, and once such permission has been received, to authorise the carrying out of such development in accordance with the terms and conditions of such permission.

2.7 Legal Proceedings

In consultation with the Assistant Director - Governance and Law, to: -

- i. institute and defend legal proceedings on the Council's behalf; and
- ii. authorise any suitable officer of the Council to appear on the Council's behalf in proceedings before any Magistrates Court and/or County Court.

2.8 Fees and charges

To exercise, in accordance with any current policy, all of the Council's functions relating to those fees and charges falling within their remit. This does not, for the avoidance of doubt, include the determination of fees.

2.9 Compensation

To pay compensation for service failure where they consider it appropriate up to a maximum amount of £1,000 in respect of any single issue.

- 2.10** In addition to the General Scheme of Delegation to the Senior Officers set out above, individual Senior Officers shall be entitled to exercise the powers and functions expressly delegated to them in the following paragraphs, subject to the conditions and restrictions set out above.

3. SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE HEAD OF PAID SERVICE

- 3.1** To exercise the powers and responsibilities of the Head of Paid Service for the purpose of Section 4 of the Local Government and Housing Act 1989.

- 3.2** To determine and to amend staffing structures.

- 3.3** To give such directions as he/she may consider necessary:

- To secure the efficient management and execution of the Council's functions;
- To secure co-ordination of advice and forward planning of objectives and services;
- To secure a corporate approach to the affairs of the Council generally;
- To achieve the efficient and effective implementation of the Council's strategies and policies and the effective deployment of the Council's resources towards those ends;
- To maintain good internal and external relations;
- To determine the allocation of office accommodation

- 3.4** To take all such action as he/she considers appropriate in any emergency (as defined by the Head of Paid Service) including power to make or approve any necessary and urgent arrangements within the powers of the council for the protection of persons or property in any civil or other emergency.

- 3.5** To sign on behalf of the Council any document necessary to give effect to any resolution of the Council, the Cabinet, committees or sub-committees and/or officers acting under delegated powers.
- 3.6** To act as proper officer of the Council, except where legislation or this constitution names another officer or the Council has specifically determined otherwise.
- 3.7** In consultation with the other chief officers, settle employee and industrial relations matters, including issues involving the application or rates of pay, conditions of service or other staffing benefits etc.
- 3.8** To consider and approve applications and proposals for early retirement of staff who are subject to the Local Government Superannuation Regulations.
- 3.9** To determine and issue to officers general guidelines for the management of human resources in the areas of recruitment and planning; training and development; employee relations; health, safety and welfare (including occupational health); pay and performance and equality of opportunity.
- 3.10** To add posts to the list of politically restricted posts and to grant and supervise exemptions from political restriction under the Local Government and Housing Act 1989 (as amended).
- 3.11** To make any order requested by the chief constable and authorised by the Home Office prohibiting the holding of public processions or trespassory assemblies.
- 3.12** To provide assistance at elections to the county council, of the police and crime commissioner and to discharge functions relating to parliamentary, and local elections, referendums and polls (whether national or local) including appointment of staff and determination of fees payable to those staff.
- 3.13** To be the Council's Electoral Registration Officer pursuant to S 8(2) Representation of the People Act 1983 and to exercise all the functions of that post.
- 3.14** To be the returning officer pursuant to S 35(1) Representation of the People Act 1983.
- 3.15** To be the Returning Officer for the purpose of conducting parish polls pursuant to Rule 4 (1) of the Parish and Community Meetings (Polls) Rules 1987.
- 3.16** To exercise the powers and functions of the Council under S113 of the Local Government Act 1972 to enter into an agreement with another local authority;
- For the placing at the disposal of that authority for the purposes of their functions, the services of officers employed by the Council; and
 - For the placing at the disposal of the Council for the purposes of its functions, the services of officers employed by that authority.

- 3.17** To exercise the powers and functions of the Council under the Local Authorities (Goods and Services) Act 1970.
- 3.18** To exercise the Council's powers to make appointments to committees or sub-committees at the request of the relevant political group leader subject to the conditions that (a) the appointed member shall be a replacement for a committee or sub-committee member from the same political group or the appointee is to fill a vacant seat on the committee/sub-committee allocated to the political group of which he/she is a member and (b) the changes shall be reported to the next available meeting of the council. This delegation shall only be exercisable in respect of councillors who are members of a political group.
- 3.19** To grant dispensations under the Local Authorities (Executive Arrangements) Meetings and Access to Information) (England) Regulations 2012 to in respect of any declared conflict of interest by a cabinet member.
- 3.20** To take the lead on organisational transformation initiatives.
- 3.21** To be the lead on matters relating to improvement, efficiency and organisational development.
- 3.22** To be responsible for the planning policy functions of the council as the local planning authority.
- 3.23** To nominate if he/she sees fit a deputy to exercise all the powers and functions of the Head of the Paid Service in his / her absence.
- 3.24** Where the post of Monitoring Officer or S151 Officer falls vacant to designate the Monitoring Officer or S151 Officer on a temporary basis pending the council's consideration of which officer to designate as one of the statutory officers.
- 3.25** To delegate any of the functions of Head of Paid Service subject to such conditions or limitations as he / she considers appropriate.

4. SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE DIRECTOR – CORPORATE SERVICES

- 4.1** **To carry out those of the council's duties and functions as are shown in the table in appendix 1 to this scheme of delegation against the post title of the director together with the functions specified below**
- 4.2** To be and carry out the duties of the Chief Finance Officer (Section 151 Officer), including ensuring the proper administration of the council's financial affairs.
- 4.3** To undertake the following specific roles:
- To be the Council's money laundering reporting officer
 - To appoint the deputy money laundering reporting officer
 - To set the council tax base

- To appoint the deputy Chief Finance Officer
 - To agree external audit arrangements
- To be the council's lead on digital delivery
- 4.4 To write off bad debts, stores deficiencies and surplus goods or equipment up to £10,000 (higher value write-offs require the approval of the Chief Finance Officer in liaison with the Portfolio holder).
5. **SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE DIRECTOR - PLACE**
- 5.1 **To carry out those of the council's duties and functions as are shown in the table in appendix 1 to this scheme of delegation against the post title of the director**
6. **SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE DIRECTOR – HOUSING AND OPERATIONS**
- 6.1 To carry out those of the council's duties and functions as covered by the 1985 Housing Act and as shown in the table in appendix 1 to this scheme of delegation against the post title of the director
7. **SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE DIRECTOR – TRANSFORMATION AND TRANSITION**
- 7.1 To carry out those of the council's duties and functions as are shown in the table in appendix 1 to this scheme of delegation against the post title of the director
- 8 **SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE DIRECTOR OF PLACE**
- 8.1 To carry out those of the council's duties and functions as are shown in the table in appendix 1 to this scheme of delegation against the post title of the director
9. **SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE ASSISTANT DIRECTOR – LAW AND GOVERNANCE.**
- 9.1 To carry out those of the council's duties and functions as are shown in the table in appendix 2 to this scheme of delegation against the post title of the Second Tier Officer together with the functions specified below
- 9.2 **Monitoring officer**
- To be the Council's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

To be the Proper Officer for the purposes of receiving applications for dispensation pursuant to section 33(1) of the Localism Act 2011.
To grant dispensations to members pursuant to section 32(2) of the

Localism Act 2011 and paragraph 8 of the adopted code of conduct to

Speak only or to speak and vote where:

- (i) so many members of the decision-making body have Disclosable Pecuniary or Other Significant Interests in a matter that it would impede the transaction of the business; or
- (ii) without a dispensation, no member of the executive would be able to participate on a particular item of business.

In consultation with the Chairman (or in his/her absence the vice-chair) of the Audit and Governance Committee to grant dispensations to speak and/or vote where it is not possible to convene a meeting of that committee where the application for dispensation is made on any of the following grounds:

- (i) Without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- (ii) That the authority considers that the dispensation is in the interests of persons living in its area; or
- (iii) Where the authority considers that it is otherwise appropriate to grant a dispensation.

In making the decision the Monitoring Officer shall have regard to the following criteria:

- a) The nature of the member's interest and allowing them to participate would not damage public confidence in the conduct of the authority's business.

If public confidence would be damaged, then such an application would be likely to be refused. It is unlikely that it would be appropriate therefore, for example, to grant a dispensation to a member who has an interest arising as a result of an effect on their personal financial position or on that of a relative.

- b) The interest is common to the member and a significant proportion of the general public.
- c) The participation of the member in the business that the interest relates to is justified by the member's particular role or expertise.
- d) The business that the interest relates to is about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee and the member's interest is not a financial one.

In circumstances such as these, the committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

And that any dispensations granted shall be reported back to the next meeting of the Audit and Standards Committee.

To receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted arrangements for dealing with Code of Conduct complaints.

9.3 Land of community value

To hear appeals under the provisions relating to land of community value.

9.4 Solicitor to the council

To act as solicitor to the council in particular:

- To institute, defend, conduct and settle civil and criminal legal proceedings; and
- To sign or authenticate documents of any kind.

10. SPECIFIC POWERS AND FUNCTIONS DELEGATED TO THE CHIEF PLANNING OFFICER

10.1 To carry out those of the council's duties and functions as are shown in the table in appendix 2 to this scheme of delegation against the post title of the Second Tier Officer subject to any condition or limitation shown below

10.2 Planning

To exercise all the Council's functions, including determining all consents, permissions, licenses under the planning (including control of advertisements) and listed building legislation, and taking enforcement action, in relation to town and country planning, in accordance with the specific scheme of delegation for planning in paragraph 10.3.

10.3 Specific scheme of delegation for town and country planning.

10.3.1 The Chief Planning Officer is authorised to determine the categories of applications set out in paragraph 10.3.2 except those that:

- a) Have been called in to the committee at the request of any district councillor;
- b) Represent a significant departure from the development plan and which the Chief Planning Officer considers should be approved;

- c) The Council has a substantial interest in, other than small-scale proposals, (e.g. extensions and alterations to council owned properties and means of enclosure, accesses, installation of windows);
- d) Relate to proposals submitted by or on behalf of any member (including any co-opted member) or employee of the Council other than small scale works to which there have been no objections and related renewals and amendments;
- e) The Chief Planning Officer believes raise issues which should be considered by the Planning and Licensing Control Committee;
- f) Are planning applications where the view of the parish or town council differs strongly from that of the Chief Planning Officer except where an objection:
 - i. relates to the principle of a proposal which already has outline planning permission; an issue determined at outline stage or an application of similar scale or character to one already approved;
 - ii. is for the renewal of a planning permission without stating what, in the view of the town or parish council, planning circumstances have changed since the grant of the original permission which would justify a refusal, is made without giving any reasons, or is only made on the basis that the work has already been implemented;
 - iii. is made without giving any reasons;
 - iv. is based upon a technical issue where the body responsible for providing advice on the issue is satisfied with the proposal subject to any evidence which contradicts that advice first being investigated;
 - v. is to minor operational development (e.g. domestic extensions, alterations to buildings, means of enclosures, accesses).
- g) Are planning applications where the view of a parish or town council differs strongly from that of the Chief Planning Officer except where it expresses support for an application, but that application is clearly contrary to development plan policy and / or government guidance.

10.3.2 The categories of application which the Chief Planning Officer may determine are:

- i. applications for planning permission under Section 70 Town and Country Planning Act 1990;
- ii. applications under Sections 73 and 73A of the Town and Country Planning Act 1990 to retain a building or to continue to use without complying with a condition subject to which planning permission has been granted;

- iii. applications to determine reserved matters and details arising from: grants of planning permission, e.g. landscaping schemes, details of external appearance, samples of materials, means of access, including listed building consents, conservation area consents, advertisement consents and permissions under the above;
- iv. applications submitted under General Permitted Development Order requirements; and
- v. applications for listed building and conservation area consents, subject to the agreement of the Secretary of State in cases where this is necessary.

10.3.3 The Chief Planning Officer is authorised to determine:

- i. notifications under Sections 198 and 211 to 213 of the Town and Country Planning Act 1990 Act for the felling, topping or lopping of trees; and
- ii. applications for minor amendments/revisions in substitution for approved plans, including those for listed building consent, conservation area consent, advertisement consent or for permission to lop, top or fell trees.

10.3.4 Subject to the limitations in paragraph 10.3.1, the Chief Planning Officer is authorised to:

- i. approve submissions respect of developments under Regulations 3 and 4 of the Town and Country Planning General Regulations 1992 made by the council and to raise objection or raise no objection to such submissions made by Kent County Council; and
- ii. respond to formal consultations by statutory bodies and development proposals by government departments.

10.3.5 In cases of urgency or where the breach of planning control relates to householder development or development that has already been refused planning permission, after consultation (if practicable) with the chairman or vice chairman of the Planning and Licensing Committee, the Chief Planning Officer is authorised to:

- i. issue enforcement notices under Section 172 Town and Country Planning Act 1990;
- ii. serve a listed building preservation notice under 3 and 4 Planning (Listed Buildings and Conservation Area) Act 1990;
- iii. issue temporary stop notices under Section 171E Town and Country Planning Act 1990;
- iv. serve a stop notice under S183 Town and Country Planning Act 1990;

- v. make application for and serve injunctions under Section 187B Town and Country Planning Act 1990; and
- vi. serve urgent repairs notices under Section 54 Planning (Listed Buildings and Conservation Areas) Act 1990.

10.3.6 The Chief Planning Officer is authorised to make directions under Article 4 Town and Country Planning (General Permitted Development) Order 1995 to take away rights conferred by Class A, part 2, Schedule 2 of the Order in relation to the erection, construction, maintenance, improvement or other alteration of a gate, fence, wall or other means of enclosure, subject to prior consultation with the relevant member of the Executive.

10.3.7 The Chief Planning Officer is authorised to exercise all other functions relating to town and country planning.

10.238 The Chief Planning Officer is authorised, after consultation (if practicable) with the Chairman or vice-chairman of the Development Control Committee to arrange site visits for the committee where he/she considers it appropriate for the committee to visit the site. The Chief Planning Officer can arrange such visits at any time during the processing of an application.

10.3.9 The Chief Planning Officer may authorise other officers to exercise delegated powers on his/her behalf. In this case, the officers act in the name of the Chief Planning Officer and he/she remains accountable for the action or decision.

10.4 Planning agreements

To negotiate Section 106 Agreements.

10.5 Listed buildings and conservation areas

To promote conservation of historic buildings and areas and make recommendations as to the designation of conservation areas.

10.6 Land of community value

To administer the list of land of community value.

11. SPECIFIC POWERS DELEGATED TO THE CHIEF HUMAN RESOURCES OFFICER

11.1 To carry out those of the council's duties and functions as are shown in the table in appendix 2 to this scheme of delegation against the post title of the Second Tier Officer

APPENDIX 1 – Areas of Responsibilities – Chief Officers

Director of Corporate Services	Director of Place	Director of Housing & Operations	Director of Transition and Transformation	Director of Development
Human Resources	Licensing	Transportation	Transformation	Otterpool park Delivery
Finance	Environmental Health	Grounds Maintenance	East Kent Housing Transition	
ICT & Digital Services	Economic Development	Lifeline		
Case Services (Corporate Services)	Waste	Estates and Assets		
Strategy and Policy	Building Control	Engineering and Building		
Legal	Development Management	Housing Landlord Functions		
Democratic and Committee Services	Customer Services	Housing Strategy and Needs		
Leadership Support	Case Services (Place)	Strategic Development		
Procurement and Corporate Contracts	Communities			
Communication and Engagement				
Revenues & Benefits				

Appendix 2 -Areas of Responsibilities – Section Tier Officers

Chief HR Officer	Assistant Director – Governance & Law	Chief Economic Development Officer	Chief Planning Officer	Assistant Director - Housing
HR	Corporate Contracts and Procurement	Economic and business development	Development Management	Housing Landlord functions
Payroll	Legal Services		Building Control	Housing strategy and Needs
Training	Democratic Services & Elections			
	Leadership Support			
	Communications and Engagement			

PART 8.2 – OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

All applicants for appointment to the Council will be required to disclose whether or not they are related to an officer and/or a councillor, or are the partner or married to a person who is related to an officer and/or a councillor.

No candidate so related to an officer and/or a Councillor will be appointed without the authority of the Head of Paid Service or an officer nominated by him or her.

1.2 Seeking support for appointment

Direct or indirect canvassing of officers and councillors in connection with an appointment will disqualify an applicant from that appointment.

Officers and councillors should not seek support for the appointment of any person to work within the Council, but this does not preclude a councillor or an officer from giving a written reference.

2. RECRUITMENT OF THE HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Head of Paid Service or other chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

2.1.1 Draw up a statement specifying:

- a) The duties of the officer concerned; and
- b) Any qualifications or qualities to be sought in the person to be appointed.

2.1.2 Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

2.1.3 Make arrangements for a copy of the statement in 2.1.1. above to be sent to any person on request.

2.2 Where a post has been advertised as set out in 2.1 above, the Council shall:

- a) Interview all qualified applicants for the post, or
- b) Select a shortlist of such qualified applicants and interview those included in the short list.

2.3 Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with rule 2.1.2.

3. APPOINTMENT AND DISMISSAL OF THE HEAD OF PAID SERVICE

Appointment

- 3.1** The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Councillor from the Cabinet and shall be politically balanced. The Council must give approval before an offer of appointment is made.
- 3.2** The offer of an appointment to the post of Head of Paid Service must not be made by the Council until:
- 3.2.1** The relevant committee or sub-committee has notified the Chief HR Officer of the name of the person to be offered the post and any other information relevant to the appointment; and
- 3.2.2** The Chief HR Officer has notified every member of the Cabinet of:
- a) The name of the person recommended for appointment and any other information relevant to the appointment;
 - b) The period within which the Leader can make an objection to Chief HR Officer about the person recommended for appointment, and either:
- 3.2.3** The Leader has, within the period specified in the notice in 3.2.2 b) above, notified the Council that neither he or she nor any other member of the Cabinet has any objection to the making of the offer; and
- 3.2.4** The Chief HR Officer has notified the Council that no objection was received from the Cabinet within the relevant period, or
- 3.2.5** An objection is received from the Cabinet within the relevant period, but that the Council is satisfied, having taken advice from the Monitoring Officer, that the objection is not material to the appointment, or is not well founded.

Disciplinary Action

Decisions to initiate an investigation which might lead to disciplinary action, and the decision to suspend the Head of Paid Service will be made by the relevant committee (the committee established to fulfil this role is set out in Part 5 of this Constitution). The procedures the Council will follow in relation to action for disciplinary, capability or other reasons which may lead to dismissal, and the mechanism for appeals, will follow the relevant law and the guidance issued by the Joint Negotiating Committee for Chief Executives of Local Authorities from time to time.

Dismissal

- 3.3** The full Council may approve the dismissal of the Head of Paid Service, monitoring officer, and chief finance officer only following the recommendation of such a dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one

councillor from the Cabinet and shall be politically balanced. The Council must agree to dismiss the Head of Paid Service, monitoring officer and chief finance officer before a notice of dismissal is given.

3.4 Where the proposed dismissal arises from redundancy, permanent ill health or the expiry of a fixed term contract, the requirement to take into account the advice, views or recommendations of the Independent Panel as set out in rules 4 and 5 below do not apply. In all other cases, no dismissal of the Head of Paid Service, monitoring officer or chief finance officer can be considered by the Council unless the procedures in rules 4 and 5 have been followed.

3.5 A notice of dismissal from the post of Head of Paid Service must not be made by the Council until:

3.5.1 The relevant committee or sub-committee has provided the Chief Human Resources Officer with the relevant information about the proposed dismissal; and

3.5.2 The Chief HR Officer has notified every member of the Cabinet of:

a) The relevant information about the proposed dismissal;

b) The period within which the Leader can make an objection to the Chief HR Officer to the proposed dismissal on behalf of the Cabinet, and either:

3.5.3 The Leader has, within the period specified in the notice in 3.6.2 b) above, notified the Council that neither he nor any other member of the Cabinet has any objection to the proposed dismissal; and

3.5.4 The Chief HR Officer has notified the Council that no objection was received from the Cabinet within the relevant period, or

An objection is received from the Cabinet within the relevant period, but that the Council is satisfied, having taken advice from the Monitoring Officer, or if the proposed dismissal is that of the monitoring officer, the deputy monitoring officer, that the objection is not material to the dismissal, or is not well founded.

4. APPOINTMENT AND DISMISSAL OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

4.1 A committee or sub-committee of the Council will appoint or dismiss chief officers except where the dismissal is by reason of redundancy when it will be by the Head of Paid Service. The committee or sub-committee must include at least one member of the Cabinet, and shall be politically balanced. A chief officer is an officer for whom the Head of Paid Service is directly responsible, but does not include secretarial or administrative support officers reporting direct to the Head of Paid Service.

4.2 The Head of Paid Service and/or chief officers will appoint and dismiss deputy chief officers.

- 4.3** An offer of appointment to a chief officer or deputy chief officer post or a notice of dismissal from such a post must not be made by the committee or sub-committee or appointing officer or the person proposing to dismiss the officer until:
- 4.3.1** The committee or sub-committee or other appointing officer has notified the Head of Paid Service of the name of the person to be offered the post and any other information relevant to the appointment, or has provided the relevant information about the proposed dismissal; and
- 4.3.2** The Head of Paid Service has notified every member of the Cabinet of:
- a) The name of the person recommended for appointment and any other information relevant to the appointment, or the relevant information about the proposed dismissal, and
 - b) The period within which the Leader can make an objection (to the Head of Paid Service) to the person recommended for appointment, or to the proposed dismissal on behalf of the Cabinet, and either:
- 4.3.3** The Leader has, within the period specified in the notice in 4.3.2 b) above, notified the committee or sub-committee or appointing officer that neither s/he nor any other member of the Cabinet has any objection to the making of the offer or to the proposed dismissal; and
- 4.3.4** The Head of Paid Service has notified the committee or sub-committee or appointing officer that no objection was received from the Cabinet within the relevant period, or
- 4.3.5** An objection is received from the Cabinet within the relevant period, but that the committee or sub-committee or appointer is satisfied, having taken advice from the Monitoring Officer, that the objection is not material to the appointment or dismissal, or is not well founded.

5. OTHER APPOINTMENTS AND DISMISSALS

- 5.1** Appointments of or disciplinary action against officers at or below deputy chief officer are the responsibility of the Head of Paid Service or his nominee and may not be made by Councillors. Appointment of assistants to political groups will be made in accordance with the wishes of the relevant political group. Such appointments and dismissals will be carried out in accordance with the appropriate policies and procedures of the Council.

6. DISMISSAL AND THE ROLE OF THE INDEPENDENT PANEL

- 6.1** The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (the relevant officer) may not be dismissed by the council unless the procedure set out below is followed..
- 6.2** The council has appointed a panel (the “Independent Panel”) or Independent Persons appointed under Section 28(7) Localism Act 2011.

- 6.3** Before the taking of a vote on whether or not to approve the dismissal of the relevant officer the council must take into account, in particular:
- 6.3.1** any advice, views or recommendations of the Independent Panel;
 - 6.3.2** the conclusions of any investigation into the proposed dismissal and;
 - 6.3.3** any representations from the relevant officer.
- 6.4.** The Council may pay remuneration, allowances or fees of the Independent Persons appointed to the Independent Panel provided that these do not exceed the level of such remuneration, allowances or fees payable to those Independent Persons in respect of those persons' role as an Independent Person under the Localism Act 2011.

PART 8.3 – CODE OF CONDUCT FOR OFFICERS

1. INTRODUCTION

- 1.1** The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist local authorities and their employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment. This includes the introduction of, market testing, changes in the management of the housing services, management buy-outs, etc.

2. STANDARDS

- 2.1** Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality. Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to their chief officer or the monitoring officer any impropriety or breach of procedure.

3. DISCLOSURE OF INFORMATION

- 3.1** It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Employees will be advised which information is and is not open and act accordingly.
- 3.2** Employees should not use any information obtained in the course of their employment for personal gain or benefit, and they should not pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is of a purely personal nature and does not belong to the Council should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required or sanctioned by the law.

4. POLITICAL NEUTRALITY

- 4.1** Employees serve the Council as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 4.2** Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 4.3** Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 4.1 to 4.2.

5. RELATIONSHIPS

5.1 Councillors

Employees are responsible to the Council. For some, their role is to give advice to Councillors and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

5.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

5.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known (in accordance with the Council's Gifts and Hospitality rules, set out in paragraph 13). Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

5.4 Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship. The declarations should be made, using the standard form, to:

- The appropriate Assistant Director or Chief Officer;
- The appropriate chief officer if the declaration is made by an assistant director or Chief Officer;
- The Head of Paid Service if the declaration is made by the chief officer.

5.5 All declarations are to be forwarded to the monitoring officer for retention centrally.

6. APPOINTMENT AND OTHER EMPLOYMENT MATTERS

6.1 Employees involved in appointments should ensure that these are made on the basis of merit in accordance with the Council's human resources policies. It would be unlawful for an employee to make an appointment, which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias,

employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

- 6.2** Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

7. OTHER EMPLOYMENT

7.1 Criteria for undertaking other employment

Employees wishing to undertake other employment in addition to their employment with this Council should not do so until approval has been given. All applications should be made, using the standard form, available from Human Resources.

- 7.2** As a general rule the Council will not prevent its employees from undertaking other employment providing the following criteria are satisfied.

- (a) Any such employment must not conflict or be detrimental to the Council's interests or in any way weaken public confidence in the conduct of the Council's business.
- (b) Employees working whole time will be limited to 10 hours additional employment a week with a maximum of 15 hours. Applications to work beyond the 10 hours will need to be considered by the Corporate Leadership Team.
- (c) Employees working part time will be limited to additional employment hours equivalent to whole time plus 10 hours per week with a maximum of 15 hours.
- (d) Applications to work beyond the 10 hours will be considered by the corporate leadership team.

- 7.3** Employees who wish to be able to work at other employment for ten hours or above per week should submit their application to the Chief Human Resources Officer for consideration by the Corporate Leadership Team. In respect of applications for less than ten hours employees should submit their applications, to the Chief HR Officer.

- 7.4** In addition to the criteria outlined in 6.9 (a)-(d) other factors taken into account will include:

- (a) Whether the work will create a conflict of interest with the employee's duties for the Council;
- (b) The employee's work performance;
- (c) The employee's sickness absence record;

- (d) Whether the employee is studying for, or has failed to obtain, a professional qualification, which is being paid for by the Council.

7.5 Voluntary Work

Voluntary work is defined as any kind of work for which there is no payment and for which there is a significant, regular or long term commitment to undertake the work. Infrequent, short-term work such as a one off fund raising event, or occasional help would not fall within the definition of voluntary work and would, therefore, not be affected by this policy.

- 7.6** Employees wishing to be involved in voluntary work will not be subject to the same application requirement as for employees wishing to embark upon other paid employment.

- 7.7** Employees wishing to undertake voluntary work have a duty to register this as soon as it commences. Employees undertaking voluntary work have an obligation to inform their Assistant Director or Chief Officer on the standard form in writing, with details of the organisation and the nature of the work and the number of hours per week being worked.

- 7.8** In the case of employees undertaking voluntary work where the Assistant Director or Chief Service Officer is concerned that there is any:

- (a) Conflict of interests between the employee's official duties and the voluntary work;
- (b) Deterioration in the performance of the employee's official duties;
- (c) Likelihood of the employee failing to meet his/her obligations under the Council's Code of Conduct those cases will be referred to the Corporate Leadership Team for consideration and approval.

7.9 General Principles

- (a) Employees who commence other paid employment before approval is given will be subject to the Council's disciplinary procedure.
- (b) It will be the responsibility of the employee undertaking other employment, whether paid or on a voluntary basis to report any changes to his/her chief officer.
- (c) Applications approved and information regarding voluntary work will be kept on a central file together with an entry on the individual's personal file and will be reviewed on a six monthly basis by Human Resources.
- (d) All applications to work above 10 hours, and registrations for voluntary work beyond 10 hours, or applications, which fall outside the policy criteria, will be considered by the Corporate Leadership Team.

8. PERSONAL INTERESTS

- 8.1 Employees must, on the standard form, declare to their Assistant Director or Chief Service Officer any non-financial interests that they consider could bring about conflict with the Council's interests.
- 8.2 Employees must ,on the standard form, declare to their Assistant Director or Chief Service Officer any financial interests which could conflict with the Council's interests.
- 8.3 Employees should, on the standard form, declare to their Assistant Director or Chief Service Officer of any membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

9. EQUALITY ISSUES

- 9.1 All employees should ensure that the Council's Equality and Diversity Policy is complied with, in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

10. SEPARATION OF ROLES DURING TENDERING

- 10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 10.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform their Assistant Director or chief Service officer and withdraw from the contract awarding processes.
- 10.5 Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

11. CORRUPTION

- 11.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

12. USE OF FINANCIAL RESOURCES

12.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

13. GIFTS AND HOSPITALITY AND OFFICERS' INTERESTS

13.1 Legal Position

The law relating to the acceptance of inducement or rewards is set out in the Bribery Act 2010. In summary this act provides that:

A person commits an offence if, directly or indirectly, they request, agree to or accept a bribe:

- Intending that a relevant function should be performed improperly, either by them or by a third party;
- When to do so, in itself, would be improper performance of a relevant function;
- As a reward for carrying out a relevant function improperly; or
- In anticipation or consequence that they (or someone else on their behalf) will perform a relevant function improperly.

In the last three cases, it does not matter if the person committing the offence knows or believes that the performance of the function was improper nor in the last case does it matter a person carrying out the action on their behalf was aware of this.

A relevant function is:

- Any function of a public nature;
- Any activity of connected with a business, trade or profession;
- Any activity carried out in the course of employment;
- Any activity carried out on behalf of a body of persons (corporate or unincorporated)

and is performed with one or more of the following expectations:

- It will be performed in good faith;
- It would be performed with impartiality;
- That by virtue of performing the activity the person doing so is in a position of trust.

The penalties on conviction, at the discretion of the court, are imprisonment with a maximum possible sentence on indictment of ten years or a fine.

There are, in addition, related common law criminal offences, as well as civil liability (on the part of both the receiver and the taker of a bribe) for any loss caused to the employing body. Staff will appreciate that the receipt of hospitality or acceptance of a gift is, in law, no different from the receipt of monies.

A gift or offer of hospitality may sometimes be so lavish that any reasonable person would consider that it is made with the intention of bribing. Even if it is not lavish, however, there may still be the possibility of bribery and each case would have to be taken on its merits.

13.2 Conduct of Public Service

Clearly, the duty of staff goes further than simply avoiding crime. As the Local Conditions of Service state:

“The public is entitled to demand of a Local Government Officer conduct of the highest standard, and public confidence in their integrity would be shaken were the least suspicion, however ill-founded, to arise that they could be in any way influenced by improper motives”.

The acceptance of gifts and hospitality, even on a modest scale may arouse suspicion and needs to be capable of public justification. If a member of staff is in any doubt about what to do about any offer of a gift or hospitality, the advice of a senior officer should be sought. The question to be considered is whether the acceptance is likely to raise reasonable doubts about the person’s integrity.

The issue of integrity is of utmost importance. A number of employees are in the position where it would not be difficult for the public to perceive conduct of an improper nature. This ‘in fact’ may of course have no substance.

However it is essential that employees must not place themselves in a position where they are taking improper advantage of this position. Examples of this might include use of Council equipment and other resources without the specific permission of their Assistant Director and chief officer. Such permission would normally be given for operational reasons.

13.3 Gifts

Although the offer of casual gifts by contractors, organisations, firms or individuals may not be in any way connected with the performance of a relevant function so as to constitute an offence, the offer should nevertheless, as a general rule, be declined. The only exceptions to the rule are:

- small gifts or office equipment or stationery given by way of trade advertisements to a range of officers or for use in the office. Nothing

more elaborate than calendars, pocket diaries, rulers or blotters would fall within this exception;

- small gifts of only token value given on the conclusion of an official courtesy visit, e.g. to a factory or other premises;
- gifts to a member of staff or a member of their family where the donor is a personal friend. Extreme care needs to be taken with gifts in this category, bearing in mind the legal position described above. The section about Officers' Interests deals with the need to let senior officers know, in certain circumstances, about friendship with people likely to do business with the Council.

Gifts which do not fall clearly within these exceptions and which are offered in person to a member of staff should be politely declined, and the person or organisation offering it should be told of the Council's rule about gifts.

If a gift outside the exceptions arrives without warning it must be handed over to the appropriate Assistant Director/chief officer to decide whether the gift should be returned (or passed to some good cause) and to ensure that the donor is informed of what has happened.

These rules apply also, of course, to offers by firms to members of staff in a personal capacity, of discounts going beyond those on general offer.

13.4 Hospitality

Offers of hospitality should always be approached with caution. Members of staff should ask themselves what a member of the public, who may be critical or suspicious, might think; and offers of hospitality where any suggestion of improper influence is possible must be refused. Hospitality should only be accepted when it is reasonably incidental and on a scale appropriate to the occasion or the circumstances. Acceptance may make it difficult to avoid some obligation to the party offering it and might later be thought to have affected an officer's impartiality in dealing with official matters.

Some offers of hospitality are clearly unacceptable; an offer of holiday accommodation is one example. Invitations to sporting fixtures or evenings at the theatre are acceptable only when they are clearly required for the conduct of Council business. Any hospitality on a lower scale than this may also be unacceptable. No absolute dividing-line can be laid down.

There is an important difference between, for example, attendance in an official capacity at a function organised by a public authority and accepting hospitality from a private individual or firm standing to benefit from the goodwill of the Council. Particular care should be taken in dealing with contractors, developers and firms or individuals in a comparable position.

However, it will not always be possible or even desirable to reject offers of hospitality on a modest scale. Acceptable examples would include official hospitality of a kind mentioned above, a drink and a sandwich following a site visit or a working lunch of a modest standard to enable the parties to continue

to discuss business. The decision whether to accept or not must depend on the circumstances in each case. Where it is clearly evident that the work of the Council would be facilitated, invitations to attend receptions, luncheons, cocktail parties and the like may be accepted under the following rules:

- (a) No member of staff may accept an invitation without first obtaining the approval of the Assistant Director or chief officer as detailed below. A chief officer shall obtain the approval of the Head of Paid Service before accepting a personal invitation. In exceptional circumstances, where it is not possible to seek prior approval, the facts should be reported immediately afterwards.
- (b) Invitations involving attendance outside normal working hours may be accepted only on the authority of a chief officer. A chief officer shall obtain the approval of the Assistant Director or Chief Service Officer before accepting a personal invitation.

The declarations should be made, using the standard form, to:

- The appropriate Assistant Director or Chief Service Officer;
- The appropriate chief officer if the declaration is made by an Assistant Director or Chief Service Officer;
- The Head of Paid Service if the declaration is made by the chief officer.

13.5 All declarations are to be forwarded to the Monitoring Officer for retention centrally.

13.6 Officers' Interests or Personal Relationships with Outside Bodies

The Council has established a voluntary register of interests of staff, which is maintained by the monitoring officer. Those members of staff, including chief officers, whose responsibilities are such that they may be in a position to influence the selection of contractors or consultants, the granting of planning and other consents or the conduct of negotiations affecting land and property and those officers with responsibilities associated with confidential information concerning development are asked to complete returns for inclusion in the register. The list of officers is to be reviewed annually.

It is recommended that the following interests should be declared (indicating the existence of an interest rather than its detailed nature):

- (a) All paid employment and occupations including directorships, consultancies and any sponsorship of a member of staff by any organisation or person;
- (b) All land or other real property in the area of the authority owned freehold or held on a lease granted for one year or more, or in respect of which an option to purchase is held;

- (c) Companies or other bodies where the member of staff has a beneficial interest in securities of a nominal value greater than £1,000 or 1/100th of the issued share capital, whichever is less, but the amount of the holding not to be stated;
- (d) Any tenancy of premises owned by the Authority;
- (e) Any membership, by election or co-option, of another authority.

Officers are advised that entries should include the interests of a spouse/partner where known to accord with the law relating to the declaration of pecuniary interests.

Interests which might conflict with the impartial performance of an officer's functions are not, however, confined to financial ones. Ties of blood or friendship or membership of clubs and organisations may be equally potent influences and should be declared. The following rules and guidance are aimed at avoiding conflict between interest and duty where possible.

No officer, partnership of which an officer is a partner or company of which an officer is a director, shall apply for this Council's Contracts.

All officers involved in the award or management of contracts shall declare on the standard form, or as set out below, any association or friendship with any contractor on any part of the Council's Select List of Contractors. This shall be recorded in the Register.

The declarations should be made, using the standard form, to:

- The appropriate Assistant Director or Chief Service Officer;
- The appropriate chief officer if the declaration is made by an Assistant Director or Chief Service Officer; or
- The Head of Paid Service if the declaration is made by the chief officer.

All declarations are to be forwarded to the monitoring officer for retention centrally.

Any officers engaged in the consideration or determination of any application for any contract, permission, grant, approval or consent is required to declare on the standard form, as set out below, any interest in or association or friendship with any person or body who is known to be, or who the officer considers may in the future be, an applicant in the field of work in which that officer is engaged.

The declarations should be made, using the standard form, to:

- The appropriate Assistant Director or Chief Service Officer;
- The appropriate chief officer if the declaration is made by an Assistant Director or Chief Service Officer; or

- The Head of Paid Service if the declaration is made by the chief officer.

All declarations are to be forwarded to the monitoring officer for retention centrally.

A chief officer to whom any such interest, association or friendship is declared shall take appropriate steps to ensure that the officer concerned is not placed in a position where private interests and official duties may conflict.

13.7 Disciplinary Procedure

Failure to comply with these guidelines is an offence and will be considered under the Council's Disciplinary Procedures. However, each case will be considered on its merits.

14. REGISTER

A register for use in accordance with this Code and the Gifts and Hospitality Policy will be maintained by the monitoring officer.

All employees should make appropriate declarations within this register.

In relating to every offer of a gift or hospitality (apart from the exceptions for gifts at the drink and sandwich level of hospitality), offered to a member of staff in their service unit, including themselves, the following information will be (briefly) recorded:

- The person or body making the offer;
- The name of staff to whom the offer was made;
- The nature of the offer, e.g. Gift or hospitality, offered and in what circumstances;
- The action taken by the officer concerned;
- The action taken by the Assistant Director /Chief Service Officer.

In general, gifts will either fall within the exceptions, or ought to be refused; so far as gifts are concerned, therefore, the register will mainly record offers.

Every member of staff who receives or is offered a gift or is offered hospitality which these guidelines require to be registered, is required to report the circumstances to their Assistant Director/Chief Service Officer and chief officer so that the record may be kept. Every member of staff is entitled to see what is recorded in the register against their name and the Head of Paid Service will also have access to the register.

