FAIR OAK & HORTON HEATH PARISH COUNCIL
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# CONSTITUTION

# CHAPTER 7
# RFO PROTOCOL

Adopted: May 2024
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## 1. Introduction

1.1 Although Town and Parish Councils are not bound by sections of The Local Government Finance Act 1988 (section 111) the Parish Council acts in accordance with many of those principles in the interests of best practice as shown below.

1.2 The Parish Council's Responsible Finance Officer undertakes to discharge these statutory responsibilities in a positive way and in a manner, that enhances the overall reputation of the Council. In doing so, the Responsible Finance Officer will also safeguard, so far as is possible, Councillors and staff, whilst acting in their official capacities, from financial difficulties.

## 2. The Statutory Role of the Responsible Finance Officer

2.1 The Responsible Finance Officer 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
- Audit Commission Act 1998
- The Accounts and Audit Regulations

2.2 The Responsible Finance Officer is responsible for:

- The proper administration of the Authority's financial affairs
- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information
- Preparing the revenue budget and capital programme
- Treasury management

2.3 Section 114 of the Local Government Finance Act 1988 requires the Responsible Finance Officer to report to Fair Oak & Horton Heath Parish Council, internal and external auditor if the Authority or one of its staff members:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure.
- Has taken, or is about to take, an unlawful act which has resulted or would result in a loss of deficiency to the Authority
- Is about to make an unlawful entry in the Authority's accounts
- If the expenditure of the authority is likely to exceed the resources available to it to meet that expenditure

2.4 Section 114 of the 1988 Act also requires:

- The Responsible Finance Officer to nominate a properly qualified member of staff to

deputise should they be unable to perform their duties under Section n4 personally.

- The Authority to provide the Responsible Finance Officer with sufficient staff, accommodation and other resources - including legal advice where necessary - to carry out their duties under Section 114

## 3. The Non-Statutory Role of the Responsible Finance Officer

3.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) published "A Statement on the Role of the Finance Director in Local Government" in December 1999.

3.2 The five main areas where it considers the RFO *of a Local Authority* should contribute are given below. The first incorporates the statutory responsibilities referred to above:

- maintaining financial administration and stewardship e.g. advising on effective systems of internal control
- supporting and advising on the democratic process e.g. advising on developing an overall financial strategy
- contributing to corporate management e.g. ensuring financial resources are well managed
- supporting and advising officers in their operational roles e.g. ensuring that budgets are properly managed
- delivering services and providing information to members of the public and the community e.g. by providing financial and performance information

3.3 A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the Responsible Finance Officer's ability to discharge these duties and responsibilities will depend, to a large extent, on Cllrs and staff.

## 4. The Protocol

4.1 Having excellent working relations with Cllrs and staff will assist in the discharge of the statutory responsibilities of the Responsible Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Cllrs and staff should, therefore, work with the Responsible Finance Officer to discharge the Council's statutory and discretionary responsibilities.

4.2 The following arrangements and understandings between the Responsible Finance Officer, Cllrs and staff are designed to ensure the effective discharge of the Council's business and functions.

4.3 The Responsible Finance Officer will receive:

(a) Advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Committee meetings and Sub-Committee meetings (or equivalent arrangements).

(b) Advance notice of all emerging issues of financial concern.

(c) Copies of all reports to Members.

4.4 The Responsible Financial Officer has the right:

I. To attend and speak at any Council meetings.

II. To call for any relevant information, whether confidential or otherwise, and to give that information (as appropriate) to anybody, including the District Auditor and the Ombudsman.

4.5 The Responsible Financial Officer will:

i. Ensure the head of paid service has up-to-date information regarding emerging issues including relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit.

ii. Make enquiries into allegations of financial misconduct and, if appropriate, make reports to Member bodies.

iii. Develop an effective working relationship with the Internal and External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary).

iv. In carrying out any investigation (whether under regulations or otherwise) the Responsible Finance Officer will have unqualified access to any information held by the Council and any employee who can assist in the discharge of their functions.

v. Send copies of any report on the outcome of any investigation to each member of the authority and the person responsible for auditing the authority's accounts.

vi. Have control of a budget sufficient to enable them to seek external professional opinion on any matter concerning their functions.

vii. Report to the Council from time to time on the financial regulations and other matters of finance, and any necessary or desirable changes following consultation.

viii. Report to the Council from time to time (as necessary) on the staff, accommodation and resources they require to discharge their functions.

## 5. Deputising for the Responsible Finance Officer

5.1 In the absence of the Responsible Finance Officer the Clerk will act as the nominated deputy. The Responsible Finance Officer's nominated deputy will have all the rights and powers of the Responsible Finance Officer when discharging their role.

5.2 To ensure the effective and efficient discharge of duties Cllrs and staff will report any breaches of statutory duty or Council policies or procedures and other legal or

constitutional concerns to the Responsible Finance Officer, as soon as practicable.

5.3 The Responsible Finance Officer is also available for Cllrs and staff to consult on any issues of the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.

5.4 To ensure the effective and efficient discharge of this Protocol, the Responsible Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Responsible Finance Officer role.

5.5 This Protocol is in addition to any provisions in the Council's Financial Regulations.

Appendix 1

Summary of Responsible Finance Officer Functions

| | Description | Source |
|---|---|---|
| 1. | Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account. | Section 114, 114a, 115, 116 Local Government and Finance Act 1988. |
| 2. | Appointment of Deputy. | Section 114 Local Government and Finance Act 1988. |
| 3. | Report on resources. | Section 114 Local Government and Finance Act 1988. |
| 4. | Responsibility for the administration of financial affairs. | Section 151 Local Government Act 1972. |
| 5. | Borrowing, investment accounts and financial administration. | Local Government Act 2003 Sections 1-92. |
| 6. | Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts. | The Accounts and Audit Regulations 2003<br>Local Authorities (Capital Finance and Accounting) (England) Regulations 2003. |