

22 November 2019

**Surrey Heath Borough Council
Report of the Independent Investigation**

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SECTION A

Introduction

- 1 This report answers some of the questions set out in the revised terms of reference dated 2 October 2019. It relates to the following:
 - 1.1 The award by the then Leader of the Council, Moira Gibson, of an “additional duties allowance” to the Chief Executive, Karen Whelan, by letters dated 16 January and 20 February 2019.
 - 1.2 The making of an advance payment to the Chief Executive, referred to in a letter dated 17 January 2019 and paid on 25 January 2019.
 - 1.3 The terms on which the Chief Executive purchased a Council provided car in May 2017.
 - 1.4 Whether the Chief Executive’s expenses between September 2017 and September 2019 complied with Council policy.
 - 1.5 Whether the receipt of gifts and hospitality by the Chief Executive over that period complied with Council policy.
- 2 Ms Whelan became Chief Executive of the Council in October 2010, having joined the Council as Head of Legal Services and Monitoring Officer a number of years before. Her role as Chief Executive changed over time as the Council changed its property and investment strategy. Ms Whelan was heavily involved in the redevelopment of Camberley town centre from October 2016.¹ As part of the Council’s property and investment strategy, the Council acquired assets which included a shopping centre. Those assets are held in the form of units in a Jersey Property Unit Trust (a ‘JPUT’), which is managed by professional trustees based in Jersey. The Council is the beneficiary (i.e. unitholder) of that trust, and Ms Whelan (along with Mr Menon) represented the Council at trustees’ meetings. Ms Whelan was also heavily involved in a shopping centre purchased by the Council in October 2016. She was of the view that these changes justified a review of her salary. At the time of the matters referred to at 1.1 and 1.2 Ms Whelan was at the top of her salary grade and as such could not achieve a substantive improvement in her pay without a review of the grade applicable to her post.
- 3 The political situation at the Council at the time of the matters referred to at 1.1 and 1.2 above was in flux. The Council had for many years been a Conservative dominated Council, with 35 of the 40 members of the Council being members of that Group prior to the elections in May 2019. The then Leader of the Group had held that role for over twenty years by 2018. [REDACTED] It was ultimately agreed that she would retire after a meeting of the full Council at the end of January 2019. She ceased to hold the position of Leader at the end of February 2019.

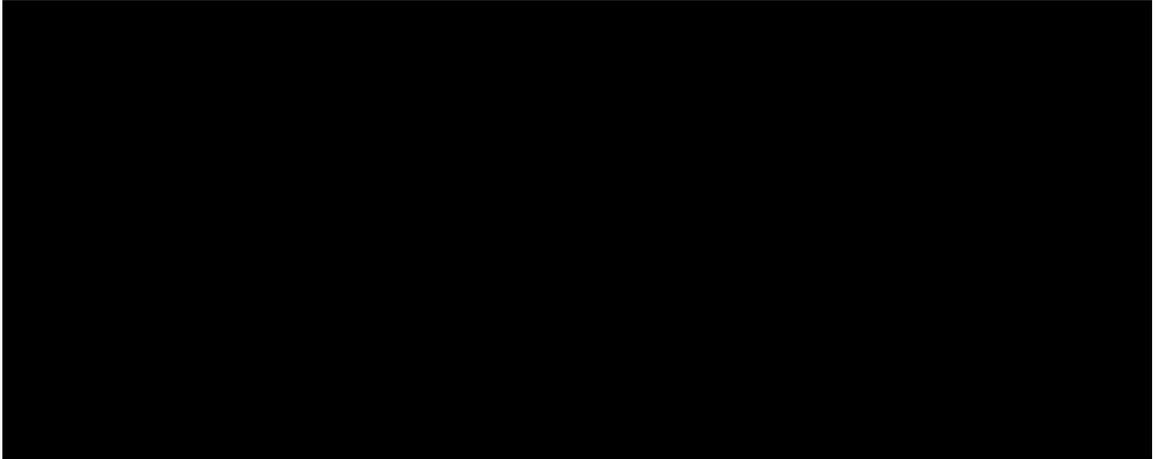
¹ 99.99% of the units of the trust are held in the JPUT (Main Square Camberley Unit Trust) for the benefit of the Council. However, Ms Whelan is also the sole director of SHBC Camberley Limited (a company incorporated in England and Wales on 20 October 2016, which is a wholly owned subsidiary of the Council established to hold the remaining 0.01% of the total trust assets). [REDACTED]

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4 Shortly after the change of Leader the Council began preparing for the elections in
May 2019.

5



6 This report has the following Appendices:

- 6.1 **Appendix One:** Chronology of events leading up to the making of payments to Ms Whelan as described at 1.1 and 1.2 above.
- 6.2 **Appendix Two:** Methodology statement.
- 6.3 **Appendix Three:** Core procedural and policy documents.
- 6.4 **Appendix Four:** Key documents (Interview Bundle).

SECTION B

The timeline and circumstances leading up to the award of the alleged “Additional Duties Allowance” and the making of an advance payment

What payments were made?

- 7 On 16 January 2019 Ms Gibson signed a business case that contained a proposal to pay Ms Whelan, an “additional duties allowance” of £15,000 per annum, backdated to April 2017, which payment was to continue until a ‘full review’ of Ms Whelan’s salary was completed. The back dated sum was to be paid “from within existing budgets” and the subsequent payments were to be “built into the budget”.
- 8 Ms Gibson signed a Payroll Instruction form on the same day that authorised the payments referred to in the business case.
- 9 On 17 January 2019 [REDACTED], signed a BACS voucher to authorise a payment to Ms Whelan of £13,500. This payment was described as an “Advance of Pay”.
- 10 On 20 February 2019 Ms Gibson signed a further version of the business case. This allowed for an additional pro-rata payment of £15,000 per annum, to cover the period October 2016 to 31 March 2017. Ms Gibson signed a “Payroll Query/Authorisation” form on the same day that included details of the payments referred to in the amended business case, and a note that payment for the period 1 April 2017 to 28 March 2019 had been paid on that day.

What policy was relied upon?

- 11 The Council has an Exceptional Payments Policy (“the Policy”), which makes reference to additional duties allowances. The Policy states as follows:

Where an employee who, for any reason other than the annual leave of another, is required to undertake the full or a proportion of the duties and responsibilities of a similar graded post for a continuous period of at least four weeks, an additional duties allowance should be considered.

Reasons for Receiving Additional Duties Allowance

The reasons for receiving an additional duties allowance are:

Temporarily filling a post until a substantive appointment can be made

Filling a key post while another employee is on maternity/paternity/parental leave

Filling a key post to cover long term sickness absence, filling posts due to other temporary extended leave arrangements, e.g. secondments

Payment

If the employee is carrying out additional duties that fall within their current grade, they will be entitled to receive an additional duties payment of up to 5% of their salary for their current scale point.

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12 Attached to the Policy is a form that is required to be completed for additional duties allowances. It contains fields that require the line manager proposing the payment to set out the purpose of the allowance, the justification for it in terms of a business case, and a financial summary of the request, which requires an explanation of the funding and service charge code applicable to the payment.

13 The business case attached to Ms Gibson's letter of 16 January 2019 listed examples of new areas of responsibility said to have been undertaken by Ms Whelan over the previous two years, contained information about the salaries paid to Chief Executives by other local authorities in Surrey and ended with the following proposal:

The highest salary point for the role [sic] Chief Executive at Surrey Heath is [REDACTED] in the current year.

In light of the increased responsibilities taken on by the Chief Executive as detailed above it is proposed that a full review of the senior management structure is undertaken which will enable proper consideration of the value of the Chief Executive's grade, with further detailed data analysis, so that an informed long-term decision can be made. However, in the meantime to recognise the additional responsibilities and value the work has created for the Council, it is proposed that an additional duties allowance be paid to recognise the change to the role from traditional local government delivery to buying commercial property to plug the budget gap.

It is proposed that in line with changes made to other Surrey Borough and District CEO remuneration that £15,000 per annum for each of the years 2017/18 and 2018/19 to the CEO to recognise the new work stream undertaken and that this payment be on-going until the full salary review has been completed. The back dated sum will be paid from within existing budgets and subsequent payments built into the budget.

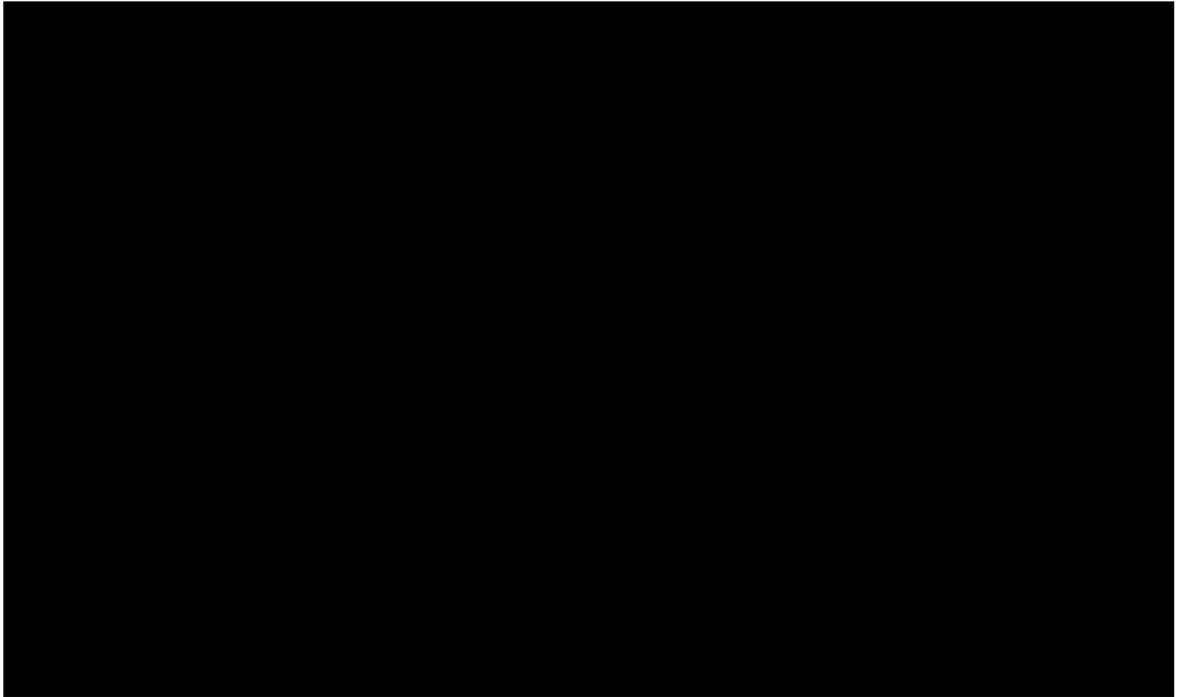
14 5% of Ms Whelan's salary (the maximum allowed to be paid as an additional duties allowance pursuant to the Policy) as at 16 January 2019 was approximately £6,000.

15 [REDACTED]

16 [REDACTED]

[REDACTED]

17

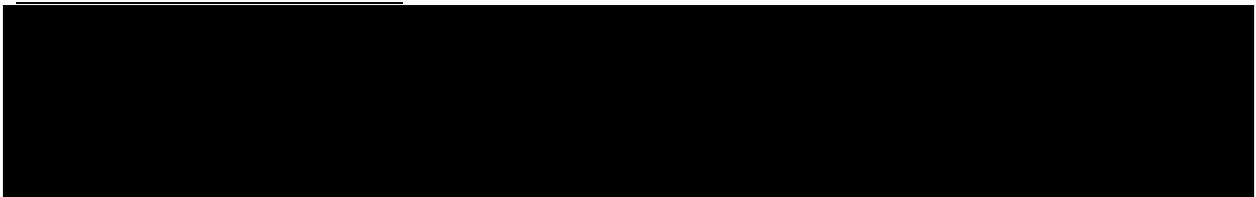


How did the agreement to make the payment come about?

18 According to [REDACTED], on 13 August 2018 she met with Ms Whelan [REDACTED]
[REDACTED]

19 Following this meeting, [REDACTED] undertook some salary benchmarking analysis. On 12 September 2018 [REDACTED] emailed Ms Gibson seeking a meeting with her and Ms Livingston. Various attempts were made to arrange that meeting during September 2018.

20 On 4 October 2018 Ms Whelan sent an email to [REDACTED], copied to Ms Livingston, chasing progress in relation to her request for a pay rise. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



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[REDACTED]

[REDACTED]

[REDACTED]

21 Ms Whelan forwarded this email to Cllr Richard Brooks, then Deputy Leader, marked "For Info". Mr Brooks replied to say that he would speak with Ms Gibson. Ms Whelan thanked him for his support.

22 [REDACTED] replied on the same day to say that she had met with Ms Gibson and that she would meet her again with Ms Livingston. [REDACTED] also stated that Ms Gibson had asked for further information.

23 [REDACTED]

24 On 15 October 2018 [REDACTED] emailed Ms Whelan to provide an update.

25 On 16 October 2018 Ms Livingston and [REDACTED] met Ms Gibson and made a request that Ms Whelan's pay be reviewed. Ms Gibson had said that she had discussed the matter with Ms Limmer and that any pay increase for Ms Whelan would need to be presented to full Council.

26 On 17 October 2018 Ms Whelan met with Ms Livingston and [REDACTED], and immediately after that meeting Ms Livingston met with Ms Gibson. [REDACTED] prepared a note of the meeting with Ms Whelan which indicated that Ms Whelan was unhappy with the progress of her salary review, that she expected the HR department to progress that matter on her behalf [REDACTED]

[REDACTED]

27 Ms Livingston sent an email to Ms Whelan and Ms Gibson (the latter copied to Mr Brooks and both copied to [REDACTED]) setting out her account of those meetings. Both emails referred to two options for resolving the issue of Ms Whelan's pay by way of papers to full Council: one being a change to Ms Whelan's pay scale and the other being as part of a restructure of the senior management team, [REDACTED]

[REDACTED]

[REDACTED] That email included a link to the salary benchmarking that had been

⁴ [REDACTED]

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undertaken. It concluded with a statement that Ms Livingston would provide a suggested solution to Ms Gibson and Mr Brooks whereby Ms Whelan's job description, person specification and salary were reviewed to reflect the Council's property acquisitions and the associated risks. If the members wished to proceed with that solution Ms Livingston would write a paper setting out a business case, for submission to full Council.

- 28 Ms Whelan responded to Ms Livingston on 18 October 2018 expressing concern at the delay in dealing with her pay that had occurred to date and would be likely to be involved going forward. Ms Whelan also stated that the process for dealing with her HR issues was confidential but she had found out that her request was "now" being dealt with by two HR officers⁵ and that the Monitoring Officer was involved⁶. Ms Whelan asked how many other officers had been consulted. [REDACTED]

- 29 [REDACTED] Ms Whelan told Ms Livingston [REDACTED] that she did not want to meet with the Leader to discuss her pay and wanted HR to make that request of the Leader on her behalf. Ms Whelan referred to a £15,000 per annum pay rise that had been awarded to the Executive Heads that she had not received⁷ and stated that the Council's pay scale for the Chief Executive was out of date. Ms Livingston told Ms Whelan that any pay rise for the Chief Executive would need to be referred to full Council. Ms Whelan referred to the salaries paid to Chief Executives of other Councils and indicated where she thought they were true comparables, and where she did not. Ms Whelan told us that two options were not proposed by Ms Livingston at the meeting, contrary to what Ms Livingston had said in her email. [REDACTED]

- 30 Ms Livingston responded to Ms Whelan's email on 19 October 2018 recognising the importance and urgency of the matter and agreeing to expedite relevant meetings and actions.

- 31 On 29 October 2018 Ms Livingston met with Mr Brooks to discuss the issue of Ms Whelan's pay. During that meeting Mr Brooks expressed support for Ms Whelan and agreed that her role had changed and that a review of her remuneration was needed. Two options were discussed: a review of the pay scales and a performance

[REDACTED]

related bonus, and Ms Livingston noted that she needed to prepare some options for Mr Brooks to consider. Mr Brooks said that he would talk to the Council but when the political position was clearer. [REDACTED]

[REDACTED] The meeting concluded with a statement that Ms Livingston would speak to Ms Whelan on 30 October 2018⁸.

- 32 Discussions then ensued between Ms Livingston and Ms Limmer as to how the matter could be resolved, and how they could find “ways round”⁹ the need to report a salary review for Ms Whelan to full Council, given Ms Whelan’s dissatisfaction and the views of Ms Gibson and Mr Brooks that Council would be unlikely to support a pay rise for Ms Whelan at that time. [REDACTED]

[REDACTED]

- 33 Work began on a draft business case, with an initial draft being produced by [REDACTED] and subsequent versions being developed by Ms Livingston and Ms Limmer. [REDACTED]

[REDACTED]

- 34 Differing accounts have been given as to how the progression of Ms Whelan’s salary review changed from being one of job evaluation/salary review, reported to full Council, to the making of an additional duties allowance signed off by Ms Gibson.

[REDACTED]

⁸ [REDACTED] made a note of this meeting which Mr Brooks agreed was an accurate record, save that he could not recall any discussion about backdating pay (which was referred to in the note).

[REDACTED]

[REDACTED]

35

[REDACTED]

It is also clear that all concerned considered the payments being made to Ms Whelan to be temporary in nature pending a full salary review¹¹.

36

[REDACTED]

37

[REDACTED]

38

[REDACTED]

[REDACTED]

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39 On 21 November 2018, the day following the call to Ms Limmer, Ms Whelan’s PA informed Ms Limmer and Ms Livingston that she was holding time in Ms Whelan’s diary between 4 and 6pm “to run through the paperwork with Karen.” The draft business case timed 6.13pm on that date is the first version of the business case provided to us which refers to an additional duties allowance. Ms Whelan has stated that no meeting occurred on that date and she was not at the Council offices at all that afternoon.

40 When interviewed, neither Ms Livingston nor Ms Limmer can recall how or when the decision was made to secure the payment to Ms Whelan by way of an additional duties allowance, approved by Ms Gibson as opposed to full Council. Both officers were however clear that any substantive pay rise for Ms Whelan would have to be approved by full Council. Ms Livingston characterised the payment to Ms Whelan as being of a temporary nature such that in her view a referral to full Council was not necessary.

41 Ms Gibson told us that Ms Whelan first raised the issue of her pay with her in September/October 2018 and that in response Ms Gibson made it clear to Ms Whelan that she would not make any decisions in relation to that issue unless and until she had all relevant facts before her and had taken all relevant advice. Ms Gibson had sympathy with the merits of Ms Whelan’s request and raised the matter with the Group and the Executive. [REDACTED]

42 [REDACTED]

43 The first draft of the ‘full’ business case (i.e. not that produced by [REDACTED]) included reference to the sum of £6,000 per annum. [REDACTED]

[REDACTED] Early drafts of the business case make clear that £6,000 was referred to as it was around 5% of Ms Whelan’s salary and that was the maximum payable under the Policy. [REDACTED]

44 In subsequent drafts, the amount changed to £15,000. [REDACTED]

[REDACTED]

45

[REDACTED]

46

47

As noted above, the letter of 16 January 2019 referred to a payment of £15,000 per annum, backdated to 2017/18 and to continue until Ms Whelan's salary had been subject to a full review. Following a challenge made by Ms Whelan on 19 February 2019, a further business case was produced by Ms Livingston and signed by Ms Gibson on 20 February 2019 that referred to an extended period of backdating to October 2016.

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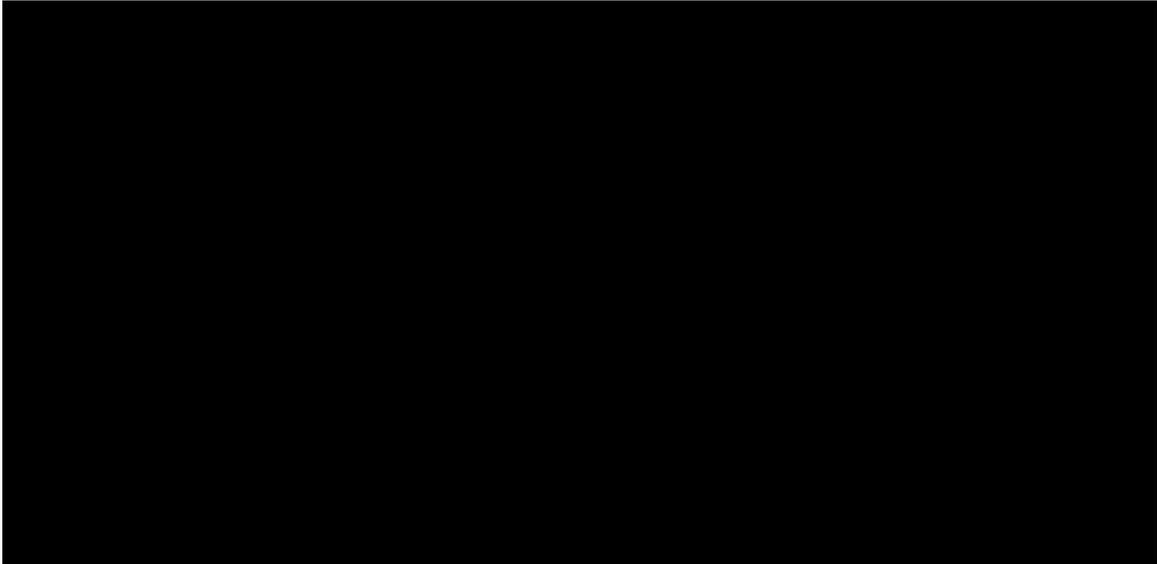
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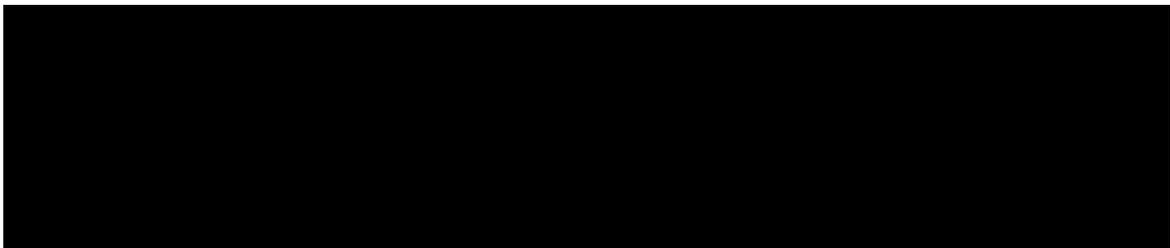
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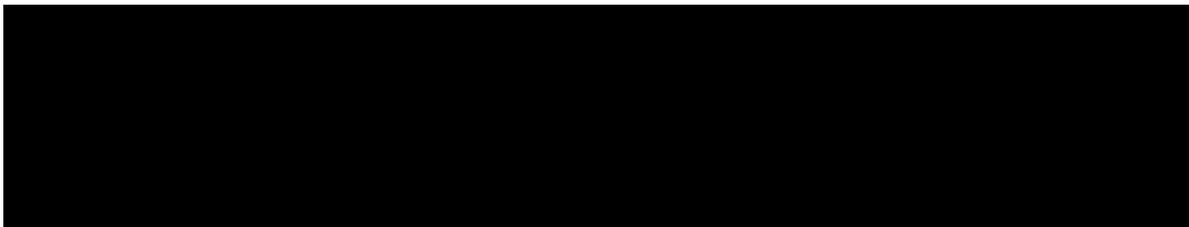


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52 As noted above, an [REDACTED] payment to Ms Whelan of £13,500 was authorised on 17 January 2019. That authorisation occurred by [REDACTED] and Ms Limmer calling a finance officer, [REDACTED]¹³, into a room and giving her the relevant form, asking [REDACTED] to keep the matter confidential.

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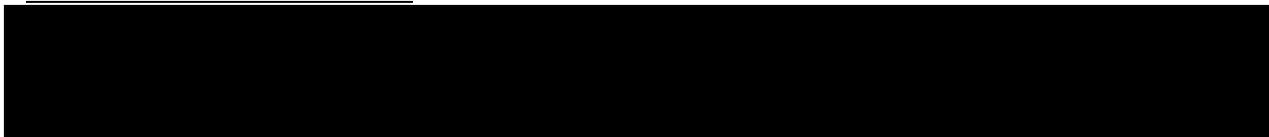
54 Ms Whelan stated that she did not know about the [REDACTED] payment until she received a letter confirming the details of that payment dated 17 January 2019. Ms Whelan produced to us a copy of that letter that had comments written on it that Ms Whelan stated were written at the time. Those comments said:

Rec'd 22/1/2019

Nb: Meeting 14/1/2019 refers.

Queried why the urgency as do not want preferential treatment.

[REDACTED] confirmed this is standard practice.



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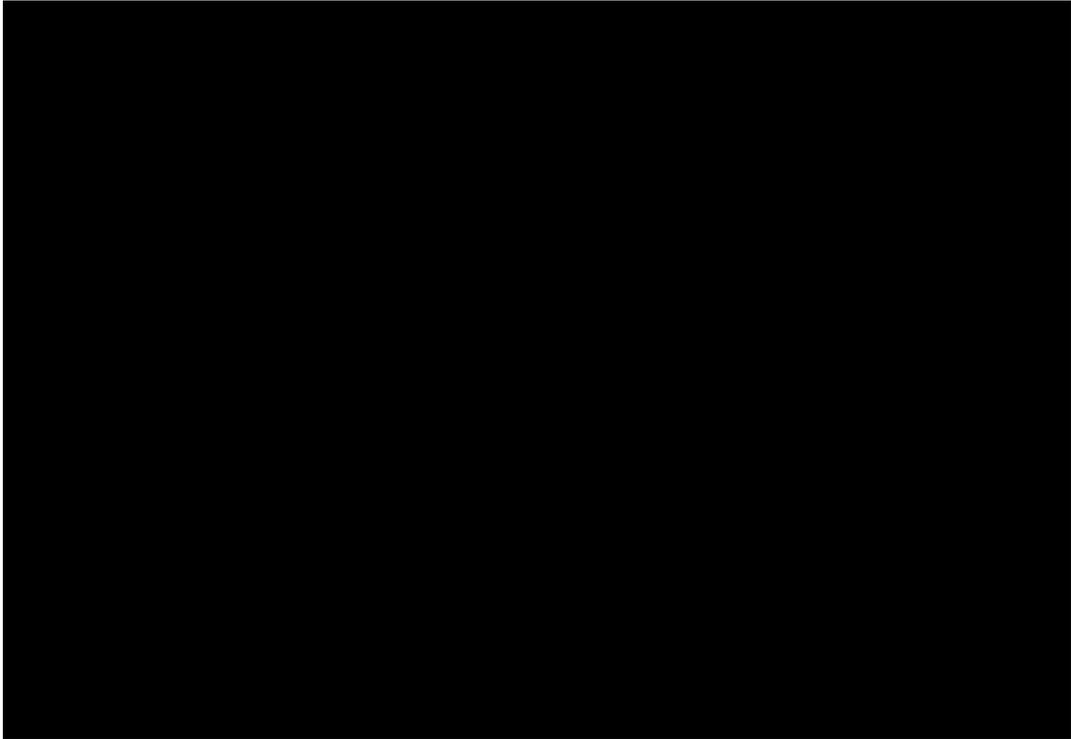
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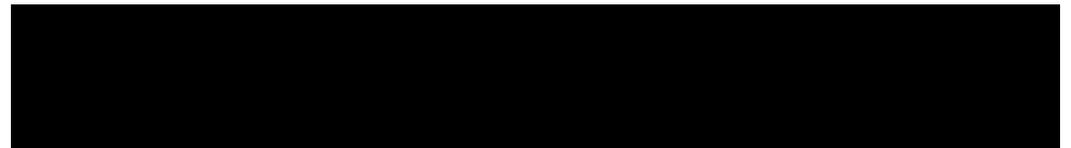
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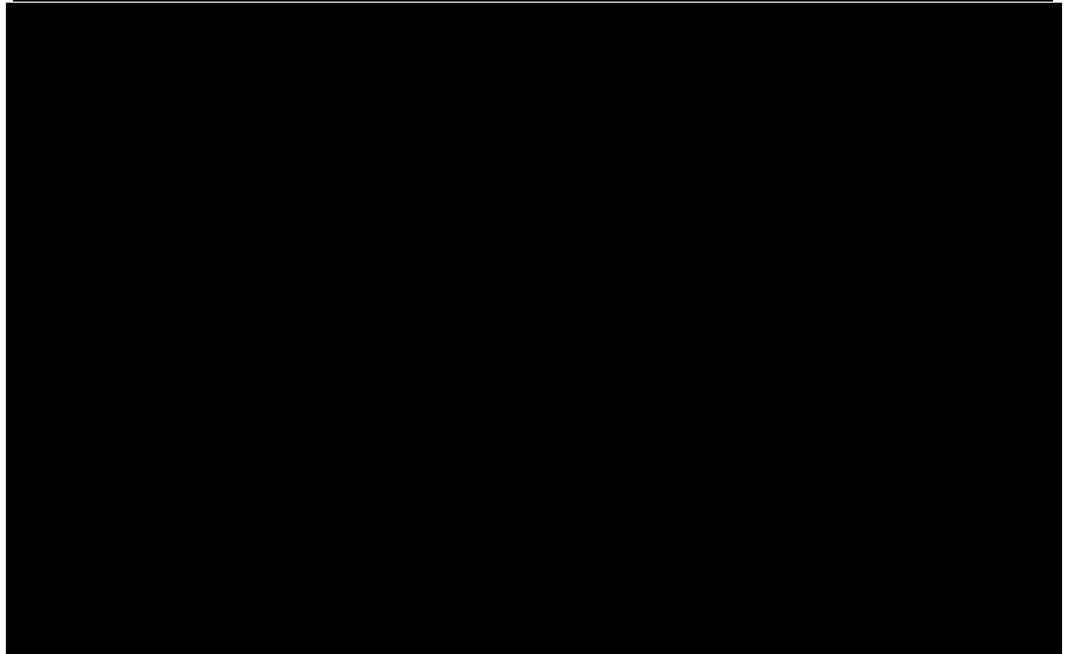
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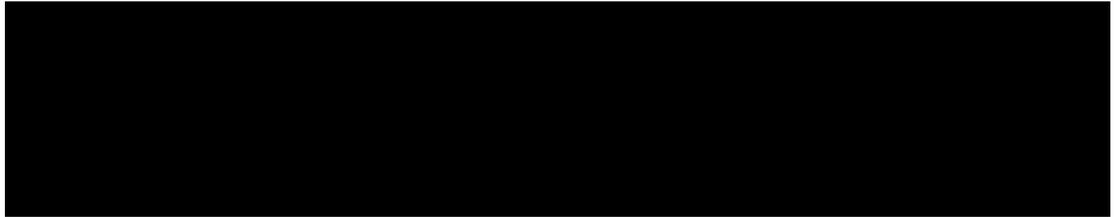
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What authority was relied upon?

- 61 Ms Whelan’s job description and contract of employment provide that she reports to the Leader and the Executive. Her contract of employment further provides that her first salary progression review would be undertaken by the Leader in consultation with the Executive. Thereafter incremental progression through the scale points of her pay grade would be determined in accordance with the Appraisal Development Scheme. [REDACTED]
- 62 The Council’s Constitution provides that the appointment of the Head of Paid Service (Chief Executive) shall be a matter for full Council¹⁸, and that any disciplinary proceedings against the Head of Paid Service (Chief Executive) (save suspension for alleged misconduct) must be considered by an independent panel and undertaken in accordance with the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015¹⁹. Save for those provisions the Council’s Constitution is silent as to the arrangements for the performance management of the Chief Executive or the making of any additional payments or honoraria to her. The Policy is silent as to when and how, if at all, it is to apply to the Chief Executive (although it does not say that it does not apply to the Chief Executive). The Council’s annual Pay Policy Statement is also silent as to how any issues relating to the Chief Executive’s remuneration are to be dealt with²⁰.
- 63 Ms Whelan is at the top of her salary grade and as such cannot achieve a substantive pay rise without her post being regraded. Such a regrading is a matter for full Council, which is responsible for determining the terms and conditions of employment of the Chief Executive, including their remuneration.
- 64 Under the Council’s Constitution the Leader has the delegated authority to take all decisions that are not the responsibility of any other part of the Council²¹. Ms Limmer, Ms Livingston and [REDACTED] proceeded on the basis that the payments that were being made to Ms Whelan were temporary and were an additional duties allowance rather than a substantive increase in her pay (although they operated as such). Given the lacuna in the Constitution identified above, it is arguable that decisions that did not involve a substantive increase in the Chief Executive’s pay could be determined by the Leader exercising her delegated authority. This was

¹⁷ [REDACTED]

¹⁸ Paragraph 3(a), Section J, Part 4 and Article 4.2(j).

¹⁹ Paragraph 7(b), Section J, Part 4.

²⁰ The Council’s Pay Policy Statement for 2018/19 states that there is no provision for bonus payments and that all employees (including Chief Officers) are subject to an annual assessment of performance. There is reference to “exceptional increases and additions to remuneration for Chief Officers” but the accompanying narrative relates only to election duties.

²¹ Article 7.2.

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72 It is clear that Ms Gibson, Ms Limmer and Ms Livingston all considered the payments to Ms Whelan to be of a temporary nature. Those payments were however allowed to continue indefinitely pending a salary review that, as at the date of this report, has not been progressed and in relation to which no timescale was imposed at the time the payments were authorised.²² The payments operated as a pay rise.

73 Section 38(4)(a) of the Localism Act 2011 requires that the Council's annual Pay Policy Statement must include the level and elements of remuneration of each chief officer (which includes the Chief Executive as Head of Paid Service) and the Council's policies in relation to increases and additions to remuneration for each chief officer. "Remuneration" is defined in Section 43 of the Act and includes any allowances payable to the chief officer and any remuneration that may be paid in the future to a chief officer. The Council's Pay Policy Statement for 2019/20 refers only to Ms Whelan's salary and makes no reference either to the additional payments made or the fact that they were to be paid in the future.

Was there a breach of the Member and Officer Protocol?

74 As relevant, the Protocol provides as follows:

1.7 Neither Members nor officers must try to take unfair advantage of their position.

4.13 It is equally the responsibility of all staff to respect the structural, procedural and managerial arrangements in force at any time and specifically

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refrain from taking individual matters of terms and conditions or a matter relating to other aspects of employment directly to an elected Member.

4.14 Should such an approach occur the Member must refer the matter to the Chief Executive...

7.3 Official letters on behalf of the Council should normally be sent out in the name of the appropriate officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be signed by a Member, but this must be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council must never be sent out in the name of a Member.

75 As noted above, Ms Whelan’s contract states that she reported to the Leader and the Executive. It appears however that Ms Gibson exercised some quasi-line management functions in respect of Ms Whelan, for example by way of the holding of weekly one-to-one meetings. Ms Gibson stated that she also undertook Ms Whelan’s annual performance appraisal, in consultation with Mr Brooks. It could be argued that paragraph 4.13 of the Protocol fails to recognise those functions. Alternatively, it can be argued that this failure is a consequence of the fact that Ms Gibson did not, in fact, have any such functions under the Council’s Constitution or Ms Whelan’s contract of employment. It was inevitable that Ms Gibson was in regular contact with Ms Whelan given their respective roles as Leader and Chief Executive. However, Ms Whelan reported to Ms Gibson and the rest of the Executive, and, absent any delegation to the contrary, matters relating to Ms Whelan’s remuneration were matters for the full Council.

76 Ms Gibson signed two letters addressed to Ms Whelan relating to the decisions to award her additional pay. Those letters created obligations on the part of the Council. They should not have been issued in Ms Gibson’s name. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Was there a breach of the Officers’ Code of Conduct?

77 The Officers’ Code of Conduct (in effect from June 2017) states as follows:

4.1 Local government officers are expected to give the highest possible standard of service to the public, and where it part of their duties, to provide appropriate advice to councillors and fellow officers with impartiality. Officers will be expected, without fear of recrimination, to bring to the attention of their line manager any actual or perceived impropriety, breach in procedure or deficiency in the provision of service. In exceptional cases they can direct their concerns to the Monitoring Officer or the Chief Executive²³.

[REDACTED]
[REDACTED]

²³ [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

17.1 Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. They shall strive to ensure value for money to the local community and to avoid legal challenge to the authority. The Council's property and resources are to be used solely for approved purposes.

What were the officers' statutory responsibilities?

- 78 Local authorities have a duty to designate an officer as Monitoring Officer to check on the correctness and propriety of the authority's decisions²⁴ and a duty to secure that an officer is responsible for the administration of financial affairs, the Chief Finance Officer²⁵. The statutory functions of Ms Limmer (as Monitoring Officer) and Mr Menon (as Chief Finance Officer) are relevant context to the matters under investigation.
- 79 The Monitoring Officer is under a duty to prepare a report to the authority if at any time it appears to him or her that any proposal, decision or omission by the authority or any of its officers, constitutes or may give rise to a contravention of any enactment, rule of law or statutory code of practice, or amounts to maladministration or injustice under Local Government Act 1974. The responsibilities and functions of the Monitoring Officer are explained further in the Council's Constitution, including that the Monitoring Officer will be "available for Members and Officers to consult on any issues of the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements."²⁶
- 80 The Chief Finance Officer is required to be a member of a specified accountancy body. This includes CIPFA²⁷, of which Mr Menon is a Qualified Member. Like the Monitoring Officer, the Chief Finance Officer also has a duty to report to the authority in certain circumstances.²⁸ Those circumstances include where the authority or any of its officers have: made or are about to make a decision which involves or would involve the authority incurring expenditure which is unlawful; or have taken or are about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority. It is well-established that the Chief Finance Officer is "not merely a servant of the council, but, as custodian of borough funds," stands in a fiduciary position with a duty to tax-payers.²⁹

²⁴ Section 5 Local Government and Housing Act 1989, as amended.

²⁵ Section 6 Local Government and Housing Act 1989 and Section 151 Local Government Act 1972, as amended.

²⁶ Part 5 - Section E - Monitoring Officer Protocol. (e.g. paragraph 8).

²⁷ The Chartered Institute of Public Finance and Accountancy. CIPFA has produced detailed guidance on how the requirements of legislation and professional standards should be fulfilled by local government CFOs: CIPFA, *The Role of the Chief Financial Officer in Local Government* (April 2016).

²⁸ Section 114 Local Government and Finance Act 1988.

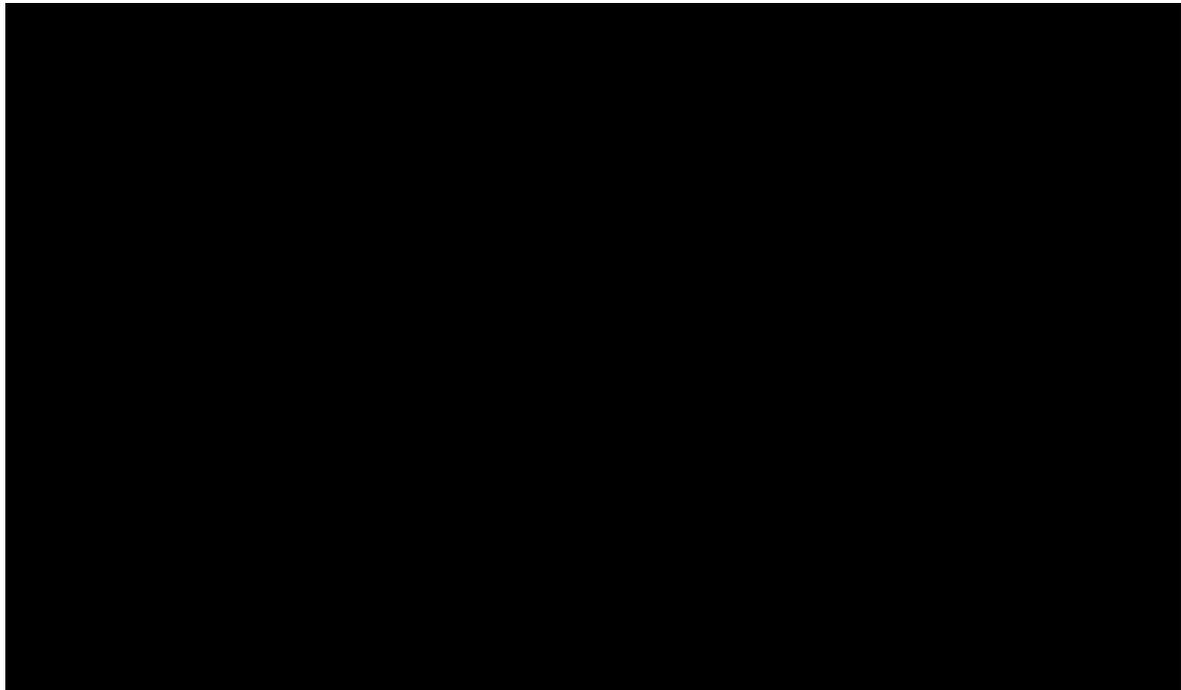
²⁹ *Attorney-General v De Winton* [1906] 2 Ch. 106. See also the CIPFA guidance referred above: "The local authority is regarded as the trustee of local citizens' money, and the finance director

- 81 In preparing any such respective report to the authority, the Chief Finance Officer and Monitoring Officer must consult, as far as practicable, with the Head of Paid Service and each other.³⁰
- 82 In view of their statutory responsibilities for bringing concerns to the attention of the Council, those in these roles are afforded special employment protection.³¹ As a recent National Audit Office report³² on Local Authority Governance noted, such protections are “to enable them to ‘speak truth to power’.”

Findings

- 83 Establishing how the decisions relating to the payments to be made to Ms Whelan came to be made has been hampered by a lack of documentary evidence. The business case was progressed at face to face meetings and changes to it were agreed verbally. Save for [REDACTED] note of and the emails relating to the 17 October 2018 meeting, there is no record of the decisions that were made about the process to be followed, any requests for advice or any advice received.
- 84 It is clear that the progression of an improvement in Ms Whelan’s pay became hurried and confused. There appears to have been confusion as to what procedure was being followed, what role documents were intended to have and what policy was being applied. This is apparent from the different versions of the business case: early iterations referred to the additional duties allowance and the 5% cap, this was then replaced with reference to an honorarium and ultimately reference was made to an additional duties allowance but not the 5% cap (which by then had been exceeded).

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has the prime obligation and duty to them to manage the authority’s resources prudently on their behalf as established in the 1906 de Winton case.”[18].

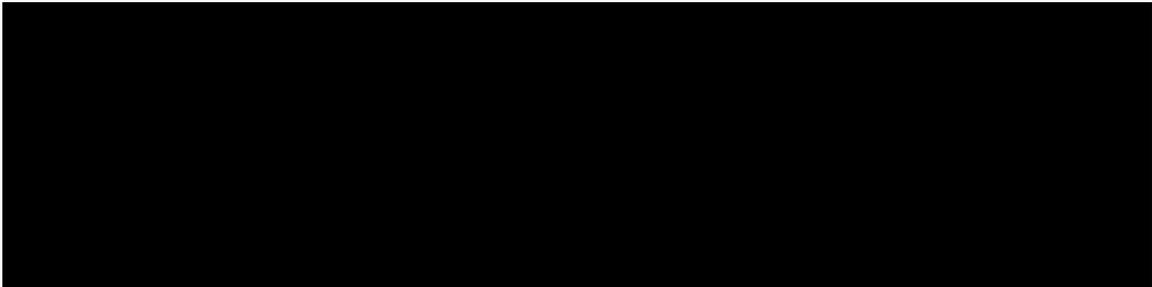
³⁰ Section 5 and 6 Local Government and Housing Act 1989.

³¹ See: Local Authorities (Standing Orders) (England) Regulations 2011, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

³² NAO, *Local Authority Governance*, (15 January 2019).



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The document itself refers both to the additional duties that had been undertaken by Ms Whelan and to salaries paid to other Chief Executives of councils in Surrey. The individuals involved conflated a wider review of Ms Whelan's pay (to which salary benchmarking would be relevant) to recognition of the additional duties she had performed since October 2016 (to which the additional duties allowance could apply subject to the 5% cap but to which salary comparison would not be relevant). The rationale given for the payments in the versions of the business case attached to Ms Gibson's letters to Ms Whelan of 16 January and 20 February 2019 was as follows:

It is proposed that in line with changes made to other Surrey Borough and District remuneration that £15,000 per annum [will be paid to the CEO] to recognise the new work stream undertaken...

89

Additional duties allowances are not paid on the basis of salary comparison with other, comparable postholders but are intended to recognise the additional duties performed. Salary comparison would be relevant to a wider salary review/job evaluation process. If the payment to Ms Whelan had truly been intended to be an additional duties allowance it would a) have been calculated based on the value of the additional duties said to be undertaken (principally Ms Whelan's involvement with the Council's trust based in Jersey and the shopping centre acquired by the Council in October 2016) and b) capped at 5% of Ms Whelan's salary. The payments that were agreed met neither of those criteria. It was neither an additional duties allowance nor a substantive pay rise (which would have to have been approved by full Council).

90

£15,000 is more than 5% of Ms Whelan's salary. For that reason alone it cannot be said to have been paid by way of an additional duties allowance.

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91 It is not accepted that Ms Whelan’s involvement in the JPUT and/or the shopping centre meant that the payments to her fell within the first category of cases that would qualify for an additional duties allowance. That category applies where a person is “temporarily filling a post until a substantive appointment can be made”. Neither Ms Whelan’s role in relation to the JPUT nor the shopping centre were separate posts to which substantive appointments were to be made.

92 Ms Whelan has stated that the payments to her did not meet the definition of an additional duties allowance contained within the Policy as she was not carrying out additional duties that fell within her current grade. Ms Whelan’s role in relation to the JPUT was carried out along with other officers and members and her evidence was that the members wanted a senior officer to assume the role in relation to the shopping centre, and having considered Ms Limmer and Ms Menon, decided that Ms Whelan should take on the role. If Ms Whelan’s position is correct and the additional duties and responsibilities she undertook fell outside her current grade, that supports the conclusion that remuneration in respect of those duties and responsibilities should have been considered by way of a full review of her salary grade, which review would have to be considered by full Council. Ms Whelan’s position does not support the making of backdated additional payments in respect of those additional duties and responsibilities to her, and indefinite ongoing payments, outwith any policy or procedure and with no reference to full Council, as happened in this case.

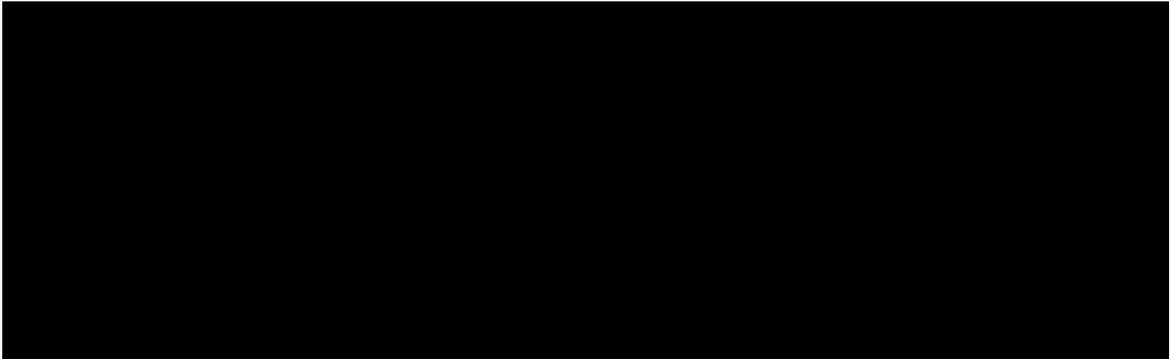
93 It is also clear that matters were hurried. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

94 [REDACTED] As soon as the amount to be paid increased to £15,000 from £6,000 per annum, the draft business case was amended to refer to an honorarium (rather than an additional duties allowance) and the previous reference to the 5% cap was removed. Ultimately the business case was changed back to refer to an additional duties allowance.

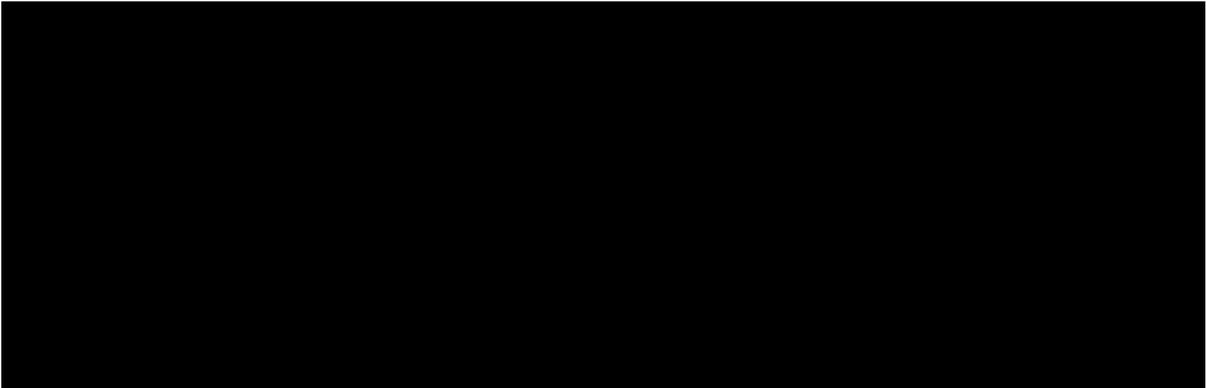
95 Ms Whelan [REDACTED] was originally employed by the Council as Head of Legal Services and Monitoring Officer. As Chief Executive she was also the Council’s Head of Paid Service. She can therefore be taken to have detailed working knowledge of the Council’s constitution and its HR policies and procedures. It is not therefore an answer for Ms Whelan to deny knowledge of those matters, of the framework within which the decision relating to her pay was being made, and instead to have relied on the advice of her officers (see paragraph 16 above).

96 [REDACTED]

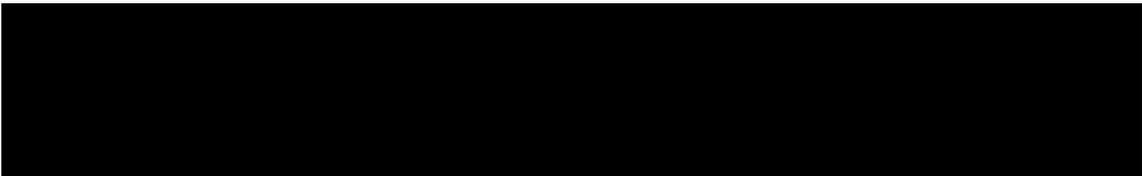
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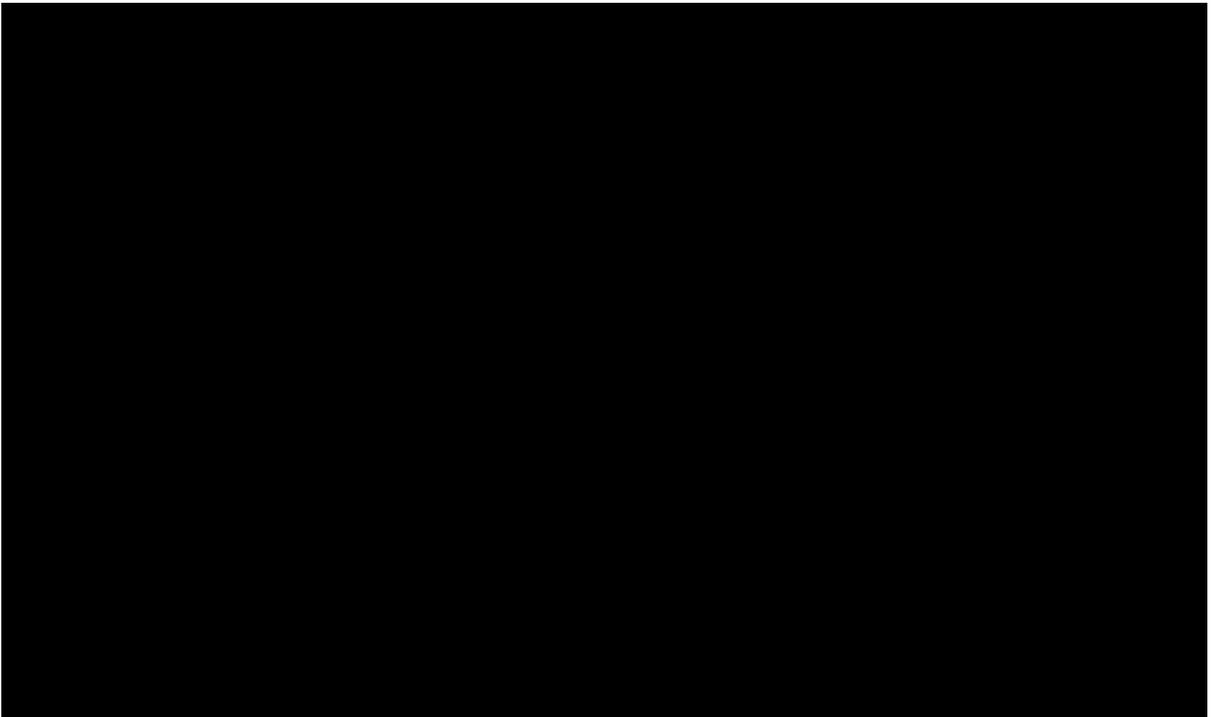
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100.7 Ms Whelan was involved in the development of the business case that was ultimately used to justify the making of payments to her, including the extent of the backdating of that payment and the increase from £6,000 per annum to £15,000 per annum.

100.8 The [REDACTED] payment of £13,500 that was authorised to be made to Ms Whelan was made at her request.

100.9 In relation to the hand annotated version of the letter to Ms Whelan that Ms Whelan produced to the investigation:

100.9.1 an [REDACTED] payment of that nature was not standard practice;

100.9.2 an [REDACTED] payment of that nature was unprecedented.

Findings in relation to the constitutional position

101 The payments made to Ms Whelan did not accord with the Policy, and accordingly were not made pursuant to that Policy in that:

101.1 they did not meet any of the criteria for such payments as set out in the Policy;

101.2 they exceeded the 5% limit stipulated in the Policy;

101.3 the forms that were mandated to be completed by the Policy were not completed in the respect of the payments.

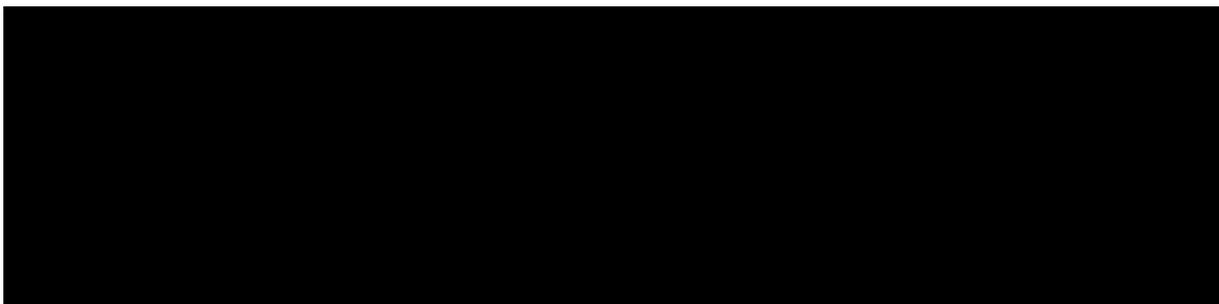
102 Ms Gibson only has authority to make certain decisions, and only then in accordance with the Constitution, including the Executive Procedure Rules.

103 Even if the decisions relating to the payments to Ms Whelan of £15,000 per annum were such decisions, the Executive Procedure Rules were not followed in relation to those decisions.

104 Those payments were unlawful either for want of authority (because they could not be made pursuant to Ms Gibson's delegated authority, as they were tantamount to a pay rise for Ms Whelan and as such were reserved to full Council) or because the relevant procedural requirements were not followed in relation to the decisions to make those payments, and those requirements were of mandatory effect. It is not the position that the Council could not lawfully award Ms Whelan the payments - it could have done at the time and could now ratify the decision. In this case the proper procedures were not followed and as such the decisions to make the payments were not lawfully made.

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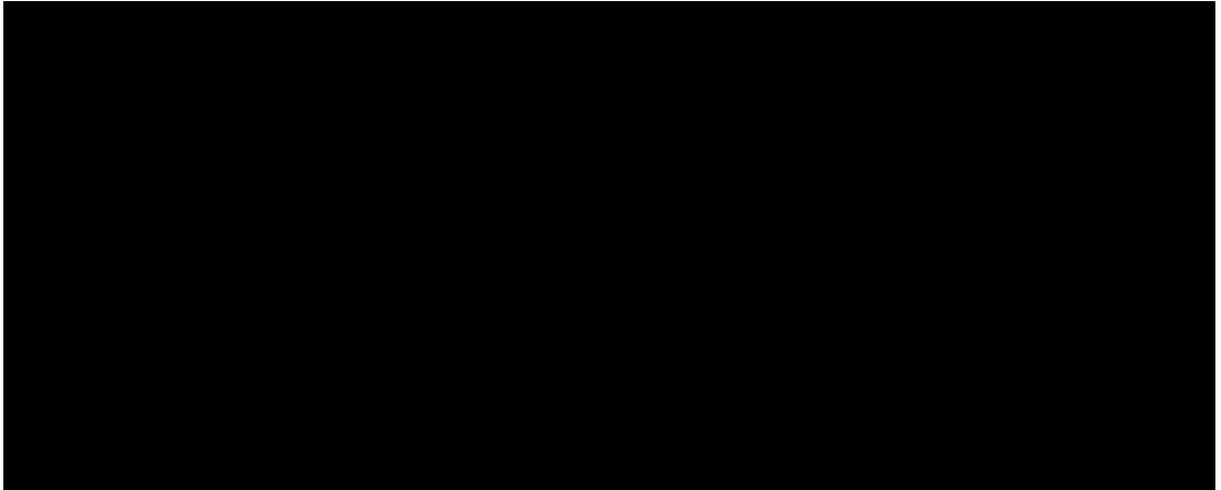
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106.2 Ms Gibson should not have issued letters to Ms Whelan that related to her pay.

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SECTION C

The purchase of a provided car by Ms Whelan

110 In May 2010 Ms Whelan was a member of the Council's provided car scheme. This allowed officers to have the use of Council-owned cars of their choosing (within bands according to their grade) over a four year period. The Council provided an allowance towards the cost of the vehicle and its running costs over the four year period. If the officer chose a vehicle that was more expensive than the allowance the officer was required to pay the difference to the Council, through their salary and over the same period.

111 [REDACTED]

On the road price: £33,199.67

Extras: £1,423.80

112 In terms of the Council's accounts, the car was treated as follows:

Cost: £23,884.67³⁴ (described in the document we have seen as a "Whole life cost calculation")

Allowance payable by the Council for Ms Whelan's grade: £16,899

48 months contributions: £6,985.67 (£145.53 per month)

Plus interest charged at 4.5%: £628.71

Annual cost: £158.63³⁵ per month.

113 The Council's Car User Policy in force at the time required that any extras requested by the user would be payable by that user at the point when those extras were ordered, unless the extras were required pursuant to an obligation under the Equality Act 2010. Ms Whelan did not pay for the extras she had requested for the BMW³⁶ at the time of ordering the car.

114 Ms Whelan kept the car after the four year period, with the Council meeting all running costs. In August 2016 Ms Whelan expressed an interest in purchasing the

³⁴ [REDACTED]

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[REDACTED]

118

[REDACTED]

119

[REDACTED]
[REDACTED]
[REDACTED]

120

[REDACTED]

121

Ms Whelan's position is that the payments she made in respect of the car were contributions to its value. They were not. Ms Whelan has also suggested that the Council should recognise (by allowing the deduction to be made) that she had looked after the car, when in fact it was the Council that had met all running costs associated with the car. [REDACTED]
[REDACTED]

122

[REDACTED]

123

[REDACTED]

⁴¹ We have asked Ms Whelan for any documents in her possession that relate to the purchase of the car but none have been provided.

[REDACTED]

124

[REDACTED]

125

[REDACTED] This is not within the remit of our investigation. We have however been provided by a note⁴² accompanying Ms Whelan's P11D for 2017/18 which states as follows (emphasis added):

Total P11D value of vehicle when purchased (16/04/2010) £40,275.67

Under provided car scheme Karen made contributions towards the capital cost of the car of £177.82 per month from May 2010 until October 2010.

Upon promotion to the post of Chief Executive, Karen's contributions were re-assessed and reduced to £158.63 per month from 1 November 2010.

Karen received tax relief on these contributions as part of the Council's P11D reporting process.

Total capital contributions made in respect of this vehicle were £7,729.38.

As guardians of the public purse, senior management decide on a fair price on the sale of a car, however, since the market value already takes into consideration that the vehicle is 6 years old, the difference between the market price of the vehicle and the amount paid must be reported on Karen's P11D for 2016/17.

Findings

126 The contributions paid by Ms Whelan reflected the fact that she had chosen and had use of a car that cost in excess of what the Council was prepared to pay by way of an allowance. The deduction of those payments from the value of the car to calculate the purchase price due in respect of it was illogical [REDACTED]

[REDACTED]

127 Similar deductions were not made in favour of other officers who purchased their provided cars from the Council. Information provided to the investigation indicates that other officers paid for their Council provided cars at the lower of the valuations obtained of those cars, with no deduction made for any contributions those officers had made.

128

[REDACTED]

[REDACTED]

[REDACTED]

129

[REDACTED]

130 On the balance of probabilities I have found that:

130.1

[REDACTED]

130.2 Ms Whelan purchased a car worth in the region of £8,000 for £858 by reason of the matters referred to above. [REDACTED]

130.3

[REDACTED]

[REDACTED]

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SECTION D

Ms Whelan's expenses payments 2017 - 2019

- 131 Ms Whelan received an annual expenses allowance of £1,100, paid monthly through her salary. According to her terms and conditions, that allowance was to cover “all subsistence, general expenses and travel, other than by car”. Ms Whelan informed us that the protocol was that this allowance would cover expenses incurred within the Borough.
- 132 Between 2017 and 2019 Ms Whelan, in common with other chief officers, had the use of a Council credit card. Each month the statement for each card is received in Finance and then sent to the relevant officer with a costing voucher for the officer to sign and to enable receipts relevant to the entries on the statement to be provided. Those vouchers would certify the statement for payment and the voucher would be signed by another officer who authorised payment.
- 133 Mr Menon authorised Ms Whelan's statements until August 2017. In August 2017 Ms Whelan changed the authorisation procedure without reference to Mr Menon but by instructing the Internal Audit team (who at that time reported to Mr Menon) direct. The changes were introduced on 18 August 2017 (when Mr Menon was on leave) and were communicated to relevant officers by email. The changes introduced included the following:
- 133.1 Ms Livingston was to sign off the card statements and staff expense claims of Ms Whelan, on the basis that she was “head of wages”.
 - 133.2 All paper expense claim forms from Executive heads or service heads were to be approved by either Ms Whelan or Ms Livingston.
 - 133.3 All monthly card statements in respect of Executive heads or service heads were to be copied and passed to Ms Whelan or Ms Livingston “for their sighting and information”.
- 134 The auditor who was involved in introducing these changes has said that the reason for them was that Ms Whelan wanted to have greater oversight of the expenses of the Corporate Management Team. [REDACTED]
- 135 Ms Whelan's evidence was that she instigated the change to the authorisation procedure because she was concerned that proper procedures were not being followed and, in particular, Mr Menon and Finance staff were authorising their own expenses. [REDACTED]

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137 We have seen all of Ms Whelan's credit card statements for the period 2017 - 2019. They were generally accompanied by a spreadsheet prepared by Ms Whelan's PA that set out the various amounts sent and provided a brief narrative (such as "Taxi London"). Often no meaningful explanation was provided (for example the spreadsheet may have included reference to the cost of refreshments but did not say who the dinner or lunch was attended by and why/how the cost was incurred on Council business).

138 The credit limit on Ms Whelan's card was increased in March/April 2018 from £3,000 to £10,000. Mr Menon accepted that he must have authorised that increase but could not recall the reasons for that increase. He speculated that £3,000 may not have been sufficient given that Ms Whelan and other Council representatives were attending overseas events and appointments, attending conferences and subscribing to membership organisations such as the LGA.

139 Our detailed analysis of Ms Whelan's credit card statements has revealed the following (the text in red is taken from the Council's Expenses Policy as it applied at the various times):

2017 - 2018

- **Taxi:** Most of the expenses contraventions relate to taxis in central London being used where the tube could have been taken. Where there is no alternative transport available then claims above the limit must be approved by an appropriate Senior Officer (it is not obvious who that might be). It appears that Ms Whelan's travel routine into London was driving to Reading, paying for parking there, train directly to Paddington and then to use taxis to get where she needed to within central London.
 - *"Taxi travel to and from destination up to £5.90 each way where there is no alternative public transport. In exceptional cases claims of above £5.90 appropriate where approved by appropriate Senior Officer."*
- **Meals:** Another expense category which was exceeded was subsistence allowances for meals.
 - *"Breakfast: £5.16, Lunch £7.23, Tea: £3.10, Evening Meal: £10.33"*
- **Accommodation:** Ms Whelan would occasionally stay at hotels for conferences 



 - *"London Area: £103.30, Elsewhere:£89.87"*

2019

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- **New policy** - the updated policy is more relaxed than its predecessor in that it does not set out rates for taxi rides or accommodation so therefore there is a decline in policy contraventions.

	Expenses Date	Policy procedure	Comments
2017	May - June	Taxi fare set rate allowance	24/05 - Taxi = £29.48 (London) 24/05 - Taxi = £9.80 (London) 24/05 - Taxi = £9.90 (London) 06/06 - Taxi = £7.04 (London) 06/06 - Taxi = £8.14 (London) Allowance exceeded.
	June - July	N/A	N/A
	July - Aug	N/A	N/A
	Aug - Sept	Taxi fare set rate allowance	14/08 - Taxi = £13.44 (London) Allowance exceeded.
	Sept - Oct	Taxi fare set rate allowance	28/09 - Taxi = £20.68 (London E1) Allowance exceeded.
	Oct - Nov	Taxi fare set rate allowance Meal reimbursement allowance	11/08 - Taxi = £18.92 (London) 12/08 - Taxi = £16.50 (London) 12/08 - Taxi = £26.84 (London) 12/08 - Taxi = £25.74 (London) 12/08 - Subsistence = £65.48 19/08 - Subsistence = £81.30 Taxi and subsistence allowance exceeded, alternative transport available e.g. tube within London.
	Nov - Dec	N/A	N/A
	Dec - Jan	Meal reimbursement allowance	20/12 - Subsistence = £67.22 Allowance exceeded.
2018	Jan - Feb	Taxi fare set rate allowance	01/02 - Taxi = £22.66 (London) 01/02 - Taxi = £26.40 (London) Allowance exceeded.

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Expenses Date	Policy procedure	Comments
Feb - March	Taxi fare set rate allowance Meal reimbursement allowance	14/02 - Taxi = £28.14 (London) 14/02 - Taxi = £15.62 (London) 14/02 - Taxi = £24.86 (London) 20/02 - Taxi = £9.56 (London) 20/02 - Taxi = £19.80 (London) 20/02 - Taxi = £15.40 (London) 27/02 - Subsistence = £35.80 - No receipt 28/02 - Subsistence = £30.74 Taxi and subsistence allowance exceeded, alternative transport available e.g. tube within London.
March - April	Meal reimbursement allowance	12/03 - Subsistence = £98.19 13/03 - Subsistence = £19.03 13/03 - Subsistence = £13.80 13/03 - Subsistence = £96.00 Allowance exceeded.
April - May	N/A	N/A
May - June	Taxi fare set rate allowance Meal reimbursement allowance	24/05 - Taxi = £31.90 (London) 24/05 - Taxi = £26.62 (London) 01/06 - Taxi = £10.34 (London) 01/06 - Taxi = £10.34 (London) 05/06 - Subsistence = £35.35 05/06 - Subsistence = £56.90 Taxi and subsistence allowance exceeded, alternative transport available e.g. tube within London.
June - July	Meal reimbursement allowance	26/06 - Subsistence = £19.95 - 13.34 27/06 - Subsistence = £13.20 - TEA 1138AM Allowance exceeded.
July - Aug	Taxi fare set rate allowance	01/08 - Taxi = £18.70 (London) Allowance exceeded, alternative transport available e.g. tube within London.

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	Expenses Date	Policy procedure	Comments
	Aug - Sept	Taxi fare set rate allowance	04/09 - Taxi = £18.04 (London) 04/09 - Taxi = £20.02 (London) Allowance exceeded, alternative transport available e.g. tube within London.
	Sept - Oct	Accommodation set rate allowance	18/09 - Accommodation : = £324.00 (Manchester) 19/09 - Accommodation : = £324.00 (Manchester) Allowance exceeded.
	Oct - Nov	Taxi fare set rate allowance	24/10 - Taxi = £16.50 (London) 24/10 - Taxi = £15.75 (London) Allowance exceeded, alternative transport available e.g. tube within London.
	Nov - Dec	Taxi fare set rate allowance	26/11 - Taxi = £11.60 (London) 26/11 - Taxi = £12.76 (London) Allowance exceeded, alternative transport available e.g. tube within London.
	Dec - Jan	Meal reimbursement allowance	10/12 - Subsistence = £32.45 Allowance exceeded
2019	Jan - Feb	N/A	N/A
	Feb - March	N/A	N/A
	March - April	N/A	N/A
	April - May	Meal reimbursement allowance -Breakfast: £6, Evening meal: £18.00	11/04 - Subsistence = £47.08 Allowance exceeded.
	May - June	Accommodation allowance - not clear if stay is for work commitments. Breakfast not within allowance	21/05 - Accommodation = £403.23 22/05 - Subsistence = £28.00 Allowance exceeded
	June - July	N/A	N/A
	July - Aug	N/A	N/A

140 Ms Whelan has provided an explanation for all the expenses recorded on the credit card statements we have seen, all of which are legitimate expenses in the context of Ms Whelan's role and the Council's activities and priorities over the two year period we have been asked to consider. Ms Whelan has also clarified that she would use the card to make payments for others, such a block booking for a hotel.

141 Our review of the spending on Ms Whelan's card has revealed the following issues:

141.1 Ms Whelan stayed in two luxury hotels: the Midland⁴⁴ in Manchester and the Langham in London. The latter was reported in the media. [REDACTED]

[REDACTED]

141.2 [REDACTED] the Council's statement to the press about Ms Whelan's stay at the Langham said:

Travel and accommodation arrangements for the chief executive are managed through internal administrative support and not by the CEO herself.

When overnight accommodation is required the council looks for the most cost effective accommodation rate available whilst ensuring the safety and security of staff.

Findings

142 The previous Expenses Policy had not been updated for some time and as such it is unsurprising that Ms Whelan's expenses exceeded the various limits set within that policy.

143 Ms Whelan told us that she had to take taxis when travelling on business due to her personal and professional commitments. She frequently had to attend various events in London such that travel by taxi was necessary, and her personal commitments meant that she had to return home, sometimes late at night when a taxi was needed for her safety.

144 In relation to Ms Whelan's expenses over the last two years we have found that:

⁴⁴ Ms Whelan has stated that the stay at the Midland hotel was part of a block booking for the Revo conference at which she was a guest speaker, and that six other staff attended the conference including three of the Executive Heads and Mr Brooks.

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- 144.1 in the respects identified above Ms Whelan's expenses did not comply with the Council's expenses policies applicable at the time;
- 144.2 there was no or no adequate scrutiny of her expenses;
- 144.3 periodic reviews were required to be undertaken by the Council's credit card policy but no such reviews were undertaken
- 144.4 Ms Whelan stayed in two luxury hotels: the Midland in Manchester and the Langham in London. In each case, the expenditure incurred in doing so was outwith the Council's policy on overnight accommodation. Though Ms Whelan may not have known how nice a hotel the Langham was, she approved and was aware that she would be staying at the Langham and the Council's press statement about it was misleading.

SECTION E

Ms Whelan's gift and hospitality activities

- 145 Paragraph 18.3 of the Code of Conduct for Officers requires that all gifts must be declared in the Gifts and Hospitality Register.
- 146 Paragraph 19.3 requires that any hospitality valued in excess of £50 or more must be declared in the gifts and hospitality register maintained by the Chief Executive.
- 147 Ms Whelan's PA told us that Ms Whelan did not wish her gift and hospitality entries to be included in the same register as those of other officers, and Ms Whelan confirmed this in interview. Her entries were recorded in a separate log by her PA (so far as her PA was aware of the gifts and hospitality that Ms Whelan had achieved and was required to record in the register), but Ms Whelan's PA was copying some of those entries over to the main register in any event. We have been provided with a copy of the main register that contains some different entries in relation to Ms Whelan than the log maintained by her PA.
- 148 From the limited information provided, it does not appear that Ms Whelan breached the Council's policy in relation to the receipt of gifts and hospitality. We have noted that on numerous occasions Ms Whelan has declared hospitality valued at less than £50, which she was not required to record.
- 149 The keeping of a separate log was however a breach of the Code of Conduct for Officers insofar as it meant that some of Ms Whelan's receipt of declarable gifts and hospitality were not included in the main register for officers (which was Ms Whelan's intention). Ms Whelan has stated that the separate log was available for inspection. It is unclear how inspection would occur if the existence of the separate log was unknown.

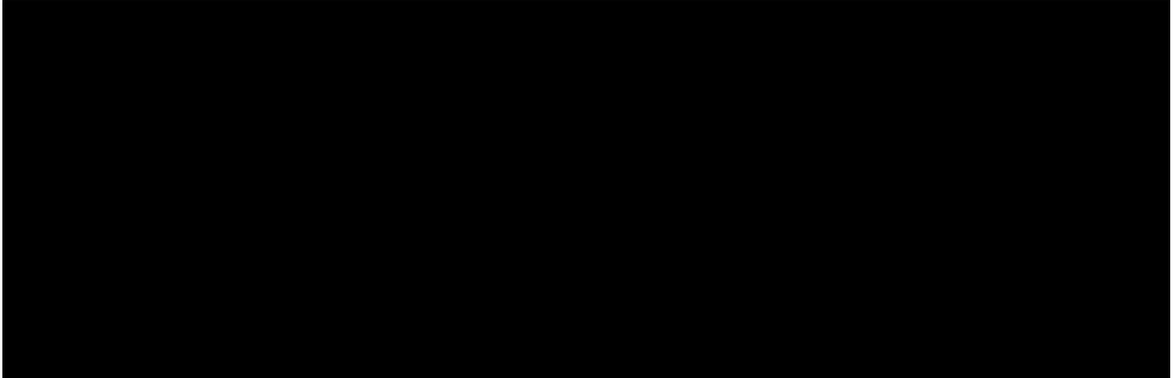
SECTION F

Recommendations

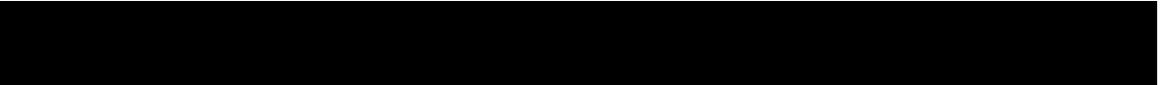
- 150 [REDACTED]
- 151 In relation to the constitutional lacuna in respect of the Chief Executive:
- 151.1 Include in the Council’s Constitution specific provisions detailing how issues relating to the pay and performance of the Chief Executive are to be dealt with.
 - 151.2 Include a description of those provisions in the annual Pay Policy Statement and before adoption of any amended Pay Policy Statement, ensure it is reviewed to ensure full compliance with section 38 of the Localism Act 2011 and the guidance issued by the Secretary of State under section 40 of that Act.
 - 151.3 Introduce a Remunerations Committee to deal with issues relating to the pay and performance of the Chief Officers (including or excluding the Chief Executive).
 - 151.4 Amend the job description of the Chief Executive to make clear who that officer reports to and how that reporting works in practice.
 - 151.5 In the event that the amendments undertaken pursuant to paragraph 151.4 involve the Leader, amend the description of the Leader’s functions in the Constitution to reflect those amendments.
 - 151.6 Amend the financial regulations to require that any adjustments to the pay of any Chief Officer and/or any [REDACTED] or ex gratia payments to such officers are authorised by two of the Head of Paid Service, the Monitoring Officer or the Section 151 Officer and a member of the Executive. A Chief Officer may not authorise payments to him or herself.
- 152 The Constitution be amended to require that, wherever the Leader makes a delegated decision, any advice he/she receives in relation to that decision is recorded in writing and any requests for advice are similarly recorded.

153 The Officers' Code of Conduct and/or the Council's whistleblowing policy be amended to make specific provision for the raising of concerns by senior officers, about senior officers.

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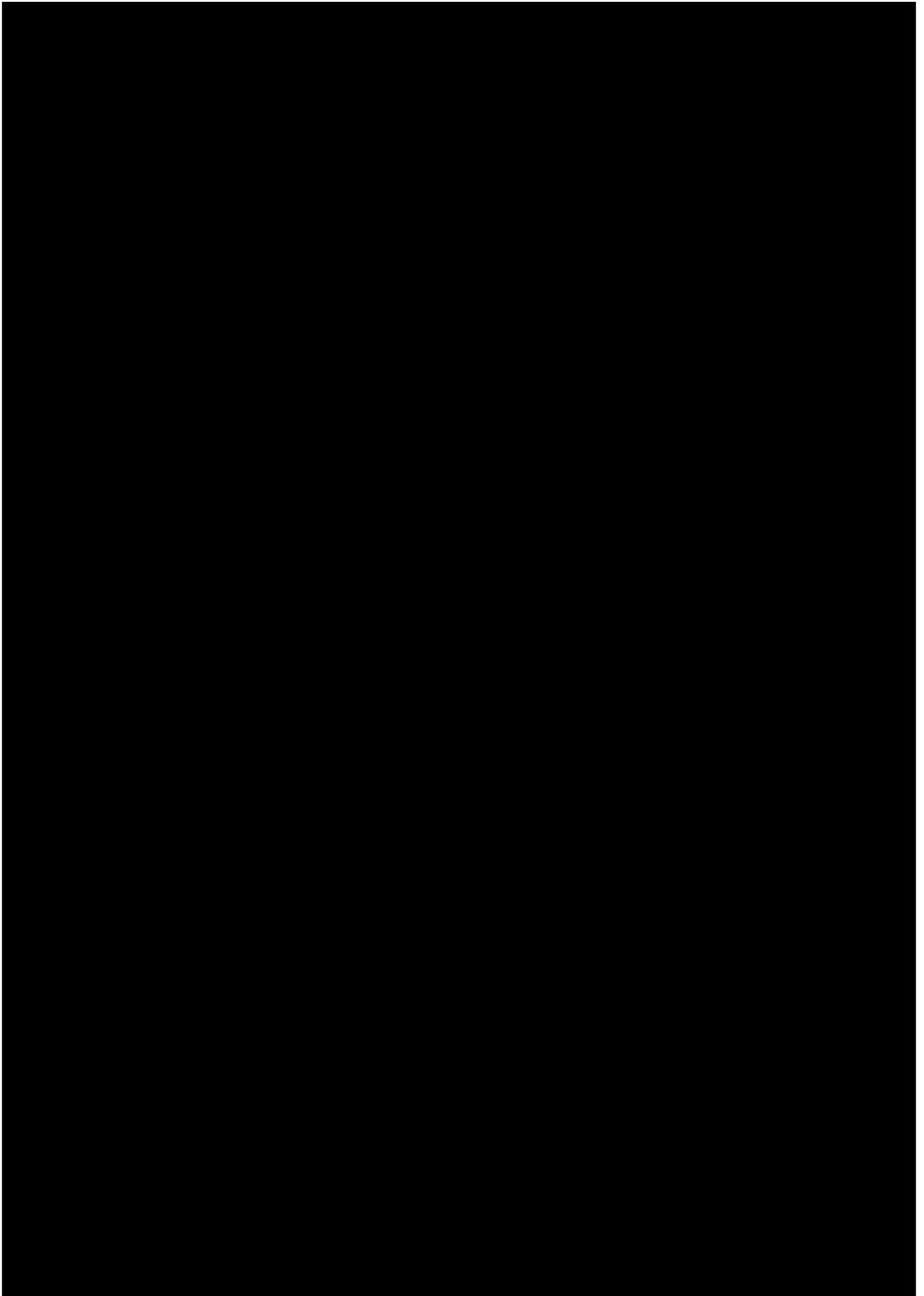


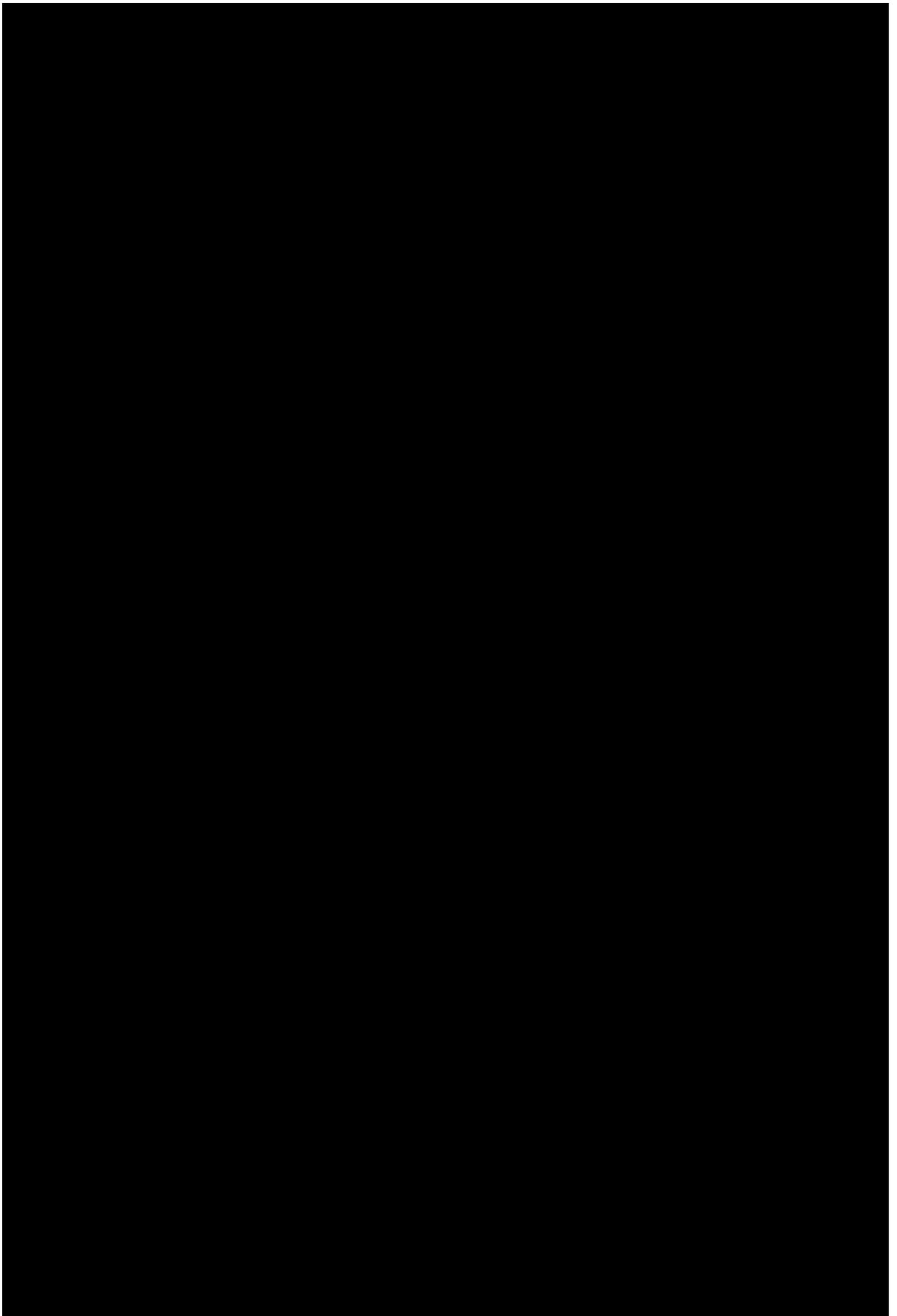
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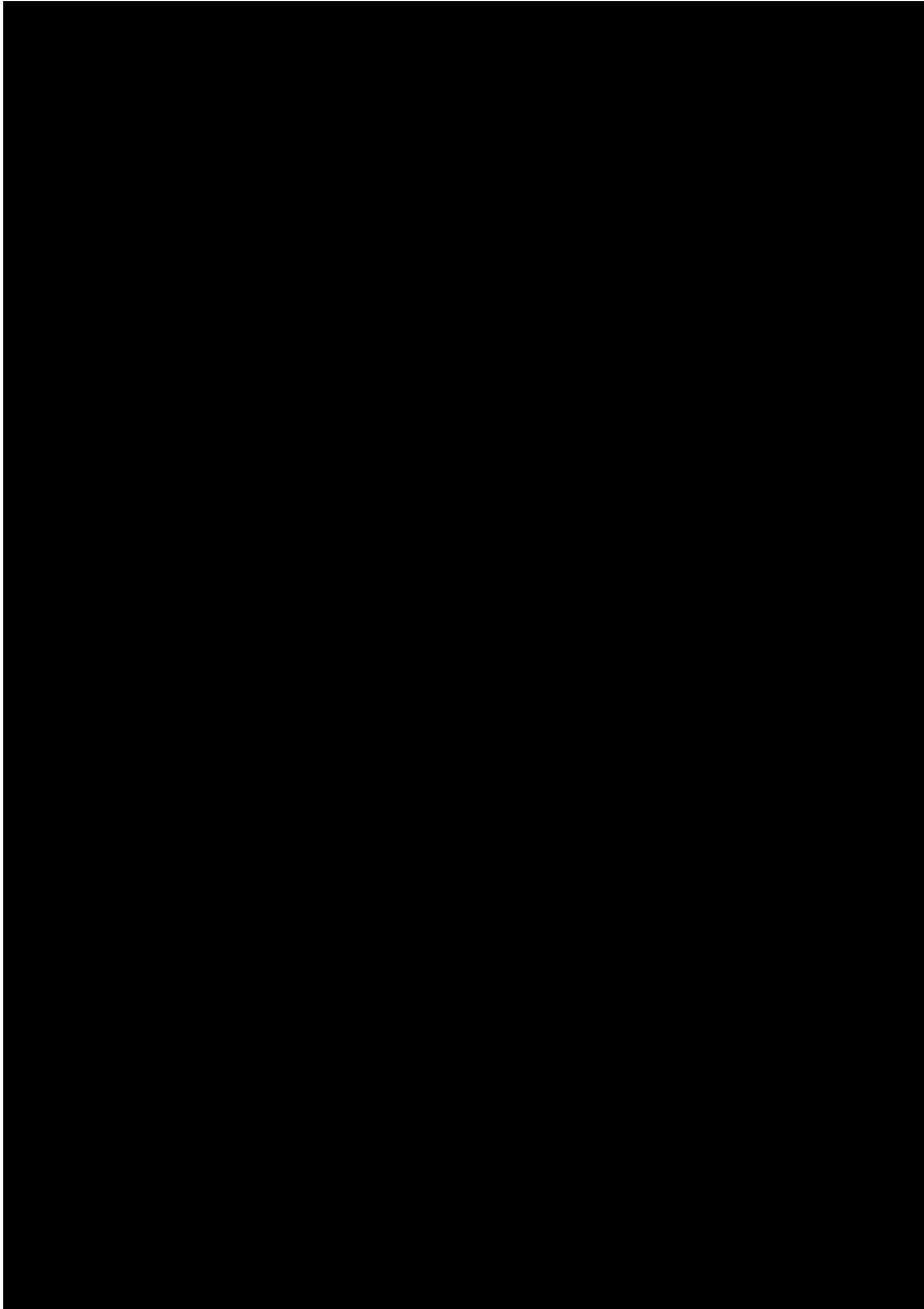


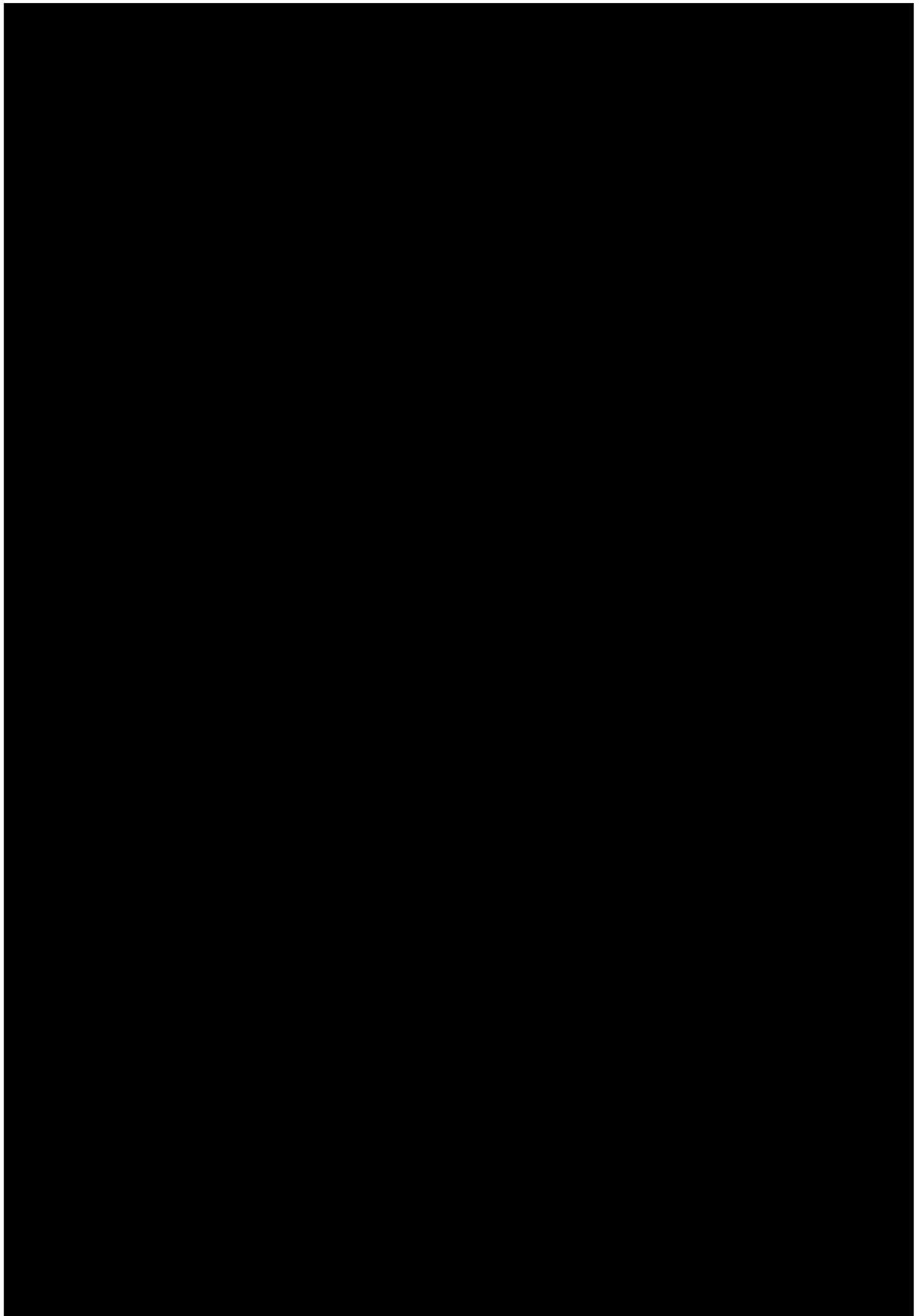
156 In formulating our recommendations, we considered whether a referral should be made to the Police in relation to any of the matters identified during our investigation. Given the nature of the matters to which our investigation related, it was possible that offences of theft or fraud had been committed, or one or more individuals were guilty of misconduct in public office.

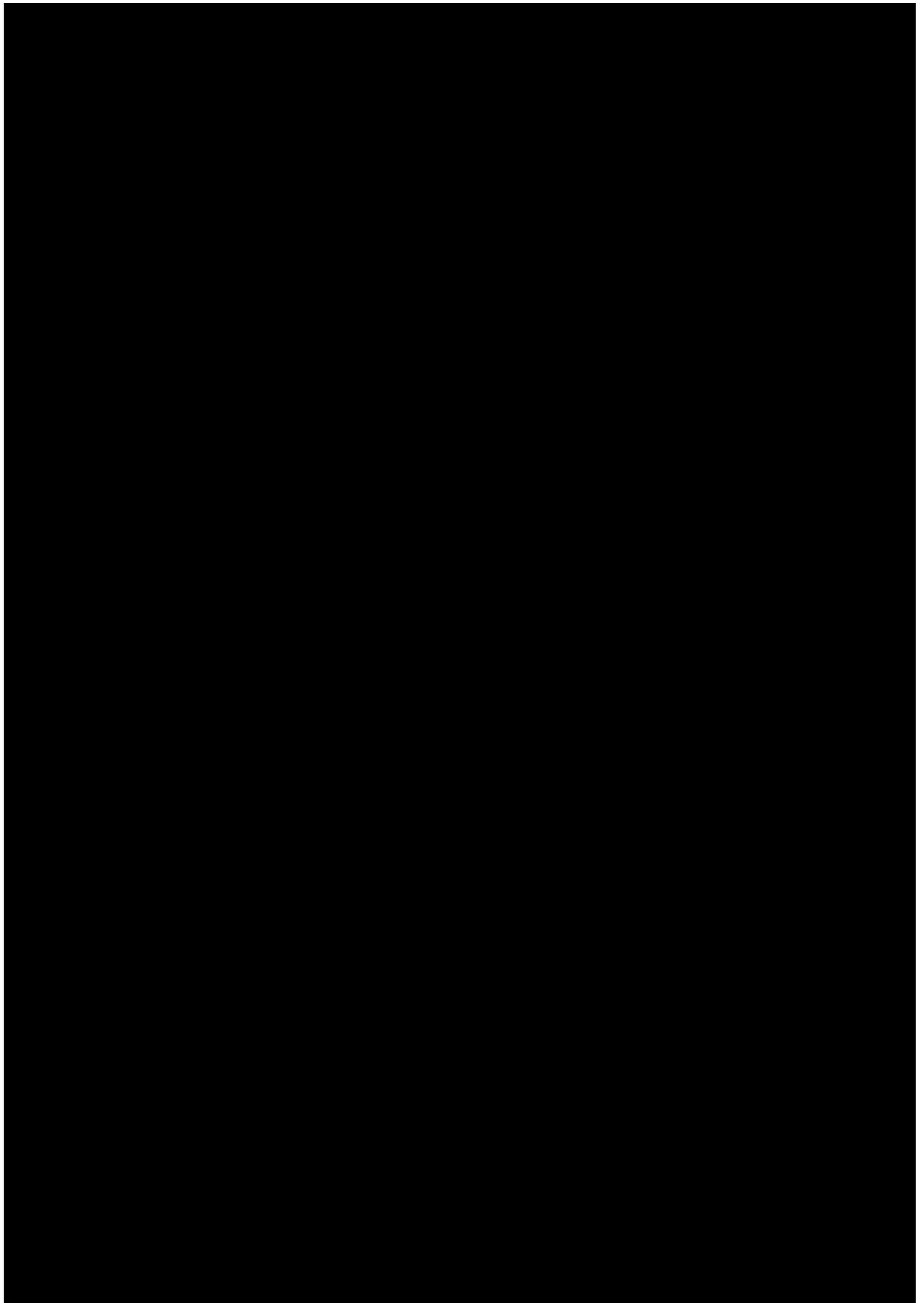
157 Having concluded the investigation, we are of the view that no such referral is required. While we have found that there were failings on the part of current and former Chief Officers, and that those failings led to financial gain on the part of the Chief Executive, we have not found dishonesty on the part of any of those officers. We have seen no evidence to indicate that any statutory offence has been committed and, in our view, the threshold for the offence of misconduct in public office has not been met in the case of any of the officers who we have found to have failed in their duties or otherwise acted improperly.

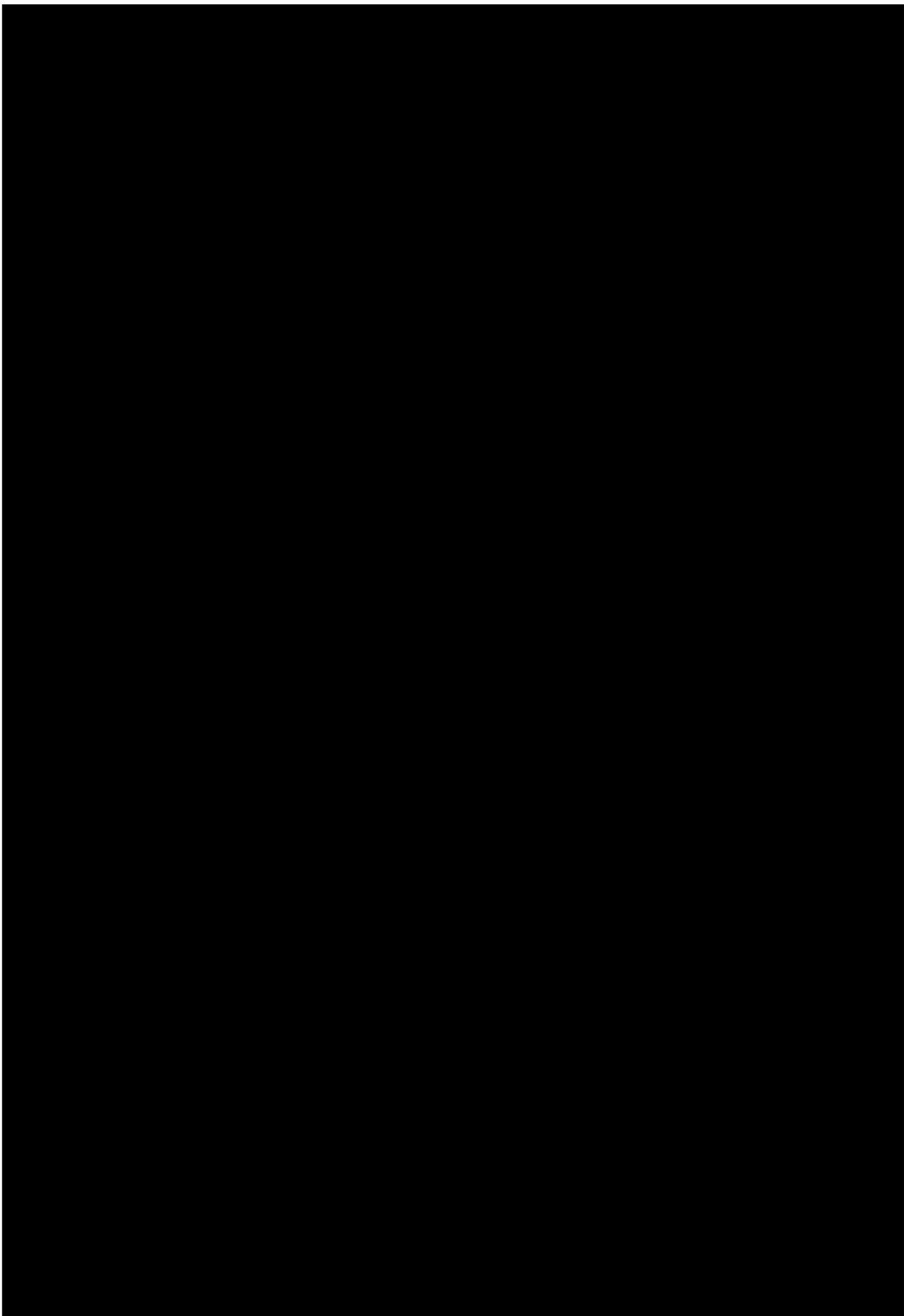


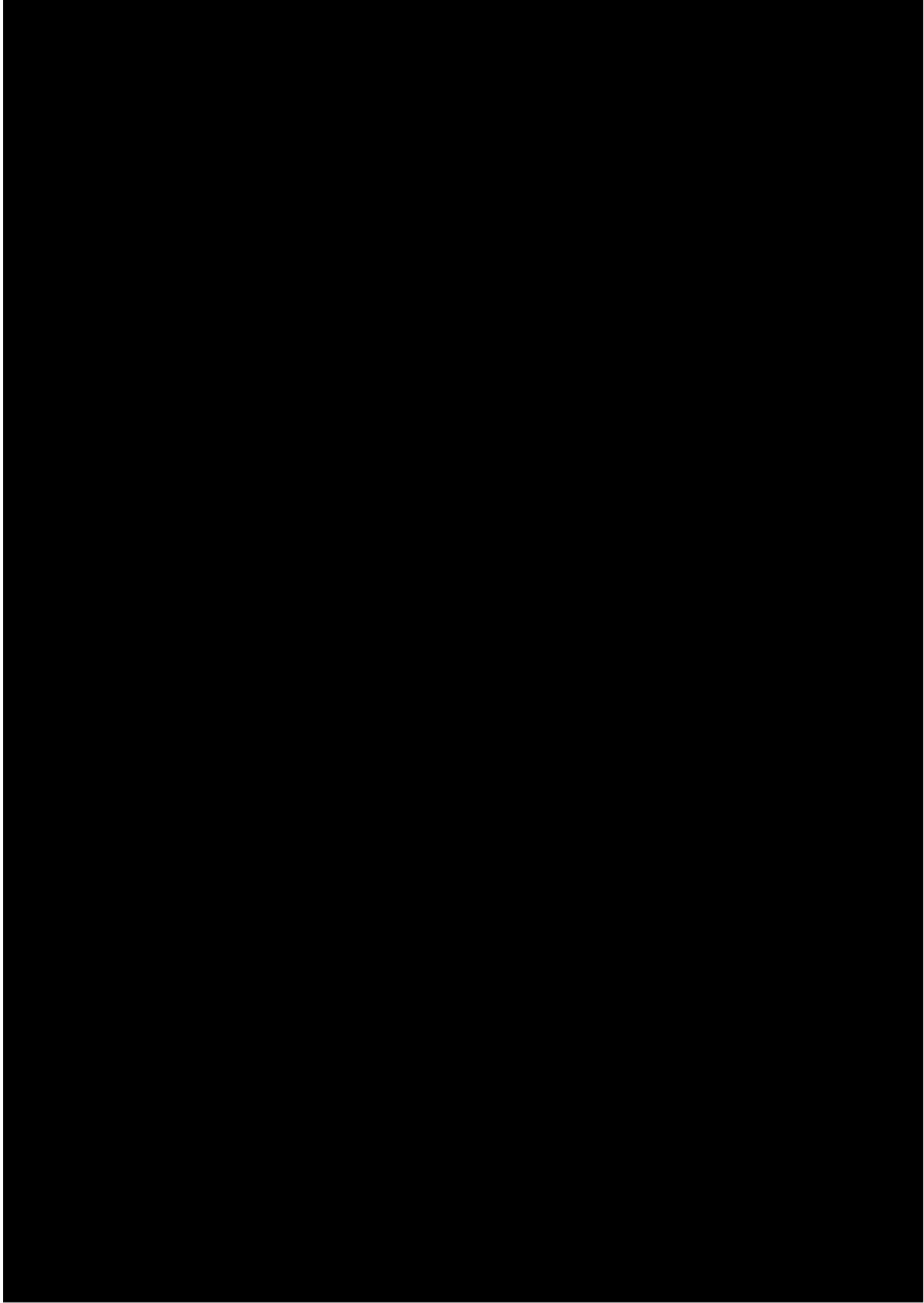


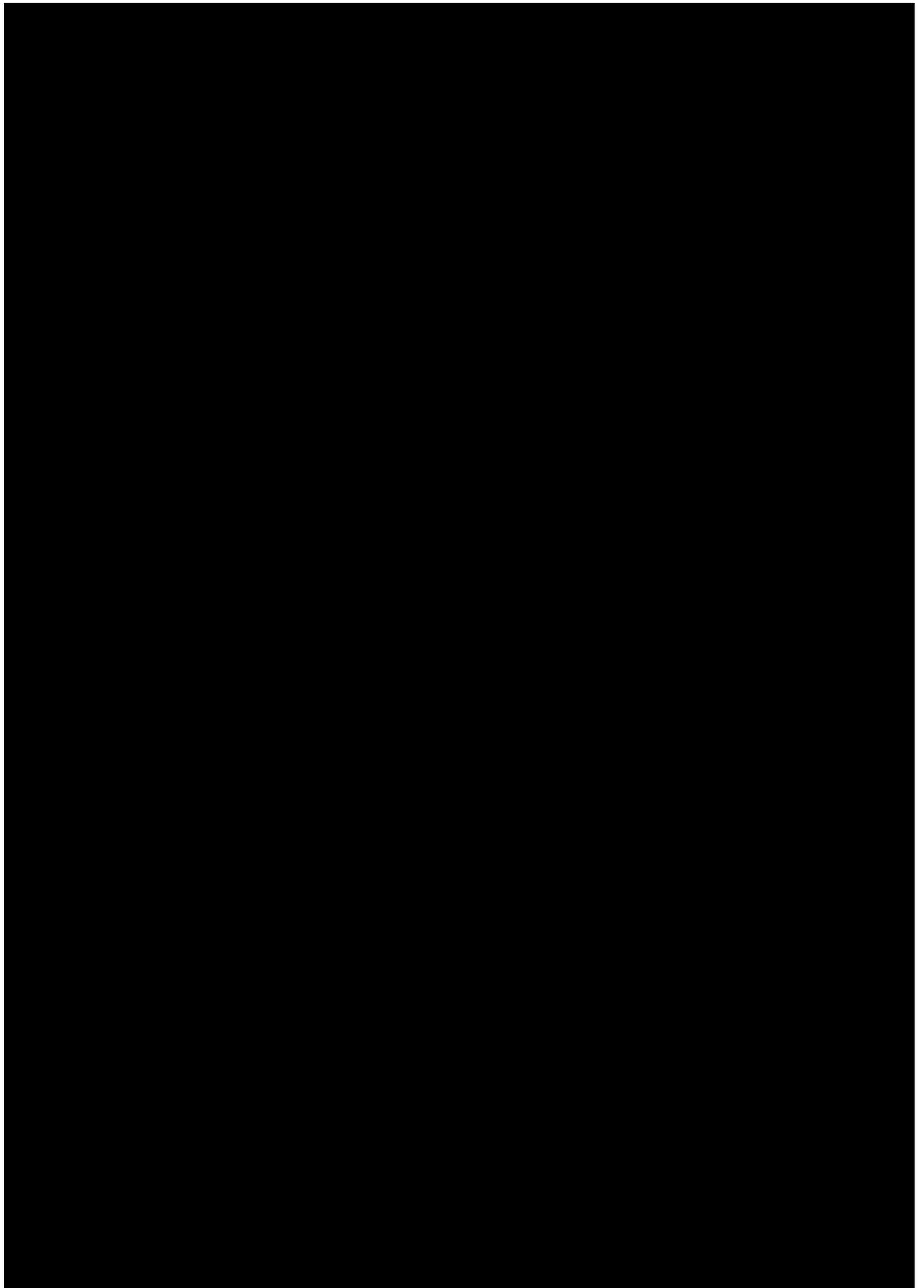


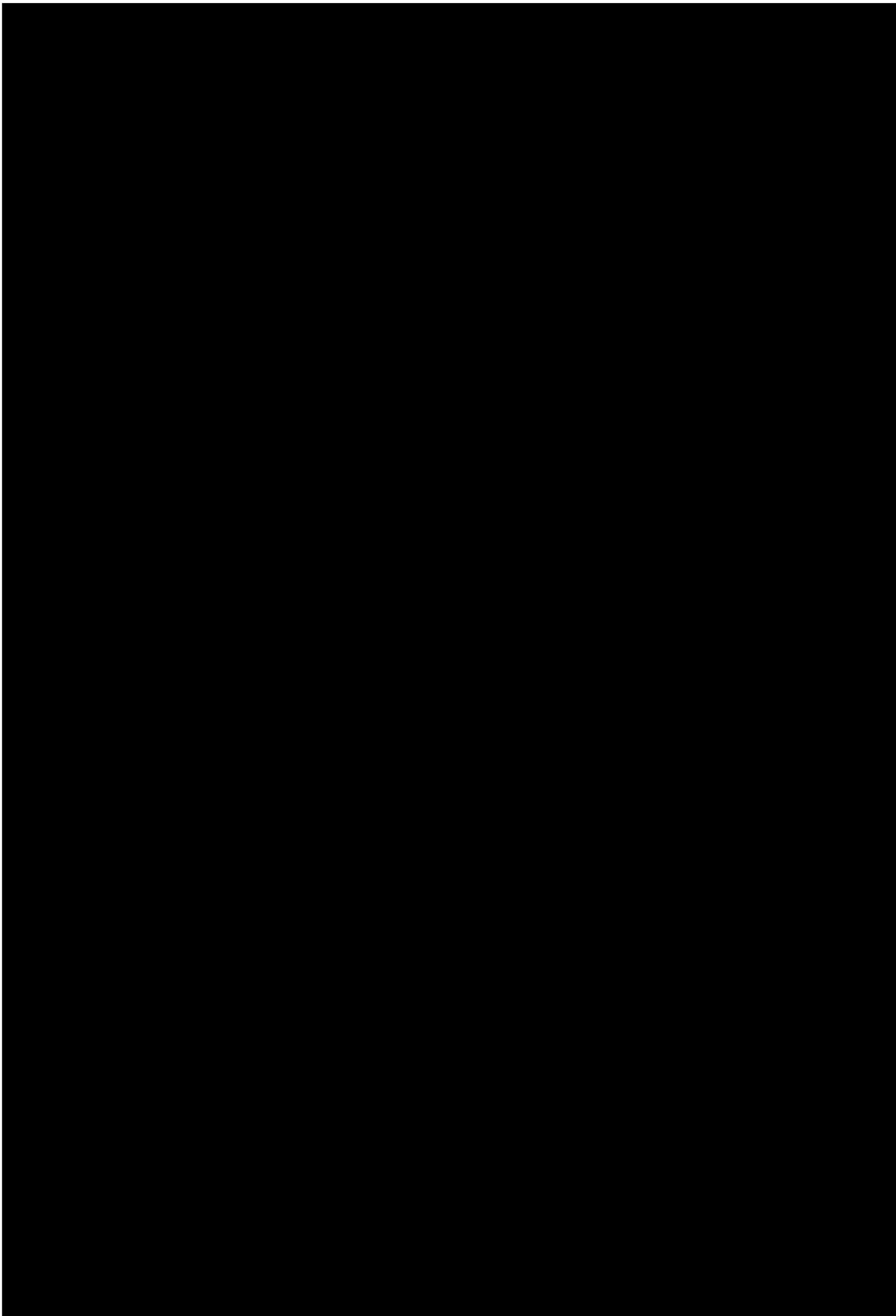


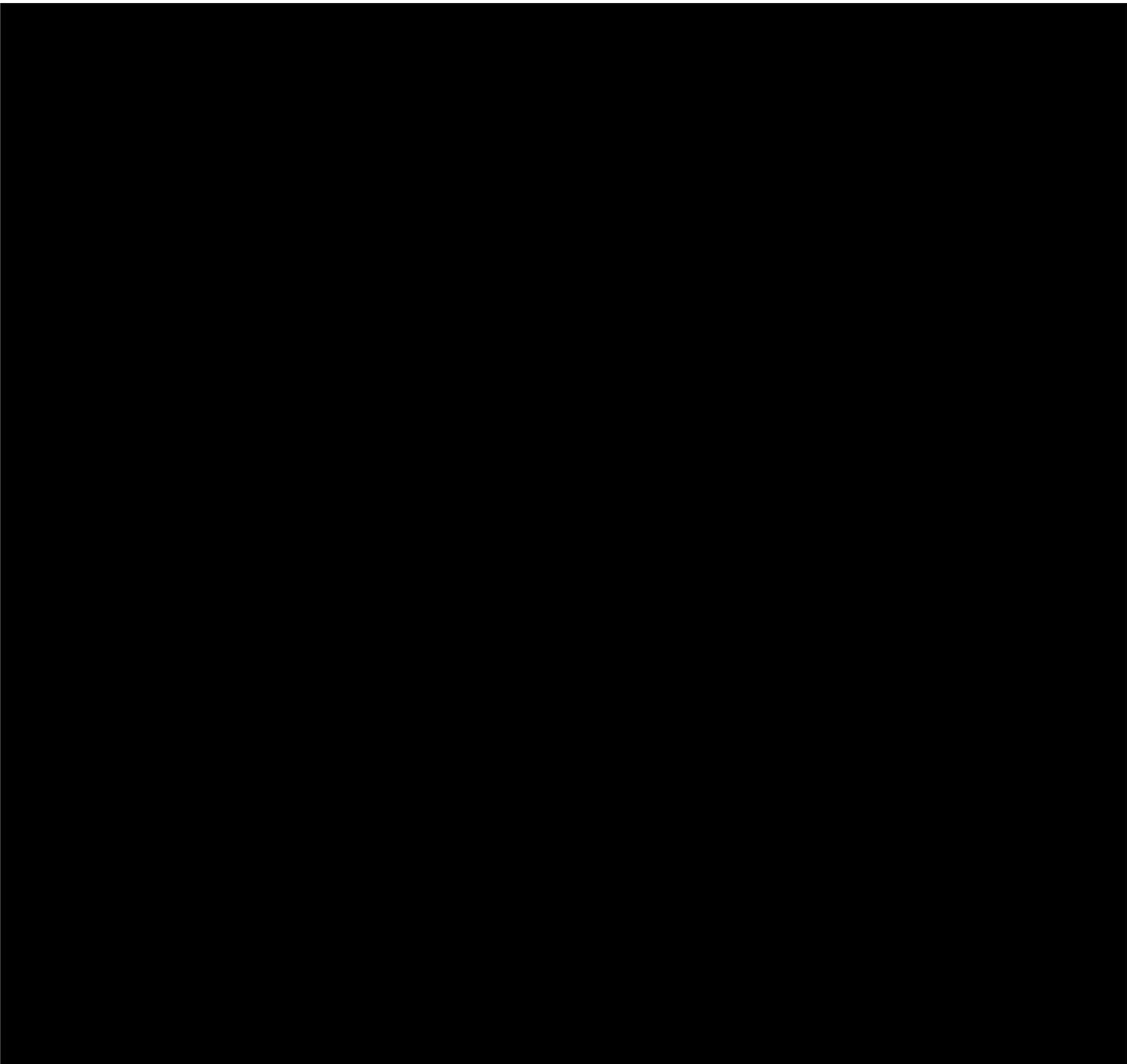


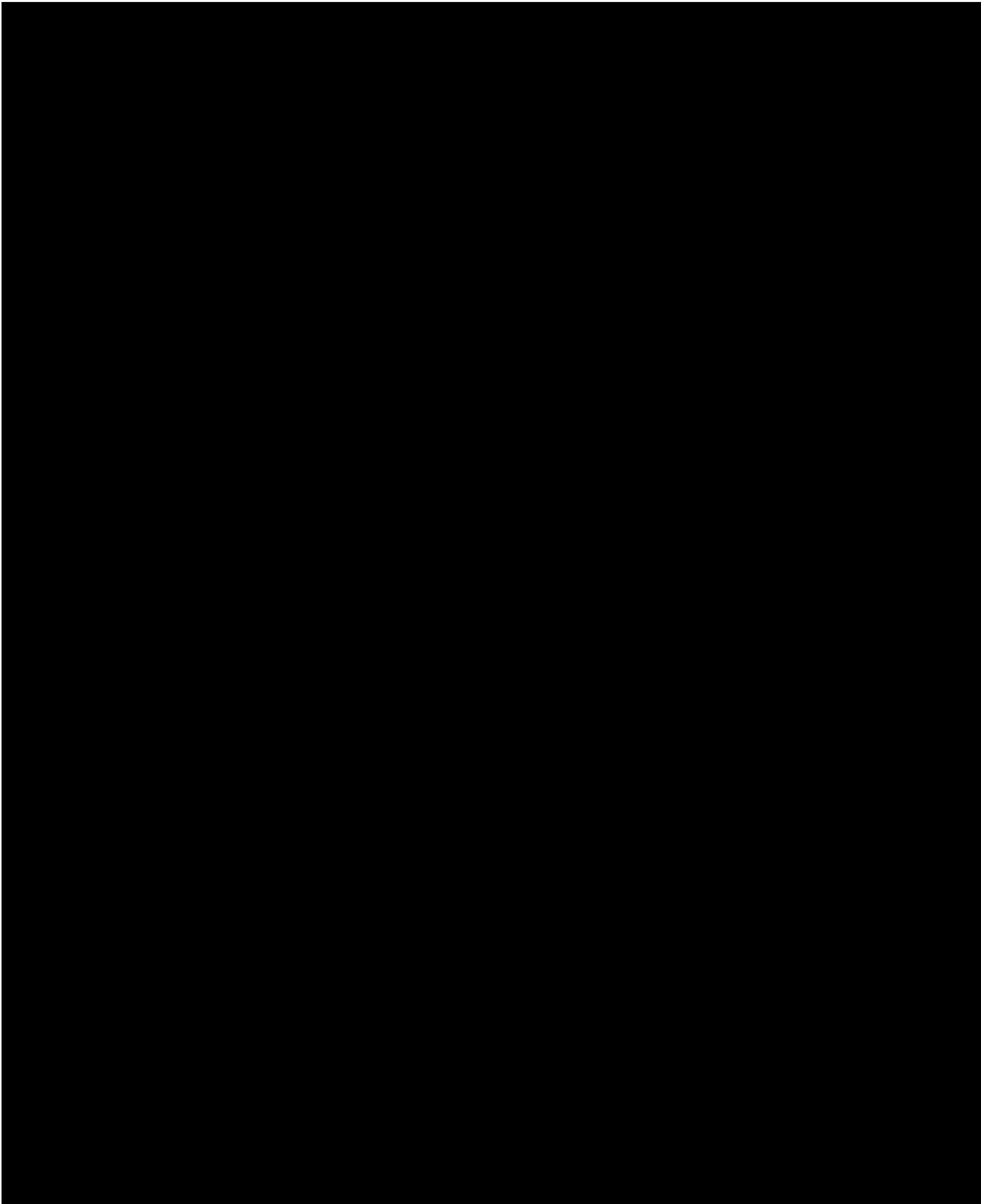


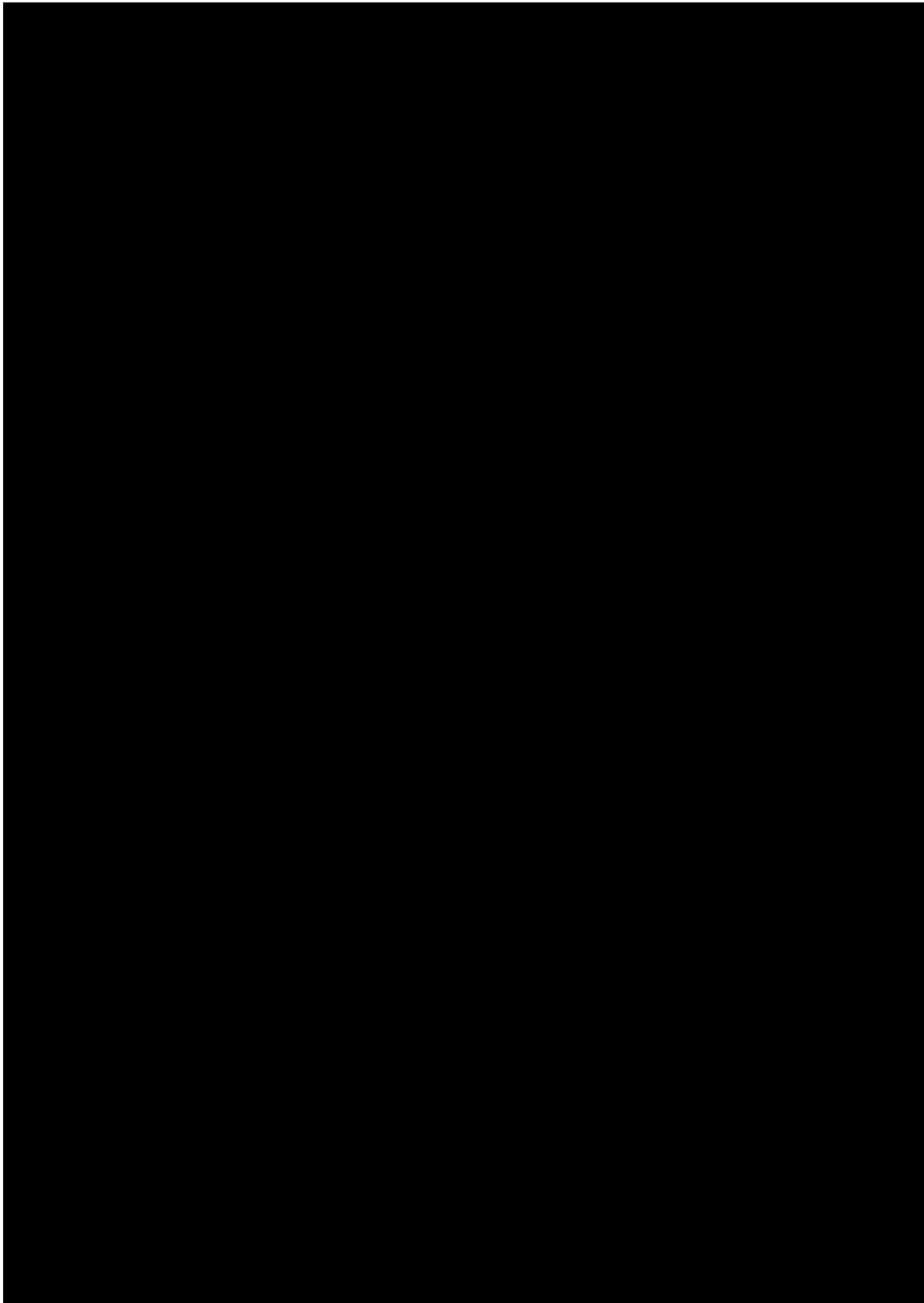


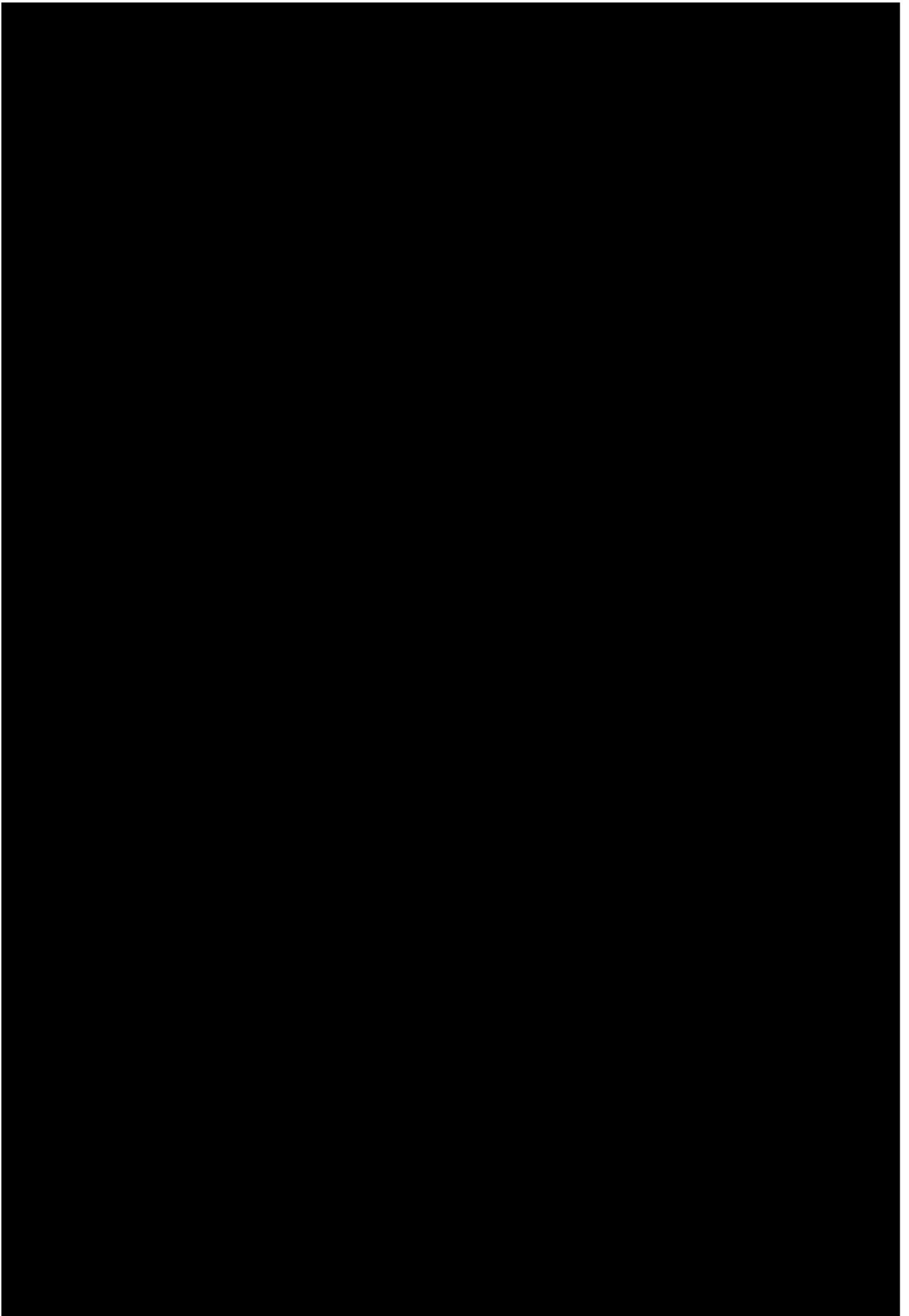


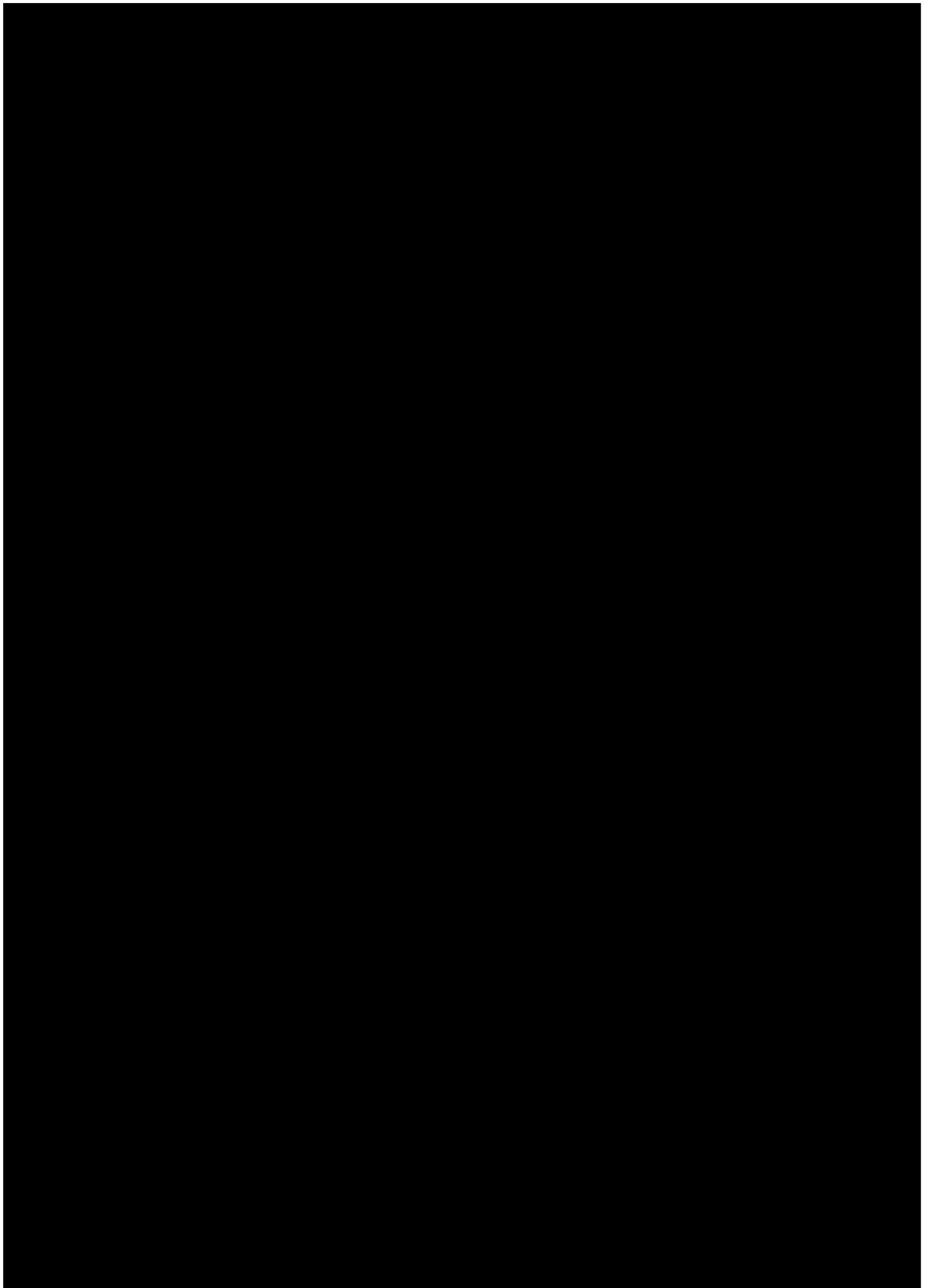


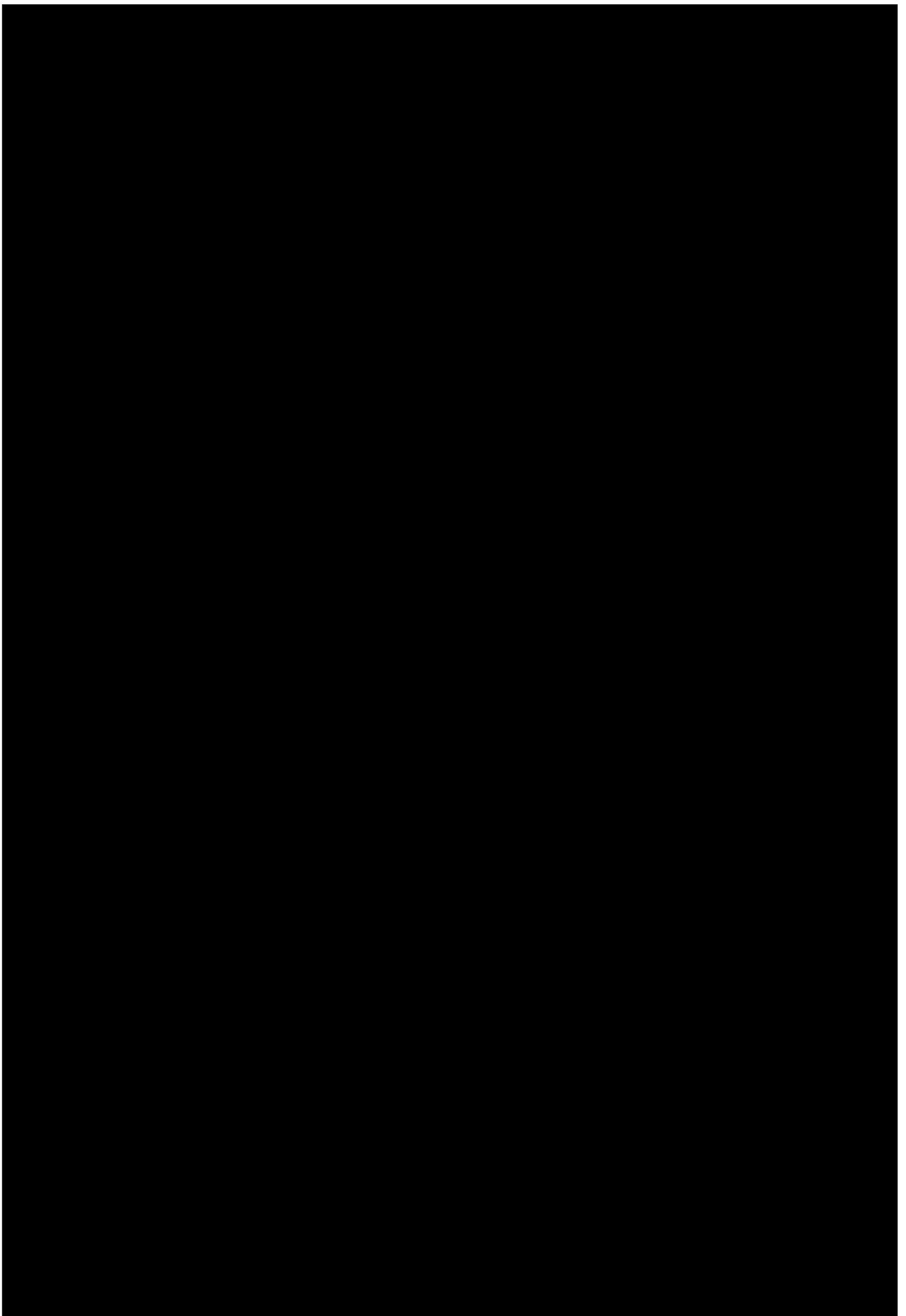


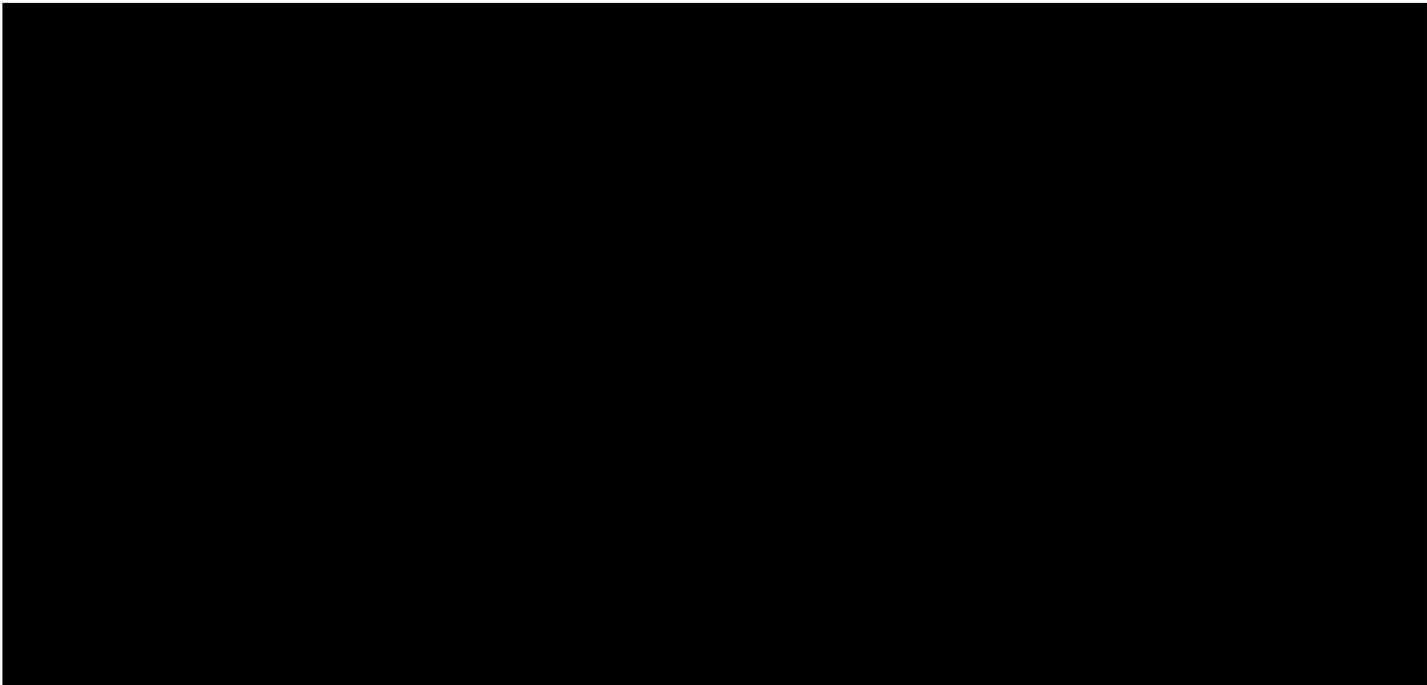












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Appendix 2 Methodology Statement

- 1 The investigation involved the consideration of documentary evidence and evidence obtained from witnesses at interview. We conducted 18 interviews, with 12 witnesses. Each witness was invited to provide any comments or reflections in writing. Each interview was recorded and transcripts produced.
- 2 We made a number of disclosure requests of the Council and one of Ms Whelan. We arranged for remote searches to be undertaken of the Council mailboxes of Ms Limmer and Ms Gibson, as they no longer had access to their Council mailboxes.
- 3 Before we interviewed Ms Whelan for the second time, we provided her with a bundle containing all the material evidence we had obtained up to that point (not including the transcripts of interviews), as by that time she did not have access to her Council mailbox or Council records. That bundle is Appendix 4.
- 4 Relevant parts of the draft report were provided to a number of witnesses for fact checking purposes and those witnesses were given a period of 14 days within which to make comments on the draft report. Witnesses were not provided with the recommendations that are contained in this report. All persons to whom we provided the draft report sent us comments, except Ms Gibson who to date has not contacted us to obtain the password to her copy of the draft report. Those comments were taken into account in finalising the report.
- 5 In addition to the bundle at Appendix 4 we took into account written statements provided by Ms Whelan after her first interview and before her second and the evidence given at interview (of which transcripts are available).

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Appendix 3 Core Procedural and Policy Documents

- 1 Constitutional documents considered in this report are available on the Council's website.
- 2 Given the time at which material events occurred, we have had regard primarily to primarily the Council's Constitution dated 26 July 2018.
- 3 Relevant sections of the constitution which have informed this report include:

[Part 2 - Article 4 - The Full Council](#)

[Part 2 - Article 7 - The Leader, Dep Leader & Executive , item Part 2](#)

[Part 2 - Article 12 - Officers](#)

[Part 2 - Article 13 - Decision Making](#)

[Part 2 - Article 14 - Finance, Contracts & Legal Matters](#)

[Part 3 - Section A - Scheme for Delegation of Functions , item Part 3](#)

[Part 3 - Section B - Scheme of Delegation to Officers](#)

[Part 3 - Section D - Roles of Different Cllrs , item Part 3](#)

[Part 4 - Section B - Ex Procedure Rules](#)

[Part 4 - Section G - Budget & Policy Framework Rules , item Part 4](#)

[Part 4 - Section H - Financial Regulations](#)

[Part 5 - Section E - Monitoring Officer Protocol , item Part 5](#)

- 4 In addition, we have had regard to other procedural and policy documents which are **enclosed** in a bundle for ease of reference. That bundle contains the following:

A	Terms of Reference	27 September 2019
B	Exceptional Payments Policy	July 2015
C	Pay Policy Statement	2018/2019
D	Pay Policy Statement	2019/2020
E	Annual Pay Settlement Procedure	Undated
F	Disciplinary Policy and Procedure	June 2018
G	Grievance Policy and Procedure	May 2019
H	Code of Conduct for Officers	June 2017

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I	Whistleblowing policy and procedure	March 2018
J	Expenses Policy	Pre-February 2019
K	Expenses Policy and Procedure	February 2019
L	Car Users Policy	Pre- January 2019
M	Car & Road Users Policy	January 2019
N	Credit Card Procedures for Use	5 October 2010
O	Corporate Card Procedures	November 2014
P	Appraisal Development Scheme	Provided 15 November 2019

