

# Council Constitution

## THE COUNCIL'S CONSTITUTION

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# **PART 1**

## **SUMMARY AND EXPLANATION**

## THE COUNCIL'S CONSTITUTION

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The North West Leicestershire District Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution contains 16 articles in Part 2 which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## WHAT'S IN THE CONSTITUTION?

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In Part 2, Article 1 of the Constitution commits the Authority to a new community leadership agenda, to local democratic self-government, to improvement, quality and equality in service delivery and to the active involvement of local people, stakeholders and partners in decision making. Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. These are:

Members of the Council (Article 2).

Citizens and the Council (Article 3).

The Council meeting (Article 4)

Chairing the Council (Article 5).

Scrutiny (Article 6).

The Cabinet (Article 7).

Regulatory and other bodies (Article 8).

The Audit and Governance Committee (Article 9).

Area committees and forums (Article 10).

Joint arrangements (Article 11).

Officers (Article 12)

Decision making (Article 13).

Finance, contracts and legal matters (Article 14).

Review and revision of the Constitution (Article 15).

Suspension, interpretation and publication of the Constitution (Article 16).

## HOW THE COUNCIL OPERATES

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The Council is composed of 38 councillors, elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Councillors have a duty to follow a code of conduct to ensure high standards in the way they undertake their roles. The Audit and Governance Committee trains and advises them on the code of conduct. All councillors meet together as the full Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints a Leader for a one year term, two Scrutiny Committees, regulatory bodies, an Audit and Governance Committee and other statutory, advisory and consultative bodies. The Leader and other Cabinet members are open to questions from the public and other councillors at meetings of the Council.

## HOW DECISIONS ARE MADE

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The Cabinet is the part of the Authority's structure which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader and up to nine members. The Leader appoints his/her Cabinet and Deputy Leader. It is called the Cabinet when the Leader and other executive members meet together. When major decisions are to be discussed or made, these are published in the Cabinet's Executive Decision Notice in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the full Council to decide.

## SCRUTINY

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The scrutiny function is carried out by the two Scrutiny Committees (Corporate and Community). They support the work of the Cabinet and the full Council and allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committees also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## THE COUNCIL'S STAFF

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The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. All employees are subject to a code of conduct and a protocol governs the relationships between officers and members of the Council.

## CITIZENS' RIGHTS

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Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

Vote at local elections if they are registered;

Contact their local councillor about any matters of concern to them;

Obtain a copy of the Constitution;

Attend meetings of the Council and its boards and committees except where, for example, personal or confidential matters are being discussed;

Petition to request a referendum on a different form of governance;

Present petitions in accordance with the Council's adopted petition scheme or deputations and participate in the Council's question time and that of the Scrutiny Committees;

Speak in favour of or against applications for planning permission;

Find out from the Executive Decision Notice what major decisions are to be discussed by the Cabinet or decided by officers, and when;

Attend meetings of the Cabinet where decisions are being discussed or decided;

See reports and background papers and any record of decisions made by the Council, the Cabinet or officers except those containing confidential or exempt information;

Complain to the Council in accordance with its complaints procedure;

Complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;

Complain to the Monitoring Officer of the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct for Members;



Inspect the Council's accounts and make their views known to the District Auditor, and

Speak at meetings at the discretion of the committee or in accordance with the rules set out in this Constitution.

The Council welcomes participation by its citizens in its work. Details of the rights of citizens to inspect agendas and reports and to attend meetings are set out in Article 3 and the Access to Information Procedure Rules. Information on this can be obtained from the Council offices and from the Council's website at [www.nwleics.gov.uk](http://www.nwleics.gov.uk).

# **PART 2**

## **ARTICLES OF THE CONSTITUTION**

## ARTICLE 1 - THE CONSTITUTION

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### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the North West Leicestershire District Council.

### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision making;
- (c) help councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision makers to public account;
- (f) ensure that no one will review or scrutinize a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (h) provide a means of improving the delivery of services to the community;
- (i) maintain the highest standards of conduct of members and officers of the Authority;
- (j) provide a comprehensive document that explains how the Council conducts its business.

### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## ARTICLE 2 - MEMBERS OF THE COUNCIL

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### 2.01 Composition and Eligibility

**2.01.1 Composition.** The Council will comprise 38 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward.

**2.01.2 Eligibility.** Only registered voters of the district or those living or working in the district will be eligible to hold the office of councillor.

### 2.02 Election and Terms of Councillors

**2.02.1 Election and Terms.** The regular election of councillors will be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.03 Roles and Functions of all Councillors

#### 2.03.1 Key Roles

All councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council;
- (vi) be available to represent the Council on other bodies;
- (vii) maintain the highest standards of conduct and ethics.

## 2.03.2 Rights and Duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes “confidential” and “exempt” are defined in the Access to Information Procedure Rules in Part 4 of the Constitution.

## 2.04 Cessation of Membership

A councillor will cease to be a member if they resign by giving notice in writing, if they fail to observe the requirements to attend Council meetings as prescribed by Section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of Section 80 of the Local Government Act 1972 or any other statutory provision.

## 2.05 Conduct

Councillors will at all times observe the Code of Conduct for Members; the Planning Code of Conduct; the Licensing Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## 2.06 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution

## ARTICLE 3 - CITIZENS AND THE COUNCIL

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### 3.01 Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting and Petitions.** Citizens have the right to present a petition, in accordance with the Council's adopted petition scheme and to address members in support. This is however subject to the Rules of Procedure in Part 4 of this Constitution and the petition scheme. A copy of the petition scheme is available on the Council's website.
- (b) **Information.** Citizens have the right to:
  - (i) attend meetings of the Council, monitoring bodies, boards and committees except where confidential or exempt information is likely to be disclosed;
  - (ii) attend meetings of the Cabinet when decisions are being considered;
  - (iii) find out from the Executive Decision Notice what decisions will be taken when and by whom;
  - (iv) see reports and background papers, and any records of decisions made by the Council, Cabinet and officers;
  - (v) speak at meetings of the Planning Committee or the Licensing Committee in favour of or against planning or licensing applications, subject to the procedures laid down by those bodies; and
  - (vi) inspect the Council's accounts and make their views known to the External Auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and that of the Scrutiny Committees and contribute to investigations by those committees.
- (d) **Complaints.** Citizens have the right to complain to:
  - (i) the Council under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Monitoring Officer about a breach of the Council's Code of Conduct for Members.

## **3.02 Citizens' Responsibilities**

- (a) Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully damage things owned by the Council, councillors or officers.
- (b) When attending meetings citizens must not behave improperly, offensively or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.

## ARTICLE 4 - THE COUNCIL

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### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:

Plans and strategies which together comprise the Development Plan;  
The plan and strategy which together comprise the Housing Investment Programme;  
Licensing Policy  
Council's Delivery Plan  
Sustainable Community Strategy

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions of the Council

The functions and responsibilities of the Council are set out in Part 3 to this Constitution.

### 4.03 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.



## **4.04 Responsibility for Functions**

The Council will maintain the tables in Part 3 of the Constitution setting out the responsibility of the Council's functions which are not the responsibility of the Cabinet.

## ARTICLE 5 - CHAIRING THE COUNCIL

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### 5.01 Role and Function of the Chairman of the Council

The Chairman of the Council and, in his or her absence, the Deputy Chairman will have the following roles and functions:

#### (a) Ceremonial Role

The Chairman represents the symbol of the Council and the District of North West Leicestershire. He or she is seen as the first citizen of the District and in ceremonial matters will take precedence.

The Chairman also represents an expression of social cohesion. He or she will act as a link between the various bodies and organisations visited and the Council.

#### (b) Chairing the Council Meeting

The Chairman of the Council and his/her deputy, will be elected by the Council annually. The Chairman will have the following responsibilities:

- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate.
- (vii) the Deputy Chairman will deputise for the Chairman whenever the Chairman is unavailable or unable to act.

## ARTICLE 6 - SCRUTINY

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### **6.01 Scrutiny Committees**

The Council will appoint two Scrutiny Committees (Corporate and Community) to discharge the functions of scrutiny conferred by Section 9F of the Local Government Act 2000.

### **6.02 Functions of the Scrutiny Committees**

The function and responsibilities of the Scrutiny Committees are set out in Part 3 of this Constitution.

### **6.03 Proceedings of the Scrutiny Committees**

The Scrutiny Committees will generally meet in public and conduct their proceedings in accordance with the Scrutiny Procedure Rules in Part 4 of the Constitution.

## ARTICLE 7 - THE CABINET

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### 7.01 Role

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

### 7.02 Form and Composition

The Cabinet will consist of the Leader together with at least 2, but not more than 9 councillors, one of whom will be the Deputy Leader.

The Leader will appoint his/her Deputy Leader and Cabinet and may make changes to these appointments at any time.

### 7.03 Leader

The Leader will be a councillor elected to the position by the Council for a one year term at the annual Council meeting. The Leader will hold office until:

- (a) he or she resigns from office;
- (b) he or she is disqualified from being a councillor by Section 85 of the Local Government Act 1972;
- (c) he or she is no longer a councillor;
- (d) he or she is removed from office by resolution of the Council at an earlier date. How a motion to remove the Leader from office will be dealt with by Council is set out in the Council Procedure Rules.

### 7.04 Other Cabinet Members

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) he or she is disqualified from being a councillor by Section 85 of the Local Government Act 1972; or
- (c) they are no longer councillors; or
- (d) they are removed from office, either individually or collectively, by the Leader.

The Deputy Leader will act in the absence or inability of the Leader to act.

## **7.05 The Deputy Leader**

The Leader shall appoint a Deputy Leader. The Deputy Leader shall:

- (a) hold office until the occurrence of any of the events set forth at paragraph 7.04;
- (b) be a member of the Cabinet and will deputise for the Leader during his/her absence, or if the Leader leaves office, until the Council elects a new Leader;
- (c) in the event of both the Leader and Deputy Leader being absent or otherwise unable to chair a Cabinet meeting, another Cabinet member shall be elected as Chair of that meeting. The normal rules on quorum shall apply.

## **7.06 Cabinet Support Members**

Each Cabinet member may, by notification in writing to the Leader and to the Chief Executive, appoint a maximum of 2 councillors as Cabinet support members to support the Cabinet member in the discharge of his/her functions. Such Cabinet support members shall hold office until:

- (a) they resign from office; or
- (b) he or she is disqualified from being a councillor by Section 85 of the Local Government Act 1972; or
- (c) they are no longer councillors; or
- (d) they are removed from office, either individually or collectively, by notification in writing by the relevant Cabinet member to the Cabinet support member, the Leader and the Chief Executive.

Such Cabinet support members shall provide advice and support to the relevant Cabinet member, but cannot take any executive decision or action.

## **7.07 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

## **7.08 Functions of the Cabinet**

The functions and responsibilities of the Cabinet are set out in Part 3 to this Constitution.

## 7.09 Portfolios

- (a) Each member of the Cabinet will be allocated a portfolio of responsibility of executive business by the Leader. The individual portfolios and the policy areas, key partnerships and service areas falling within it are as defined by the Leader and notified in writing to the Chief Executive and are as set out in Part 3 of this Constitution. The Leader shall have the power to vary the portfolios held by Cabinet members and shall determine which Cabinet member shall hold a lead role in respect of any cross cutting policy matter.
- (b) **Shadow portfolio holders.** The opposition party shall nominate members as shadow portfolio holders for each of the Cabinet portfolios.

## 7.10 Responsibility for Functions

- (a) The law vests all Executive responsibilities in the Leader of the Council who may choose to delegate them in any manner allowed by the law, namely to the Cabinet to decide collectively, to individual Cabinet members, to a Cabinet Committee comprising solely Cabinet members, to a Council officer or joint committee.
- (b) At each annual Council meeting the Leader will inform Council of how he/she intends the Executive powers to be exercised over the ensuing municipal year, although he/she may alter these at any time. Such changes shall be reported to Council by the Leader at the earliest opportunity.
- (c) The Monitoring Officer shall maintain a list in Part 3 of this Constitution setting out which individual Cabinet members, Cabinet Committees, officers or joint arrangements are responsible for the exercise of particular Executive functions.

## ARTICLE 8 - REGULATORY AND OTHER BODIES

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### 8.01 Regulatory and Other Bodies

The Council will appoint the various regulatory and other bodies set out in Part 3 of the Constitution to discharge the functions and responsibilities also set out in Part 3.

## ARTICLE 9 - THE AUDIT AND GOVERNANCE COMMITTEE

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### 9.01 Audit and Governance Committee

The Council at its Annual Meeting will establish an Audit and Governance Committee.

### 9.02

- (a) **Membership.** The Audit and Governance Committee will be composed of at least Ten District Council Members.
- (b) **Independent Persons.** An Independent person may be co-opted to each Committee or Sub-committee as required but will not be entitled to vote at meetings;
- (c) **Parish Members.** At least one parish member may be present when matters relating to parish councils or their members are being considered. Parish Members are co-opted to each Committee or Sub-committee as required and will not be entitled to vote at meetings;
- (d) **Chairing the Committee.** It will be the first business of the Committee to appoint a chairman for the year.

### 9.03 Functions

The functions and responsibilities of the Audit and Governance Committee are set out in Part 3 to this Constitution.



## ARTICLE 10 - AREA COMMITTEES AND FORUMS

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### 10.01 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

## ARTICLE 11 - JOINT ARRANGEMENTS

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### 11.01 Arrangements to Promote Well Being

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.02 Joint Arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The Cabinet may appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the Council as a whole.
- (d) Details of any joint arrangements, including delegations to joint committees under S9EB to the Local Government Act, 2000, will be placed in the Council's scheme of delegations in Part 3 of the Constitution.

### 11.03 Access to Information

- (a) Access to Information rules are contained in the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) If all the members of any joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint Committee contains members who are not on the Executive of any participating authority, the access to the information provisions in Part V of the Local Government Act 1972 will apply.

## **11.04 Delegation to and from Other Local Authorities**

- (a) The Council or the Cabinet may delegate their powers and functions to another local authority or the Executive of another local authority and may receive such delegations also.

## **11.05 Contracting Out**

The Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, providing there is no delegation of the Council's discretionary decision making.

## **11.06 Partnerships**

### **(a) Background**

Partnership working is becoming ever more central to effective modern local government. A range of issues need to be addressed to ensure that the Council has a consistent and rigorous approach to partnership working. There need to be clear processes and procedures to respond to the complexity of partnerships and their increasing importance in enabling the Council to deliver services efficiently, effectively and with propriety, in addition to fulfilling the Council's leadership role. The Government's Comprehensive Area Assessment (CAA) arrangements for local authorities have identified the importance of partnership working, and place stronger emphasis on working with partners. CAA will focus on the effectiveness of the Council's approach to political, managerial and community leadership, user focus and diversity, achievement in shared priorities, and delivering outcomes through partnership working.

### **(b) Defining a Partnership**

The word "partnership" is used with increasing frequency in both the public and private sector and can mean many different things to different people. To make partnerships work effectively, they need to be differentiated from other joint arrangements such as funding regimes, contracts and informal relationships or networks.

A partnership has:

- an agreed framework for jointly delivering common goals
- shared risks and resources
- identified added value and measurable impact
- shared accountability for outcomes

**(c) Creation of Partnership**

The creation of any new formal partnership must be approved by the Cabinet Executive (or, if constitutionally required, by the Council) or as delegated.

**(d) Local Guidance**

Regard should be had, as appropriate, to local guidance set out in the Council's "Guidance Note" and Partnership Toolkit.

Particular regard should be given to

- probity and risk
- the status of the accountable body
- seeking timely legal advice, where necessary

## ARTICLE 12 - OFFICERS

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### 12.01

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Officers.** The Council will engage persons for the following posts.
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council has designated the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Commercial Services	Monitoring Officer
Head of Finance	Chief Finance Officer

These posts have the functions described in Article 12.02 - 12.04 below.

- (d) **Structure.** The Head of Paid Service will determine as appropriate and publicise a description of the overall departmental structure of the Council showing the management structure. This is set out at Part 8 of this Constitution.

### 12.02 Functions of the Head of Paid Service

- (a) **Discharge of Functions by the Council.** The Head of Paid Service will report as required on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of the Chief Finance Officer if he or she is a qualified accountant.

### 12.03 Functions of the Monitoring Officer

(See in addition Monitoring Officer Protocol set out at Part 5 of this Constitution)

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public. The Monitoring Officer is given

delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet:

Whilst changes to the “executive arrangements” within the Constitution may only be changed by resolution of the full Council after consideration of the proposal by the Monitoring Officer, save that the Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet.

- (b) **Ensuring Lawfulness and Fairness of Decision Making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Unless the report relates to a finding of maladministration such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer may advise scrutiny of the circumstances to enable scrutiny to consider whether it wishes to conduct a short enquiry.
- (c) **Supporting the Audit and Governance Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Audit and Governance Committee (and its Sub-Committees).
- (d) **Receiving Reports.** The Monitoring Officer will receive and act on reports made by Investigation Officers and decisions of the Audit and Governance Committee (and its Sub-Committees)
- (e) **Conducting Investigations.** The Monitoring Officer will conduct investigations into matters referred by Investigation Officers and make reports or recommendations about them to the Audit and Governance Committee (and its Sub-Committees).
- (f) **Advising Whether Executive Decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (g) **Providing Advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors. The Monitoring Officer will be responsible for ensuring that the Access to Information Rules are complied with.
- (h) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

## 12.04 Functions of the Chief Finance Officer

- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council (or to the Cabinet about an executive function) and the Authority's External Auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs.** The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Restrictions of Functions.** The Chief Finance Officer may not be the Monitoring Officer.

## 12.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

## 12.06 Conduct

Officers will comply with the Employees' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

## 12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

## **12.08 Functions and Delegation**

The officers shall be responsible for exercising those delegated functions and responsibilities set out in the Scheme of Delegation in Part 3 of this Constitution.

Unless a decision is specifically reserved in this Constitution to the Council, a Board or Committee of members it shall be deemed to have been delegated to the relevant officer in accordance with the scheme.



## ARTICLE 13 - DECISION MAKING

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### 13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 13.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining what options were considered and giving the reasons for the decision.

### 13.03 Types of Decision

- (a) Decisions reserved to Council

Decisions relating to the functions listed in Part 3 will be made by the full Council and not delegated.

- (b) Key decisions
  - (i) A “key decision” means a decision taken by the Cabinet, a committee of the Cabinet, an area or joint committee in connection with the discharge of a function which is the responsibility of the Cabinet and which is likely:
    - (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Authority’s budget for the service or function to which the decision relates; or
    - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the District.
  - (ii) For the purposes of (a) above:

- (a) £100,000 shall be regarded as significant in terms of expenditure except where:

The expenditure is in relation to a contract for goods and services and:

- 1) The term of the contract is for more than 1 year and less than 5 years, and
- 2) The aggregated value of the contract does not exceed more than £250,000 over its term, and
- 3) The value of the contract does not exceed £100,000 in any one year term

And

- (b) £100,000 shall be regarded as significant in terms of savings.

- (iii) For the purposes of (b) above any issue which, in the opinion of the Leader, is likely to have an impact on people shall be regarded as significant in terms of impact on communities. In deciding whether an issue is significant the Leader shall have regard:

to whether the decision may incur a significant social, economic or environmental risk

to the likely extent of the impact of the decision both within and outside the District

to whether the decision is likely to be a matter of political controversy

to the extent to which the decision is likely to result in substantial public interest

a decision taker when making a decision may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

## **13.04 Decision Making by the Full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **13.05 Decision Making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **13.06 Decision Making by Scrutiny**

The Scrutiny Committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

## **13.07 Decision Making by Groups Established by the Council**

Subject to Article 13.08, other Council groups will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

## **13.08 Decision Making by Council Bodies Acting as Tribunals**

The full Council, the Cabinet or any body, group or committee, or any councillor or an officer acting as a tribunal, or in a quasi judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## ARTICLE 14 - FINANCE, CONTRACTS AND LEGAL MATTERS

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### 14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this.

### 14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

### 14.03 Legal Proceedings

The Head of Legal and Commercial Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case considers that such action is necessary to protect the Council's interests. The Head of Legal and Commercial Services may designate nominated officers to carry out this function on his or her behalf.

### 14.04 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal and Commercial Services or by some other persons authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. Contracts with a value of £25,000 or above must be signed by the Head of Legal and Commercial Services or some other officer authorised by him or her or under the Common Seal of the Council attested by the Head of Legal and Commercial Services or some other officer authorised by him or her.

### 14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a secure place in the custody of the Head of Legal and Commercial Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Commercial Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Commercial Services or some other officer authorised by him or her. An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose.

## ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

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### 15.01 Duty to Monitor and Review the Constitution

- (a) The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- (b) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
  - 1. observe meetings of different parts of the member and officer structure;
  - 2. undertake an audit trail of a sample of decisions;
  - 3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
  - 4. compare practices in this Authority with those in other comparable authorities, or national examples of best practice.
  - 5. make revisions to the Constitution to reflect decisions taken by the full Council and to correct matters of fact or changes in legislation.

### 15.02 Changes to the Constitution

- (a) **Approval.**
  - (i) Changes to the “Executive Responsibilities” within the Constitution may be changed by the Leader in accordance with his/her legal powers.
  - (ii) the Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet.
  - (iii) Other changes to the Constitution shall be made by resolution of the full Council.
- (b) **Change of executive arrangements.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

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### 16.01 Suspension of the Constitution

- (a) **Limit to Suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension.** The following rules may be suspended in accordance with Article 16.01:
  - (i) Council Procedure Rules
  - (ii) Budget and Policy Framework Procedure Rules
  - (iii) Scrutiny Procedure Rules
  - (iv) Financial procedure Rules

### 16.02 Interpretation

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.03 Publication

- (a) The Chief Executive will make available a copy of this Constitution to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Monitoring Officer will ensure that the Constitution is published on the Council's website and that copies are available for inspection at the Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

## **SCHEDULE 1: DESCRIPTION OF EXECUTIVE ARRANGEMENTS**

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The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Scrutiny) and the Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Executive Procedure Rules;
3. Article 10 (Area Committees and Forums)
4. Article 11 (Joint Arrangements)
5. Article 13 (Decision Making) and the Access to Information Procedure Rules;
6. Part 3 Responsibility for Functions.

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**



## SECTION 1 - INTRODUCTION

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- (i) This part of the Constitution sets out which bodies and individuals are responsible for particular functions of the Authority. These fall into two categories:
- Council functions; and
  - Executive functions
- (ii) These are described in more detail in this part of the Constitution. Also included in this part of the Constitution are details of the membership of boards and committees, the Scheme of Delegation to Officers, and the list of Proper Officer designations. The list of Proper Officer designations sets out the officers responsible for certain functions under a particular piece of legislation.

### **Council Functions**

- (iii) These are also sometimes referred to as non-executive functions and under law are functions that cannot be the responsibility of the Cabinet. In some instances, for example adopting the annual budget, the decision can only be taken at a meeting of the full Council. In other cases, the responsibility for undertaking the function may be delegated by the Council to a board, committee or an officer - where this is the case it is identified in this part of the Constitution.
- (iv) There are a number of functions for which Councils are able to determine responsibility locally. These are known as “local choice functions”. Those local choice functions which this Council has determined will be the responsibility of Council or a committee and which will be the responsibility of the Cabinet are listed in Section 3 of this part of the Constitution.

### **Executive Functions**

- (v) All other functions are executive functions. Decisions about these functions may be taken by the Leader, the Cabinet, individual Cabinet members, Cabinet committees, joint arrangements with other authorities and officers. Further information about the executive delegation scheme and its operation is set out in Section 5 of this part of the Constitution.

## SECTION 2 - COUNCIL FUNCTIONS

1. These are local authority functions which cannot be the responsibility of the Executive. References to the Regulations are to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. The functions in Column 1 are reserved or delegated to the body or officer specified in Column 2. Matters reserved to a specific group or committee or sub-committee are specified in Section 5 of this part of the Constitution. The extent of delegation to the Chief Executive and Directors is shown at Section 7 of this part of the Constitution in the Scheme of Delegation to Officers.

<b>Function Column 1</b>	<b>Reservation or Delegation of Function Column 2</b>
All those functions for which the Council is responsible relating to town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to public rights of way set out in Regulation 2 and Schedule 1 of the Regulations	Planning Committee/Strategic Director of Place
All those functions for which the Council is responsible relating to licensing and registration and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations	Licensing Committee/ Strategic Director of Place
All those functions for which the Council is responsible governing health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations	Strategic Director of Place

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>Function Column 1</b>	<b>Reservation or Delegation of Function Column 2</b>
All those functions relating to elections set out in Regulation 2 and Schedule 1 of the Regulations	Council/Chief Executive
Functions relating to the name and status of areas and individuals set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to make, amend, revoke, re-enact or enforce byelaws set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to promote or oppose local or personal bills set out in Regulation 2 and Schedule 1 of the Regulations	Council
Power to make and amend procedure rules	Council
Power to make contract standing orders	Council
Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council/Chief Executive and Directors
Duty to make arrangements for the proper administration of financial affairs	Council
Power to appoint officers for particular purposes (appointment of Proper Officers)	Council/Monitoring Officer
Duty to designate an officer as the Head of the Authority's Paid service	Council
Duty to designate an officer as the Monitoring Officer and to provide staff	Council

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>Function Column 1</b>	<b>Reservation or Delegation of Function Column 2</b>
Duty to approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts	Audit and Governance Committee
Power to make a closing order on a takeaway food shop	Chief Executive and Strategic Director of Place
Powers relating to scrutiny	Council

## SECTION 3 - RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

1. The Council has the discretion to choose which part of the structure should be responsible for certain functions (known as “Local Choice Functions”). These are set out in Schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Regulations). The Council has determined that these functions will be the responsibility of the bodies set out in Column 2. In turn, the decision making body delegates to the person or body specified in Column 3.

<b>1. Function</b>	<b>2. Decision Making Body</b>	<b>3. Delegation of Function</b>
Functions under local Acts (other than a function specified in Regulation 2 and Schedule 1 of the Regulations)	Cabinet	Heads of Service
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	Strategic Director of Place
Any function relating to contaminated land	Cabinet	Strategic Director of Place
The service of an abatement notice for a statutory nuisance	Cabinet	Strategic Director of Place
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply	Cabinet	
Inspections for statutory nuisance	Cabinet	Strategic Director of Place
Investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Strategic Director of Place

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>1. Function</b>	<b>2. Decision Making Body</b>	<b>3. Delegation of Function</b>
Obtaining information under Section 330 Town and Country Planning Act 1990 as to interests in land	Cabinet	Strategic Director of Place
Obtaining of particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	Heads of Service
The appointment or revocation of appointment of any individual to any office/body other than the Council	Council	Chief Executive
The making of agreements with other local authorities and external agencies for the placing of staff and joint working arrangements	Council	Chief Executive
All those functions for which the Council is responsible relating to Community Governance Reviews as set out in Part 4 of Chapter 3 of the Local Government and Public Involvement in Health Act 2007	Council	Chief Executive

## SECTION 4 - RESPONSIBILITY FOR EXECUTIVE ARRANGEMENTS

### 1. EXECUTIVE ARRANGEMENTS

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“Executive arrangements” are arrangements by the Authority for the creation and operation of an executive of the Authority under which certain functions of the Authority are the responsibility of the executive. The law vests all Executive responsibilities in the Leader of the Council who may choose to delegate them in any manner allowed by law. The Leader can decide that decisions of the Executive may be taken by:

the Executive (known as the Cabinet)

a member of the Cabinet (subject to the provisions set out in paragraph 4 below)

a committee of the Cabinet (subject to the provisions set out in paragraph 4 below)

an officer

by another authority

by joint arrangements, such as a joint committee

At each annual Council meeting the Leader will inform Council of how he/she intends Executive powers to be exercised over the ensuing municipal year. He/she may alter these at any time during his/her period of office. Such changes may be reported to Council by the Leader.

### 2. CABINET

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**Membership:** The Leader together with five members appointed by the Leader.

**Quorum:** Three councillors

**Functions:**

1. To be responsible for strategic and policy co-ordination.
2. To recommend major new policies (and amendments or revisions of existing policies) to the Council for approval as a part of the Authority’s Budget and Policy Framework (Article 4 of this Constitution).
3. To prepare and agree other policies and strategies (including the Medium Term Financial Strategy) for implementation and to respond to consultation documents.

4. To recommend to the Council the annual budget, including the Capital and Revenue Budgets and the level of Council Tax and The Council Tax base.
5. To consider, at least annually, the level of reserves, provisions, and balances held by the Authority and recommend any changes to the Council.
6. To ensure that the annual budget is implemented and the underlying principles adhered to in any changes required from time to time. This will include recommending to Council any changes to policy that will materially reduce or increase the services of the Authority or create significant financial commitments in future years.
7. To take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the full Council.
8. To exercise the Authority's duty in Section 17 of the Crime and Disorder Act 1998 to reduce crime and disorder.
9. To oversee the implementation of Best Value.
10. To consider and respond to recommendations and reports from the Scrutiny Committees and other Council Committees and Bodies.
11. To monitor expenditure on the capital programme.
12. To approve those major service developments or reductions which also constitute Key Decisions.
13. To receive and consider reports from the External Auditor (including the Management Letter) and agree any appropriate action.
14. To consider the reports of external review bodies on key aspects of overall service delivery.
15. To ensure that the promotion of the rights, welfare and interests among all groups in society is given equal and primary consideration in all aspects of the Council's work and services.
16. To carry out the Authority's responsibilities for improving the economic, social and environmental well-being of the District and increasing the availability and equality of access to employment.
17. To review and monitor the Authority's strategy and overall implementation on e-Government, telecommunications, information systems and information technology, making recommendations to the Council as required.



18. To oversee the provision of all the Council's services other than those functions reserved to the Council.
19. To manage and maintain the Authority's housing stock.
20. To manage and maintain the Authority's other property portfolio.
21. To collect the Council Tax, National Non-Domestic Rates, periodic income and sundry debts.
22. To provide, manage and keep under review the concessionary bus fares scheme.
23. To exercise the Authority's powers for planning and responding to civil emergencies.
24. To exercise the Authority's functions as Local Planning Authority (except to the extent that those functions are by law the responsibility of the Council), including supplementary planning guidance, and designating conservation areas.
25. To oversee the Authority's overall policy on the voluntary and community sector.
26. To approve:
  - 26.1 the purchase or appropriation of land and buildings where the market value of the transaction exceeds £100,000 and to approve leasing (or otherwise) property where throughout the term the annual rental will exceed £20,000; and
  - 26.2 the disposal of land and buildings where the market value of the transaction exceeds £30,000 and to approve the grant and renewal of leases of land and buildings where the annual rental exceeds £40,000.
27. To authorise the making of compulsory purchase and control orders.
28. To write off debts of more than £10,000.
29. To write off stocks, stores and other assets and to write off any losses of money or stores or to settle claims.
30. To write off as non-refundable credits on accounts of more than £10,000.
31. To accept tenders and award contracts, including those which exceed budgetary provision and are within the Council's agreed budget (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

32. To receive reports on contract overspends in accordance with limits set out in the Financial Procedure Rules and agree the action to be taken.
33. To give grants or loans to charitable, voluntary bodies or other bodies where permitted by law.
34. To promote and develop international exchanges and links with towns and cities in other countries.
35. To exercise the powers and duties of the Authority under Sections 13 and 14 of the Public Order Act 1986.
36. To be the focus for forming partnerships with other local, public, private, voluntary and community sector organisations to address local needs.
37. To confer with other local authorities, government departments, statutory bodies, voluntary bodies, the police or other external agencies in order to discharge the responsibilities vested in the Cabinet.
38. To resolve any matters in dispute between Cabinet members.
39. To determine and deal with all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by the Cabinet.
40. To make decisions where no other tier of government has responsibility or where a policy or strategy does not exist.
41. To approve any waiver of Contract Procedure Rules, in accordance with a written report which has been approved by the Monitoring Officer and a report for information to the next convenient meeting of Cabinet.
42. Dealing with any petitions referred to Cabinet in accordance with the Council's adopted petition scheme.
43. To oversee the Authority's Food Law and Enforcement Service Plan.

### **3. PORTFOLIOS**

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The Leader has notified the Chief Executive that the portfolios of individual Cabinet members shall be as follows:

#### **Leader**

Community and Corporate Leadership  
Communications  
Coalville Project

## **Deputy Leader and Planning and Infrastructure Portfolio**

### Deputy Leader

- Human Resources/ Organisational Development
- Democratic Services
- Elections
- Performance

### Planning and Infrastructure

- Lead for HS2
- Planning policy
- Development management
- Building control
- Strategic growth plan
- Lead for East Midlands airport

## **Community Services Portfolio**

- Waste services
- Environmental protection
- Leisure services
- Health and well being
- Stronger and safer communities
- Environmental health
- Licensing

## **Corporate Portfolio**

- Financial planning
- Financial services
- Payroll
- Procurement
- Treasury management
- Journey to self-sufficiency programme
- Legal services
- Audit
- Risk management
- Health and safety

## **Housing, Property and Customer Services Portfolio**

- Housing management
- Housing repairs
- Strategic housing
- Resident involvement

- Asset management and property services
- Customer services and digital transformation
- Revenues and benefits
- ICT and reprographics

## **Business and Regeneration Portfolio**

- Business focus
- Cultural services
- Tourism
- Regeneration (excluding Coalville)
- Commercial Strategy

**Delegation of Functions:** All the functions listed are reserved to the Cabinet unless delegated to officers in the Scheme of Delegation to Staff in Section 7 of Part 3 of the Constitution.

## SECTION 5 - BODIES EXERCISING COUNCIL FUNCTIONS

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### 1. FULL COUNCIL

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**Membership:** All members of the Council

**Quorum:** One quarter of the total number of members

**Functions:**

Only the full Council will exercise the following functions:

- 1.1 subject to Article 14, Paragraph 15.02, adopting and changing the Constitution;
- 1.2 approving or adopting the policy framework, the budget and any application to the Secretary of State for a Housing Land Transfer;
- 1.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- 1.4 appointing the Leader for a one year term;
- 1.5 agreeing and/or amending the terms of reference of any boards, committees or other bodies appointed by the full Council deciding on their composition and making appointments to them;
- 1.6 appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- 1.7 adopting an allowances scheme or assessing, revoking or replacing any such scheme;
- 1.8 changing the name of the area and conferring the title of Honorary Alderman;
- 1.9 confirming the appointment or dismissal of the Head of Paid Service;
- 1.10 making arrangements for the proper administration of financial affairs;
- 1.11 designating an officer as the Monitoring Officer;
- 1.12 appointing an Electoral Registration Officer;

- 1.13 appointing a Returning or Acting Returning Officer for Parliamentary, local, European and Police and Crime Commissioners elections and referenda;
- 1.14 making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- 1.15 determining senior management structures of the organisation;
- 1.16 agreeing procedure rules, standing orders and financial regulations;
- 1.17 proposals relating to district boundaries, electoral wards and the number of district councillors;
- 1.18 agreeing an Annual Schedule of meetings;
- 1.19 adopting and amending the Authority's Code of Conduct for members and other codes and protocols comprising the ethical framework;
- 1.20 arranging for the discharge of any other functions of the Authority which are not executive functions;
- 1.21 power to resolve not to issue casino licences;
- 1.22 subject to any matters delegated to boards, committees or other bodies or officers, determining all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- 1.23 accepting the delegation of a power or function from another local authority;
- 1.24 all matters which, by law, must be reserved to Council.

**In the absence of any express statutory prohibition, every Board or Committee appointed by the Council may appoint Sub-committees for purposes and duration to be specified by the Board or Committee. They may also make specific delegations to officers.**

## 2. SCRUTINY

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### 2.1 SCRUTINY COMMITTEES

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2.1.1 There shall be two Scrutiny Committees as follows:

**The Corporate Scrutiny Committee**

**The Community Scrutiny Committee**

2.1.2 ***Each*** Scrutiny Committee shall be constituted as follows:

**Membership:** Ten councillors

**Quorum:** Three members

2.1.3 Number of Meetings

- (a) Each Scrutiny Committee shall meet five times per year.
- (b) The Corporate Scrutiny Committee shall meet an additional (sixth) time during the Council's budget-setting process to consider budget proposals.
- (c) In addition, meetings of either Scrutiny Committee may be convened from time to time:
  - a. to consider matters called in; and
  - b. on the instruction of the Chief Executive in consultation with the Chair of the relevant Scrutiny Committee where consideration of an urgent matter is required,

but only if timescales do not permit the called in or urgent matter to be considered at the next scheduled meeting of the relevant Scrutiny Committee.

### 2.2 SCRUTINY COMMITTEES – TERMS OF REFERENCE

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2.2.1 The two Scrutiny Committees shall have equal status and equal functions as set out in these Terms of Reference

2.2.2 Either Scrutiny Committee may receive reports and comment on any matter of policy or item of business where necessary for the urgent review of the same. Where urgent review is not necessary, each Scrutiny Committee shall be responsible for the following themed areas:

<b>Corporate Scrutiny Committee</b>	<b>Community Scrutiny Committee</b>
Asset Management	Business/Economy
Estates and property	Planning and Building Control
Audit	Tourism
Communications	Partnerships
Customer Services	Community Safety
Finance	Leisure
Human Resources	Health and Wellbeing
ICT	Stronger Safer Communities
Legal Services	Environmental Health
Revenue and Benefits	Licensing
Shared Services	Environmental Protection
Review of Constitution	Statutory crime and disorder committee
	Strategic Housing – Housing Strategy
	Housing Management
	Economic Development
	Regeneration
	Waste Services

2.2.3 The table set out in paragraph 2.2.2 is a non-exhaustive list and each committee may receive reports and comment on matters of policy or items of business of a reasonably similar nature to those it is stated as responsible for in the table.

### **Attributes and Functions of Both Scrutiny Committees**

2.2.4 The Scrutiny Committees will undertake or request reviews of policy.

2.2.5 The Scrutiny Committees are not able to take decisions but make recommendations to either the Cabinet or the full Council.

2.2.6 Each Scrutiny Committee shall comprise 10 Members of the Council and shall be subject to political proportionality.

2.2.7 Any Member who is not a Cabinet Member may serve on either or both of the Scrutiny Committees.

2.2.8 There are two elements to the work of the Scrutiny Committees:

- Both Scrutiny Committees are able to "call-in" executive decisions taken but not implemented by the Cabinet or portfolio holders, in line with the call-in procedure set out in the Scrutiny Procedure Rules.
- Both Scrutiny Committees are able to undertake detailed reviews of issues either within or outside the council.



## 2.3 GENERAL ROLE OF THE SCRUTINY COMMITTEES

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2.3.1 Effective overview and scrutiny is essential to enhance the accountability and transparency of the decision making process. The Scrutiny Committees have a key function in holding the Cabinet to account.

2.3.2 Where a particular issue could fall within the functions of both Scrutiny Committees the Chairs of the relevant Scrutiny Committees, following consultation with the Chief Executive, will agree which Scrutiny Committee will consider the matter. Without prejudice to the generality of paragraph 2.2.2 above, whenever a function of a Scrutiny Committee is exercised by one of the Scrutiny Committees in relation to a matter of policy or item of business, that function may not be exercised by the other Scrutiny Committee.

2.3.3 Within their themed areas and subject to paragraph 2.3.2, the Scrutiny Committees will discharge the overview and scrutiny functions conferred by Section 9F of the Local Government Act 2000 as amended by the Localism Act 2011 and will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions (both executive and non-executive) other than development control and other quasi-judicial matters;
- make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- consider any matter affecting the district or its inhabitants;
- review the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- question members of the Cabinet and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions (other than decisions exercising development control functions and other quasi-judicial matters)
- exercise the right to call-in, for reconsideration, executive decisions made but not yet implemented by the Cabinet or portfolio holders;
- take an overview of policy development in line with the priorities of the Council;
- report annually to a meeting of full Council on the scrutiny function and their work; and
- exercise powers relating to the Councillor Call for Action.

## 3. AUDIT AND GOVERNANCE COMMITTEE

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**Membership:** Ten councillors

**Quorum:** Three District councillors

**Terms of Reference:**

## Statement of purpose

1. The Audit & Governance Committee is a key component of North West Leicestershire District Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
2. The purpose of the Audit & Governance Committee is to provide independent assurance to those charged with governance of the adequacy of the risk management framework and the internal control environment. It provides independent review of North West Leicestershire District Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit arrangements, helping to ensure efficient and effective assurance mechanisms are in place.

## Governance, risk and control

3. To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.
4. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
5. To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
6. To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
7. To monitor and provide scrutiny over the effective development and operation of risk management in the council.
8. To monitor progress in addressing risk-related issues reported to the committee such as the Corporate Risk Register.
9. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
10. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.
11. To monitor the Anti-Fraud and Corruption strategy, actions and resources.

## Internal audit

12. To approve the internal audit charter.

13. To approve (but not direct) the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
14. To approve significant interim changes to the risk-based internal audit plan and resource requirements.
15. To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
16. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
17. To consider progress reports from the head of internal audit on internal audit's performance during the year
18. To consider the head of internal audit's annual report, including the statement of the level of conformance with the Public Sector Internal Audit Standards and the results of the Quality Assurance and Improvement Programme that supports the statement. Fundamental to the annual report is the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion. These will assist the committee in reviewing the Annual Governance Statement.
19. To consider summaries of specific internal audit reports in accordance with agreed protocols.
20. To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
21. To contribute to the QAIP and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
22. To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

### External audit

23. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised.
24. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
25. To consider specific reports as agreed with the external auditor.

26. To comment on the scope and depth of external audit work and to ensure it gives value for money.

### Financial reporting

27. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
28. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
29. To seek assurances that the Council has complied with the Treasury Management Strategy and Practices by demonstrating effective control of the associated risks and pursuing optimum performance consistent with those risks.

### Accountability arrangements

30. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
31. To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
32. To publish an annual report on the work of the committee.

<b>Functions</b>	<b>Matters reserved for a Decision</b>
The Council has determined under the powers conferred on it by Section 28(6) of the Localism Act 2011 to appoint an Audit and Governance Committee and it has the following roles and functions:	To determine any issues referred to the Committee (except for any matter reserved to the Council).
Promoting and maintaining high standards of conduct by councillors and co-optees.	
Assisting the councillors and co-optees to observe the Members' Code of Conduct	
Advising the Council on the adoption or revision of the Members' Code of Conduct	
Monitoring the operation of the Members' Code of Conduct	
Advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of	

<p>Conduct</p> <p>Granting dispensations to councillors who require such dispensations for more than one meeting or on more than one occasion from requirements relating to interests set out in the Members Code of Conduct as appropriate</p> <p>Dealing with any report from the Monitoring Officer on any matter concerning Governance.</p> <p>To establish Sub-Committees for the Assessment of Determination of matters concerning allegations of Members Conduct</p> <p>And in addition the Audit and Governance Committee also oversees the ethical framework of the Council including oversight of :</p> <ul style="list-style-type: none"> <li>• the Whistle Blowing Policy</li> <li>• complaints handling</li> <li>• Ombudsman investigations</li> </ul>	
<p>To exercise the above functions for the parish councils wholly or mainly in its area and the members of those parish councils.</p>	

## 3.1 LOCAL ASSESSMENT OF MEMBER COMPLAINTS

### 3.1.1 Sub-committees of the Audit and Governance Committee

All Audit and Governance Committee members will form a pool from which members will be drawn based on their availability and the requirements of the particular Sub-committee as and when required.

#### (a) **Assessment Sub-committee**

Assessment of complaints in accordance with the Council's Guidance and to either:

- Accept the Monitoring Officer's recommendation of no failure to comply with the Code of Conduct
- Refer the matter for full investigation
- Refer the matter for other action

(b) **Review Sub-committee**

Consideration of requests for a review in accordance with the Council's Guidance.

(c) **Determinations Sub-committee**

To receive reports from the Monitoring Officer or her appointed Investigating Officer and to decide either:

- to determine finding of no failure to comply with the Code of Conduct
- to determine finding of failure to comply with the Code of Conduct and impose relevant sanctions
- Refer the matter for other action

in accordance with the Council Guidance.

### 3.1.2 Membership, Quorum and Other Matters

- (i) Each Sub-committee must be chaired by a District Council member.
- (ii) The quorum is three District Council members.
- (iii) The Sub-committee may co-opt at least one Parish Council member when decisions are taken concerning a Parish matter.
- (iv) The Sub-committee may co-opt at least one independent person as appropriate.
- (v) No member who considered a complaint at the Initial Assessment/Determination Sub-committee may consider the same complaint at the Review Sub-committee.

## 4. PLANNING COMMITTEE

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**Membership:** Eleven councillors

**Quorum:** Three councillors

Functions	Matters Reserved for a Decision
The determination of all non-executive decisions under the Planning Acts including all planning applications and	(a) The application is contrary to the provisions of an approved or draft development plan policy and is

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p>applications for advertisement consent, listed building consent and conservation area consent is delegated to the Strategic Director of Place except where:</p>	<p>recommended for permission, and in the opinion of the Strategic Director of Place the application is likely to:</p> <ul style="list-style-type: none"> <li>(i) be potentially controversial, or</li> <li>(ii) be of significant public interest, or</li> <li>(iii) have a significant adverse impact on the environment, or</li> <li>(iv) raise matters which should be referred to the Planning Committee.</li> </ul>
	<p>(b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development which is unlikely to have any major impacts and to which no material (in the opinion of the strategic Director of Place) planning objections have been received.</p>
	<p>(c) A legal agreement (S106 or similar) is required except in the case of minor non-contentious agreements or minor amendments to existing legal agreements.</p>
	<p>(d) (i) The ward member of the ward to which the application relates or the ward member of adjoining ward (if that adjoining ward is materially impacted by the application) has notified the Strategic Director of Place (in writing or by email within 4 weeks of being notified of the</p>

Functions	Matters Reserved for a Decision
	<p>application) that the application should be determined by the Planning Committee</p> <p>And</p> <p>(ii) in the opinion of the Chair having consulted the Strategic Director of Place (or his nominated officer):</p> <p>A the notification is supported by one or more material planning grounds, and</p> <p>B the item relates to a matter of local concern,</p> <p>Provided that where the relevant ward member or neighbouring ward member has a disclosable pecuniary interest in the application in question, this “call-in” shall automatically be triggered for consideration by the Chair under (d)(ii) above.</p> <p>Where the Chair decides that an application does not satisfy (d)(ii) A or B above, written reasons shall be given to the requesting member.</p>
	<p>(e) An application is recommended for approval by officers and that application is submitted by:</p> <p>(i) a serving member or officer of the Council; or</p> <p>(ii) the close relative of a serving member or officer of the Council</p> <p>except for the approval of an</p>



<b>Functions</b>	<b>Matters Reserved for a Decision</b>
	<p>application which in the opinion of the Strategic Director of Place (of his nominated officer) is unlikely to have any major impacts and to which no objections have been received.</p>
	<p>(f) The Strategic Director of Place refers any application or matter to the Committee including (but not limited to) any consultation on an executive function.</p> <p>Where the matter referred to the Committee relates to an executive function, the Committee's view shall be subject to being agreed with the relevant portfolio holder or agreed by Cabinet.</p>
<p>Making orders to revoke or modify planning permissions, to impose conditions to remove buildings or repair listed buildings.</p>	<p>All matters reserved.</p>
<p>Making tree preservation orders.</p>	<p>To consider objections or other representations.</p>
<p>Serving Building Preservation Notices or Listed Building Repair Notices.</p>	<p>All matters reserved except where necessary to serve a notice in an emergency.</p>
<p>Public Footpath Orders under the Town and Country Act 1990.</p>	<p>To determine matters referred to it following the receipt of objections or other representations.</p>
<p>Footpath Diversion Orders under the Highways Act 1980.</p>	<p>To determine matters referred to it following the receipt of objections or other representations.</p>

## 5. LICENSING COMMITTEE

**Membership:** Seventeen councillors

**Quorum:** Five councillors

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p>To consider all outstanding licensing matters.</p> <p>To recommend to Council to resolve not to issue a casino licence.</p>	<p>To determine all licensing matters referred to with the exception of:</p> <ul style="list-style-type: none"> <li>(i) The Statements of Licensing Policy under both the Licensing Act 2003 and the Gambling Act 2005;</li> <li>(ii) the power to resolve not to issue a casino licence which shall be reserved to Council.</li> </ul>

### 5.1 LICENSING SUB-COMMITTEE

**Membership:** Three councillors

**Quorum:** Three councillors

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
<p>To consider matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003.</p>	<p>Application for a personal licence where there are relevant unspent convictions;</p>
	<p>The review of a premises licence or club premises certificate;</p> <p>Decision to object when the local authority is the consultee and not the relevant authority considering the application;</p>

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
	<p>Determination of a relevant objection to a temporary event notice.</p> <p>Where a relevant representation has been made, except where the relevant representation is made upon a minor variation application;</p> <p>Application for a personal licence;</p> <p>Application for a premises licence or club premises certificate;</p> <p>Application for a provisional statement;</p> <p>Application for variation to a premises licence or club premises certificate;</p> <p>Application to vary a designated premises supervisor;</p> <p>Application for transfer of a premises licence;</p> <p>Application for interim authority.</p>
<p>To consider matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005.</p>	<p>Application for a premises licence where representations have been received and not withdrawn.</p> <p>Application for variation to licence where representations have been received and not withdrawn.</p> <p>Application for a transfer of a licence where representations have been received from the Gambling Commission.</p> <p>Application for a provisional statement where representations have been received and not withdrawn.</p> <p>Review of a premises licence.</p>

Functions	Matters Reserved for a Decision
	Application for club gaming/club machine permits where objections have been received and not withdrawn.  Cancellation of club gaming/club machine permits.

## 5.2 TAXI AND PRIVATE HIRE SUB-COMMITTEE

**Membership:** Any three councillors drawn from the Licensing Committee.

**Quorum:** Three councillors

Functions	Matters Reserved for a Decision
To consider all outstanding hackney carriage and private hire licensing issues which are referred to it.	To determine any matters referred to it.

## 6. INVESTIGATORY COMMITTEE

**Membership:** Five councillors

**Quorum:** Three councillors

**Independent Members:** When advising the Council in relation to the proposed dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer the committee will co-opt two (voting) Independent Members in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations.

Functions	Matters Reserved for a Decision
To determine disciplinary cases involving chief officers and to advise the Council in relation to the proposed dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer.	To determine any matters referred to it.

## 7. EMPLOYEE JOINT CONSULTATIVE COMMITTEE

### 7.1 CONSTITUTION AND FUNCTIONS

(a) **Title**

The committee shall be called the “North West Leicestershire District Council and Employee Joint Consultative Group”, hereinafter referred to as the “Employee Joint Consultative Committee”.

(b) **Representation**

Employers’ side:

The employers’ side shall comprise 6 members of the North West Leicestershire District Council, to be appointed annually by that Council.

Employees’ side:

The employees’ side shall comprise 6 members from the recognised trades unions within the Council in the following proportions:

General and Municipal Union (GMB)	1 representative
Transport and General Workers Union (T&G)	1 representative
Union of Construction, Allied Trades and Technicians (UCATT)	1 representative
UNISON	3 representatives

Ex officio:

The Chief Executive

Strategic Director of Place

Strategic Director of Housing and Customer Services

Head of Human Resources and Organisational Development

If a member of the Employee Joint Consultative Group ceases to be a member or officer of the Local Authority, he or she shall thereupon cease to be a member of the Employee Joint Consultative Committee and any vacancy shall be filled by the local authority. Substitute members are permitted, each member of the Committee to be responsible for arranging his/her own substitute.

(c) **Chairman**

A chairman and a deputy chairman shall be appointed by the Employee Joint Consultative Committee at its first meeting following the Statutory Annual

Meeting of the Council in each year. If the chairman appointed is a member of the Local Authority, the deputy chairman shall be appointed from the staff side, and vice versa. The chairman of the meeting shall not have a second or casting vote.

(d) **Officers**

The Head of Legal and Commercial Services will be responsible for convening meetings and shall be represented thereat by a Local Member Support Officer for the sole purpose of recording the minutes of the meeting. The Directors, or his/her representatives, shall be allowed to attend meetings of the Committee in an advisory capacity.

(e) **Trade Union Officials/Organisers/Observers**

Trade Union Officials or organisers will be allowed to attend the meetings and may speak to the meeting. Trade Union Representatives (other than the designated members of the JCC) will be permitted to attend as observers, subject to the provision of two working days notice to the Human Resources Team Manager.

(f) **Functions**

The functions of the Employee Joint Consultative Committee shall be:

- (i) To provide a means of resolution of those matters previously discussed at meetings of the Employee Consultation Group where there has been a failure to reach agreement, always provided that no question of individual discipline, promotion, or efficiency shall be within the scope of the Employee Joint Consultative Committee.
- (ii) To consider any relevant matter referred to it by a Board of the Council or by any of the recognised trades unions.
- (iii) To discharge any other functions specifically assigned to the Employee Joint Consultative Committee.
- (iv) The Employee Joint Consultative Committee may refer any question coming before it for the consideration and advice of the East Midlands Regional Joint Council for Local Government Services.

## 7.2 RULES AND REGULATIONS

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- (a) The Employee Joint Consultative Committee shall meet as and when required but not less than half-yearly. The Chairman or Deputy Chairman may request the Head of Legal and Commercial Services to call a meeting at any time. A meeting shall also be called within 7 days of the receipt of a requisition signed by not less than one third of the members of either side. The matters to be

discussed at any meeting of the Committee shall be stated upon the notice summoning the meeting, provided that any other business may be considered if admitted by a majority vote of those present at such meeting.

- (b) The quorum of the Committee shall be 3 representatives of each side.
- (c) No resolution shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Committee.
- (d) The proceedings of any meeting of the Committee shall be reported to the Cabinet of the Council.
- (e) The Council's standing orders relating to Board and Committee meetings of the Council, with such modifications as are necessary in accordance with this Constitution, rules and regulations, shall apply to the Employee Joint Consultative Committee.

## 8. INDEPENDENT REMUNERATION PANEL

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**Membership:** Five members

**Quorum:** Three members

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
To make recommendations to the Authority as to the amount of basic allowance that should be payable to its elected members.	
To make recommendations to the Authority about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an allowance.	
To make recommendations to the Authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance.	
To make recommendations as to the amount of co-optees' allowance.	

<b>Functions</b>	<b>Matters Reserved for a Decision</b>
To make recommendations as to whether the Authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependents and if it does make such a recommendation, the amount of this allowance and the means by which it is determined.	
To make recommendations on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended.	
To make recommendations as to whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run.	
To make recommendations as to which members of an authority are to be entitled to pensions in accordance with a scheme made under Section 7 of the Superannuation Act 1972.	
As to treating basic allowance and special responsibility allowance as amounts in respect of which such pensions are payable.	



## 9. APPOINTMENTS COMMITTEE

**Membership:** Four councillors (Must include one member of Cabinet)  
Appropriate Portfolio Holder

**Quorum:** Three councillors

Functions	Matters Reserved for a Decision
To interview shortlisted candidates for Head of Paid Service, Chief Officer and Deputy Chief Officer posts.	To determine any matters referred to it.
Recommend to Full Council the appointment of the Head of Paid Service.	
Recommend to the Chief Executive (as Head of Paid Service) all permanent appointments to Chief Officer and Deputy Chief Officer posts.	
Undertake an annual appraisal of the performance of the Chief Executive.	

## 10. LOCAL PLAN COMMITTEE

### 10.2 FUNCTIONS

Functions	Matters Delegated from Council for a Decision
<b>Delegated Council Functions (decision-making)</b>	
<u>Development Plan Documents (DPDs)</u> <u>– the Council’s Local Plan is a DPD</u>  To receive reports and drafts from the Executive on: <ul style="list-style-type: none"> <li>- proposed DPDs; and</li> <li>- the functioning of and proposed revisions to existing DPDs.</li> </ul>	<ul style="list-style-type: none"> <li>- Instructing the Executive to reconsider drafts of DPDs and revisions of them.</li> <li>- Deciding to publish DPDs and revisions of them for public consultation.</li> </ul>

<b>Functions</b>	<b>Matters Delegated from Council for a Decision</b>
<p>To consider and comment on documents that relate to DPDs including (but not restricted to) policy options and draft policies having regard to evidence prepared to support each DPD.</p> <p>To provide updates to other Members who do not sit on the Local Plan Committee and to champion the committee's work on the Local Plan.</p> <p>To keep DPDs under review and monitor progress on the preparation of revisions and updates to DPDs (including the Local Plan).</p>	<ul style="list-style-type: none"> <li>- Deciding to submit DPDs and revisions of them for examination by a Planning Inspector.</li> </ul> <p>(Adoption of DPDs and revisions of them following examination remains a function of Full Council)</p>
<p><u>Supplementary Planning Documents (SPDs)</u></p> <p>To receive reports from the Executive on:</p> <ul style="list-style-type: none"> <li>- proposed SPDs; and</li> <li>- the functioning of and proposed revisions to existing SPDs.</li> </ul> <p>To consider and comment on documents that relate to SPDs including (but not restricted to) draft SPDs.</p> <p>To keep SPDs under review and monitor progress on the preparation of revisions and updates to SPDs.</p>	<ul style="list-style-type: none"> <li>- Instructing the executive (i.e. Portfolio Holder/officers) to reconsider drafts of SPDs and revisions of them.</li> <li>- Deciding to publish SPDs and revisions of them for public consultation.</li> <li>- Deciding to adopt SPDs and revisions of them following public consultation.</li> </ul>
<p><u>HS2</u></p> <p>To keep the Council's HS2 strategy under review and monitor developments on the ground against the parameters set out in the Council's Strategy.</p>	<ul style="list-style-type: none"> <li>- Deciding to adopt an amended HS2 Strategy from time to time.</li> </ul>

<b>Functions</b>	<b>Matters Delegated from Council for a Decision</b>
<u>Other Council Functions</u>	To determine any matters referred to it by full Council
<b>Advisory functions (non-decision-making)</b>	
<u>Duty to Cooperate</u>  To consider and comment on responses to plans being prepared by other local planning authorities or by multiple local authorities working in partnership (such as the Strategic Growth Plan) as part of the “Duty to Cooperate” contained in s33A of the Planning and Compulsory Purchase Act 2004.	<ul style="list-style-type: none"> <li>- Recommending to Council that a particular inter-authority plan or strategy is adopted in compliance with the “Duty to Cooperate”</li> </ul>
<u>Neighbourhood Plans</u>  To review and comment on proposed Neighbourhood Areas and Neighbourhood Plans being submitted to the Authority where Cabinet is using its executive power to implement them.	<ul style="list-style-type: none"> <li>- No decision making power (Cabinet Function)</li> </ul>
<u>Responses to Government Consultations</u>  Where central government launches a consultation on matters relating to Planning and Development Control, to review and comment on proposed responses where Cabinet is exercising its executive power to submit a response.	<ul style="list-style-type: none"> <li>- No decision making power (Cabinet Function)</li> </ul>
<u>Community Infrastructure Levy (CIL)</u>  To review and comment on proposals relating to CIL where Cabinet is using its executive power to implement CIL.	<ul style="list-style-type: none"> <li>- No decision making power (Cabinet Function)</li> </ul>

## 10.2. LOCAL PLAN COMMITTEE

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**Membership:** Eleven councillors

**Quorum:** Seven councillors

10.2.1 The Local Plan Committee will meet at least once every two months, but may meet more frequently where necessary

10.2.2 Other members may (at the discretion of the Chair) be invited to speak at meetings of the Local Plan Committee on any particular matter. Requests to be so invited must be submitted by members to the Democratic and Support Services Team Manager no later than 12pm on the last clear working day before the meeting. Members so invited shall not be entitled to vote.

10.2.3 If appropriate to a particular matter being discussed by the Local Plan Committee, the Chair may permit relevant experts to speak at a meeting.

10.2.4 Council Procedure Rule 10 which allows members of the public to ask questions shall apply to the Local Plan Committee provided that references to "Council" or members of the Cabinet shall be deemed to refer to the Local Plan Committee or its members.

10.2.5 Neither the Chair nor Deputy-Chair of the Local Plan Committee shall be the same person who is the Chair or Deputy-Chair of the Planning Committee.

## **SECTION 6 - ADVISORY BODIES AND WORKING PARTIES**

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The Council, the Cabinet and the Scrutiny Committees may from time to time establish working parties or advisory bodies which include in their membership councillors and/or officers and/or representatives from partner organisations or the local community. To the extent permissible by law, these are not constituted as boards or committees and are not authorised to make decisions on behalf of the Council. A list of such bodies is maintained by the Head of Legal and Commercial Services.

## SECTION 7 - SCHEME OF DELEGATION TO STAFF - COUNCIL AND EXECUTIVE FUNCTIONS

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### 1. SCOPE OF THE SCHEME

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This scheme sets out the extent to which the powers and duties of the Authority are delegated to officers.

### 2. EXERCISE OF DELEGATED POWERS

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- 2.1** Functions, tasks and responsibilities listed in this scheme of delegation may be exercised by the nominated officer(s) and includes anything which facilitates, or is conducive or incidental to, the discharge of these functions, tasks, or responsibilities.
- 2.2** Where an officer has been given delegated authority by this scheme he or she may authorise any member of his or her staff to act on his or her behalf except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- 2.3** An officer may always refer a delegated matter to the Cabinet or the Council or to one of its Boards or Committees for consultation or decision rather than take the decision him/herself.
- 2.4** When exercising delegated powers officers must always have regard to the financial, legal and human resource implications of the decision. When necessary, advice should be taken.
- 2.5** Before taking a decision under delegated powers, an officer shall notify the relevant portfolio holder of any action which is likely to be contentious or politically sensitive.
- 2.6** The Chief Executive, Strategic Director of Housing & Customer Services and Strategic Director of Place shall keep portfolio holders informed of the work of their service area.
- 2.7** When exercising delegated powers officers shall consult with staff in another service area if the decision is likely to impact on the work of that service area.
- 2.8** When exercising delegated powers an officer shall always have regard to the requirements of the Constitution.
- 2.9** The Chief Executive may authorise one officer to exercise the delegated powers of another officer in the absence of the latter except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- 2.10** This scheme does not delegate to an officer any matter which:

- 2.10.1 has been reserved to the full Council
- 2.10.2 has been reserved to any board or committee
- 2.10.3 has been reserved to the Cabinet
- 2.10.4 may not by law be delegated to an officer.

### **3. GENERAL FUNCTIONS TO BE DISCHARGED BY THE CHIEF EXECUTIVE AND DIRECTORS**

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- 3.1 To take such action as may in his or her opinion be necessary or appropriate in connection with:
  - 3.1.1 all operational management matters for these functions and service areas for which he or she has responsibility under this Constitution and the enforcement of all legislation relating to his/her functions and service areas;
  - 3.1.2 persons and/or property for which he or she and his or her service has responsibility;
  - 3.1.3 the implementation of decisions properly authorised by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers;
  - 3.1.4 the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers.
  - 3.1.5 The response to consultation documents following consultation with the relevant portfolio holder(s).
- 3.2 To serve a requisition for information about an interest in land using powers relevant to the operation of the service area.
- 3.3 To authorise officers to conduct directed surveillance or the use of covert human intelligence sources and the accessing of communications data in accordance with the Regulation of Investigatory Powers Act 2000. (Such authorisation to be presented to the Magistrates Court for approval). The use of juveniles and vulnerable individuals as covert human intelligence sources shall only be authorised by the Chief Executive.
- 3.4 To award contracts within budget up to the value set out in the table in paragraph 5.10 of the Contract Procedure Rules (and such authority is delegated to subordinate officers based on their level of financial authorisation)

as set out in paragraph 5.9 of the Contract Procedure Rules) unless the contract is in respect of a matter that has been previously approved by Cabinet in which case the Directors may award contracts of a higher value than set out in the table in paragraph 5.10 of the Contract Procedure Rules subject to it being within the approved budget for that scheme (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

- 3.5** To sign contracts of a value below £25,000 or some other officer authorised by him or her to do so.
- 3.6** To approve jointly with the Section 151 Officer acquisitions of land in respect of their service area up to a capital value of £100,000 per site in consultation with the relevant Portfolio Holder.
- 3.7** To approve jointly with the Section 151 Officer disposals of land in respect of their service area up to a capital value of £30,000 per site in consultation with the relevant Portfolio Holder.

## **4. CHIEF EXECUTIVE**

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### **4.1 Head of Paid Service**

**4.1.1** To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and in this role:

- a) to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
- b) to give professional advice to all parties in the decision making process (the Cabinet, Scrutiny Bodies, the Council, Boards and Committees);
- c) to ensure that the Authority has a system of record keeping for all key and executive decisions (a key decision is defined at page 26);
- d) to ensure that the Authority achieves and delivers its objectives; and
- e) to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).

**4.1.2** To co-ordinate, direct and monitor the Authority's initiatives to achieve Best Value in the delivery of its functions.

**4.1.3** To be responsible for performance review issues.



- 4.1.4** After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.
- 4.1.5** To suspend the Strategic Director of Place, Strategic Director of Housing & Customer Services and Heads of Service where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct; the members of the Cabinet to be notified as soon as possible after the action is taken in accordance with the Employment Procedure Rules contained in the Constitution.
- 4.1.6** To make interim appointments to fill vacancies, and to make interim designations as Chief Finance Officer and Monitoring Officer where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the Appointments Panel.
- 4.1.7** All activities in connection with the Council's Human Resources function including:
- (a) To determine all staffing matters in accordance with the Officer Employment Procedure Rules. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as she considers appropriate following consultation with the Leader and Deputy Leader.
  - (b) The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.
  - (c) Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Cabinet, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.
  - (d) The Head of Paid Service may delegate the discharge of this function to another officer.
- 4.1.8** To make agreements with other local authorities and external agencies in compliance with the Council's CPRs for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).
- 4.1.9** To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

## **4.2 Elections**

**4.2.1** To act as Returning Officer, Local, Acting or Deputy Returning Officer in:

- a) Local Elections
- b) Parliamentary Elections
- c) European Elections
- d) Police and Crime Commissioners' Elections
- e) Referenda

**4.2.2** To undertake the duties of Electoral Registration Officer.

## **4.3 Corporate Leadership**

**4.3.1** To lead the Corporate Leadership Team.

**4.3.2** After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.

**4.3.3** To consider and co-ordinate any investigation by the Local Government Ombudsman.

**4.3.4** To consider and report on any report of the Local Government Ombudsman and to decide on and implement the action to be taken.

**4.3.5** To take urgent action necessary to protect the interests of the Authority, some or all of the Authority's area or some or all of the inhabitants of the Authority's area.

## **4.4 Civic Functions**

**4.4.1** All activities in connection with the Council's civic/ceremonial function.

## **4.5 Service Functions**

**4.5.1** Key strategic partnerships including LLEP

**4.5.2** Performance management

**4.5.3** Project management

**4.5.4** Local strategic partnerships/LEPs.

**4.5.5** Health and safety (internal).

**4.5.6** Risk management.

- 4.5.7 Communications and consultations.
- 4.5.8 Media management, public relations and marketing.
- 4.5.9 Corporate overview on diversity issues.
- 4.5.10 Information management including Data Protection and Freedom of Information.
- 4.5.11 Elections and electoral registration.
- 4.5.12 National Land and Property Gazetteer.
- 4.5.13 Legal services (without prejudice to the statutory role and function of the Monitoring Officer)
- 4.5.14 Members' services and members' development (xv) Strategic asset management including land sales.
- 4.5.15 Administration of meetings of the Council, Boards, Committees a Sub-committees and typing and clerical services.
- 4.5.16 Internal Audit.
- 4.5.27 Human Resources.
- 4.5.18 Emergency Planning.
- 4.5.19 Street naming and numbering and replacement of street nameplates.
- 4.5.20 Corporate complaints procedure.

## **5. STRATEGIC DIRECTOR OF PLACE**

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- 5.1 The officer is authorised by the Council to discharge the following functions and determine directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.
- 5.2 **Service Functions**
  - 5.2.1 All activities in relation to the discharge of the Council's function as Local Planning Authority, including planning policy, development control, land reclamation and drainage.
  - 5.2.2 All activities in relation to the discharge of the Council's functions as the Local Building Regulation Authority and "Building Control Body" (excluding street naming and numbering and replacement of street nameplates).

- 5.2.3** All functions in relation to waste, recycling and street cleansing and street scene.
- 5.2.4** Economic development and regeneration.
- 5.2.5** Engineering design.
- 5.2.6** Enforcement of byelaws and orders of the Council including car parking.
- 5.2.7** Cemeteries, burials and closed church yards.
- 5.2.8** Public conveniences.
- 5.2.9** Town centre management including markets/fairs (including farmers' markets).
- 5.2.10** Fleet management.
- 5.2.11** Green space including allotments.
- 5.2.12** Sanitation including cesspools, septic tanks, etc.
- 5.2.13** Land charges.
- 5.2.14** Awarding schedule of rates contracts.
- 5.2.15** Social inclusion.
- 5.2.16** Community safety and CCTV.
- 5.2.17** Community health, development and social regeneration.
- 5.2.18** Leisure facilities - management and operation including sports and recreation facilities.
- 5.2.19** Cultural services.
- 5.2.20** Arts, entertainment, heritage and tourism and tourist information.
- 5.2.21** Sports and leisure development.
- 5.2.22** Gypsies and travellers.
- 5.2.23** Community enterprise.
- 5.2.24** External resources, grants and bids support.

**5.2.25** Private sector housing (including affordable housing).

## SPECIFIC FUNCTIONS

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### 5.3 Council Functions

**5.3.1** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations and in particular:

- (a) to agree non-material variations to conditions of permissions and consents where no objections have been received and no demonstrable harm would be caused to an interest of acknowledged importance;
- (b) to decide details submitted in compliance with conditions on planning permissions;
- (c) to negotiate obligations under Section 106 of the Town and Country Planning Act 1990, including any obligations that may be required in connection with any appeal proceedings;
- (d) to serve building preservation notices or listed building notices in an emergency.

**5.3.2** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations and in particular:

- (a) to give permission to cut down or lop trees protected by a tree preservation order or by virtue of their location in a conservation area;
- (b) to determine complaints received under the provisions of the High Hedges Regulations 2005 and specify remedial action to resolve the complaint in accordance with the national guidance and initiate enforcement action as necessary.

**5.3.3** Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.

**5.3.4** To exercise all those functions for which the Council is responsible concerning health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.

## **5.4 Executive Functions**

**5.4.1** To make or revoke a direction under Article 4 of the General Development Order 1995.

**5.4.2** To recommend to Cabinet the designation or extension of an area as a conservation area.

**5.4.3** To exercise any function related to contaminated land.

**5.4.4** To inspect for a statutory nuisance and to investigate any complaint about the existence of a statutory nuisance.

**5.4.5** To serve an abatement notice for a statutory nuisance.

**5.4.6** To administer the Building Regulations.

**5.4.7** All activities relating to the discharge of the function as a Licensing Authority under all relevant legislation.

**5.4.8** Subject to those matters reserved for decision by the Licensing Committee, the Licensing Sub-committee and the Taxi and Private Hire Sub-committee, to exercise all those functions for which the Council is responsible concerning licensing and registration and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations including the determination of applications for licences, permits and registrations.

**5.4.9** All activities in relation to the discharge of the environmental health function of the Council, including environmental protection/enforcement, occupational health and safety, food safety, animal welfare, environmental strategy, pest control and the appointment of Port Medical Officer(s) and/or Consultants for Communicable Disease Control.

**5.4.10** To issue a closing order on a takeaway food shop.

## 6. STRATEGIC DIRECTOR OF HOUSING & CUSTOMER SERVICES

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### 6.1 Housing

The officer is authorised by the Council to discharge all activities in relation to the discharge of the Council's function as Local Housing Authority either directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.

**6.1.1** To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.

**6.1.2** To determine whether people are homeless and whether they are in priority need.

**6.1.3** To allocate temporary accommodation.

**6.1.4** To collect rent, arrears of rent, charges and sundry debts.

**6.1.5** In addition to the Head of Legal and Commercial Services, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:

(a) former tenant rent arrears, and

(b) rent possession hearings,

(c) and in conjunction with this to designate nominated officers to carry out this function on his or her behalf, including the signing of any related document necessary to any legal procedure or proceedings.

**6.1.6** To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.

**6.1.7** To serve notice of seeking possession, notice to quit and applying for possession orders.

**6.1.8** To determine applications by tenants to alter their homes.

**6.1.9** To reimburse tenants for tenants' improvements.

**6.1.10** To transfer tenancies into joint names and vice-versa.

**6.1.11** To agree mutual exchange.

**6.1.12** To take immediate action to secure the removal of trespassers from housing land and property.

**6.1.13** To determine the eligibility of applicants to right to buy.

**6.1.14** To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, after consulting with tenants and Ward Members, and in consultation with the Portfolio Holder.

**6.1.15** To sign a Closure Notice issued under the Anti-Social Behaviour Crime and Policing Act 2014.

## **6.2 Property Services**

The officer is authorised by the Council to discharge all activities in relation to the management and maintenance of all of the Council's non-housing property, assets and facilities including:

**6.2.1** To administer all aspects of housing benefit and Council Tax benefit.

**6.2.2** To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters.

**6.2.3** To deal with demands and notices, liabilities, reliefs and exemptions, and for non-domestic rates to recommend to the Cabinet guidelines for the granting of discretionary rate relief, partially occupied properties and hardship relief and administer the scheme in accordance with the approved guidelines.

**6.2.4** In addition to the Head of Legal and Commercial Services to represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings involving the executive functions referred to paragraph 5.4.1 and 5.4.2 above.

**6.2.5** To grant and determine temporary lettings and licences of Council owned land and buildings.

**6.2.6** To enter into deeds of dedication on such terms as the Director sees fit.

**6.2.7** To agree perpetual and fixed term easements and wayleaves on such terms as the Director sees fit.

**6.2.8** To determine rent reviews and to instigate and participate in arbitrations.

**6.2.9** To agree terms for the surrender of leases.



- 6.2.10** To authorise action to determine a lease in the event of rent arrears or other breach of covenant.
- 6.2.11** To agree terms for waiving covenants, whether freehold or leasehold.
- 6.2.12** To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- 6.2.13** To make and settle claims for dilapidation.
- 6.2.14** To appropriate land belonging to the Authority at proper value.
- 6.2.15** To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £40,000.
- 6.2.16** To dispose of freehold land where the market value does not exceed £30,000.
- 6.2.17** Following consultation with Asset Management Group, to approve the Asset Management Policy.
- 6.2.18** Notwithstanding the above, to undertake acquisitions and disposals of land up to a value of £10,000 per site in accordance with and to give effect to the Council's policies and programmes (subject to provision of a monthly list of such acquisitions and disposals to the appropriate Cabinet member and the Corporate Scrutiny Committee).
- 6.2.19** To determine applications for discretionary non-domestic rural rate relief following consultation with the ward member(s) for the settlement concerned and the portfolio holder.

## **6.3 Customer Services**

The officer is authorised by the Council to discharge all activities in relation effectively acknowledging and responding to enquiries made by citizens, including:

- 6.3.1** Development and maintenance of the Council's ICT infrastructure.
- 6.3.2** the Council's customer services structure.

## **6.4 Finance**

- 6.4.1** Accountancy services.
- 6.4.2** Finance, financial planning and procurement.
- 6.4.3** Revenues and benefits.

## **7. AND ARISING FROM HIS/HER RESPECTIVE FUNCTIONS THE CHIEF EXECUTIVE AND DIRECTORS ARE AUTHORISED:**

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- 7.1** To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
- 7.2** To co-ordinate and monitor work through approved plans and policies, ensuring compliance with targets and performance to the relevant Board or committee.
- 7.3** To determine the level of charges for Council services in order to maximise income and in accordance with agreed charging policies.
- 7.4** To ensure compliance with and discharge of all relevant legislation, Acts of Parliament orders, regulations and directives and the Council's policies and procedures (including all enforcement matters).
- 7.5** To provide and submit a bid for resources in accordance with the approved budget process.
- 7.6** To support members in their monitoring and community governance roles.
- 7.7** To recommend to the Head of Legal and Commercial Services the prosecution or instigation of any legal proceedings on behalf of the Council.
- 7.8** To issue licences and registrations relating to any of the approved functions.
- 7.9** To support the Cabinet in the development of the Council's policy framework.
- 7.10** In the absence of the Chief Executive and in accordance with the agreed rota, to undertake on his/her behalf such actions as are required to enable the Council to fulfil its functions.

## **8. HEAD OF LEGAL AND COMMERCIAL SERVICES**

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### **8.1 Monitoring Officer**

- 8.1.1** To exercise the functions of the Authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 8.1.2** Whilst changes to the Constitution may only be made by resolution of the full Council after consideration of the proposal by the Monitoring Officer (unless they are changes to "executive arrangements" which may be made at the discretion of the Leader), the Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and to implement decisions of the Council and of the Cabinet.

## **8.2 Legal Proceedings**

**8.2.1** Acting on the recommendations of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.

**8.2.2** To negotiate and settle claims and disputes without recourse to court proceeding including the use of alternative dispute resolution.

**8.2.3** To represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings.

**8.2.4** To apply for an anti-social behaviour order.

## **8.3 Urgent Action**

**8.3.1** In any circumstances where urgent action is required, acting on the recommendation of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, or where otherwise duly authorised, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council and to take immediate legal action to enforce rights or obligations when he or she considers it to be in the interests of the Authority to do so.

## **8.4 Authority to Sign Documents in Legal Proceedings**

**8.4.1** To sign the following on behalf of the Council:

- (a) Any document necessary in legal proceedings on behalf of the Council and
- (b) Informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.

## **8.5 Authority to Sign Contracts and Other Documents**

**8.5.1** To sign any contract and other documents whether under seal or not.

## **8.6 Arbitration**

**8.6.1** Acting on the recommendation of the Chief Executive or the Directors, to refer contractual disputes to arbitration and to give agreement as to the appointment of such arbitrator.

## **8.7 Compensation**

**8.7.1** After consultation with the Chairman of the Audit and Governance Committee, to make compensation payments of up to £500 to victims of maladministration.

## **8.8 Counsel**

**8.8.1** To instruct Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Authority.

## **8.9 Proper Officers**

**8.9.1** To designate “Proper Officers” for the purpose of particular statutory functions and to make any changes needed to the table at Section 8 in Part 3 of the Constitution.

## **9. SPECIFIC DELEGATION TO OFFICERS IN CONSULTATION WITH OTHERS**

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### **9.1 Chief Executive**

**9.1.1** Consideration of pastoral measures and to respond after consultation with ward members.

**9.1.2** In consultation with the Strategic Director of Place, to negotiate and conclude agreements under Section 106 of the Town and Country Planning Act 1990 along lines previously approved by Planning Committee.

**9.1.3** Subject to consultation with the Highway Authority and the police and ward members, to make orders under Section 21 of the Town Police Clauses Act 1847 relating to the temporary closures of streets and temporary direction of traffic.

**9.1.4** Subject to consultation with ward members and the Strategic Director of Place, to make public path orders under the Town and County Planning Act 1990 and to confirm unopposed orders.

- 9.1.5 Subject to consultation with ward members and the Strategic Director of Place, to make public path orders under the Highways Act 1980 and to confirm unopposed orders.
- 9.1.6 In consultation with the Chairman of the Cabinet, ward members, the Strategic Director of Place, Ashby Town Council and the Highways Authority, to agree the grant of a licence, its terms and conditions for the operation of the annual Statutes Fair at Ashby de la Zouch.
- 9.1.7 Subject to consultation with ward members and the Strategic Director of Place, to respond to consultations made by Leicestershire County Council with regard to proposed public footpath orders where the orders are unopposed.
- 9.1.8 To determine applications for bonfires on Council land subject to consultation with ward members, the Strategic Director of Place as appropriate and Fire Officer.
- 9.1.9 Subject to consultation with the relevant Director, relevant Heads of Service and ward members, to approve and issue licences for the temporary use of Council owned land.
- 9.1.10 Following consultation with the relevant Director, to reject applications to purchase Council owned land.
- 9.1.11 The approval of lease cars to employees.

## 9.2 Strategic Director of Place

- 9.2.1 To lodge objections with traffic commissioners against applications for haulage licences subject to consultation with ward members and to report to next Planning Committee (in connection with those objections lodged by the Local Planning Authority).
- 9.2.2 In consultation with ward members, to make responses to Leicestershire County Council and the Highways Agency on traffic proposals.

## 10. DESIGNATED AUTHORISED OFFICERS

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### 10.1 Signatories to Financial Documents

Chief Executive  
Head of Finance  
Head of Legal and Commercial Services  
Finance Team Manager  
Strategic Finance Manager  
Exchequer Services Team Leader

## 11. JOINT ARRANGEMENTS

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- 11.1 The Council has entered a joint arrangement with neighbouring District Councils and the County Council for the enforcement of decriminalised parking.
- 11.2 The Council has entered a joint arrangement with neighbouring Councils for the administration of Revenues and Benefits.
- 11.3 The Council has entered a joint arrangement with the local authorities in Leicester, Leicestershire and Rutland for the establishment of a Police and Crime Panel.
- 11.4 The Council has entered a joint arrangement with neighbouring District Councils under which Blaby District Council discharges the Council's functions in relation to Disabled Facilities Grants

## SECTION 8 - PROPER OFFICER DESIGNATIONS

The relevant postholders listed below have been designated as Proper Officers for the purposes of the adjacent legislative provisions and any subsequent amendments:

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive
S.84(1)	Receipt of notice of resignation of elected member	Chief Executive
S.88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	Chief Executive
S.89(1)	Notice of casual vacancy	Chief Executive
S.100 (except 100D)	Admission of public (including press) to meetings	Head of Legal and Commercial Services
S.100(b)(2)	The officer also may exclude from agendas any information which is likely to be dealt with in the absence of press and public	Head of Legal and Commercial Services
S.100(B)(7)	The officer to supply to newspapers copies of documents supplied to councillors	Head of Legal and Commercial Services
S.100(C)(2)	The officer to prepare a written summary of the proceedings at committees and sub-committees	Head of Legal and Commercial Services

# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
S.115(2)	Receipt of money due from officers	S151 Officer
S.146(1)(a) and (b)	Declarations and certificates with regard to transfer of securities	S151 Officer
S.151 (and S.114 Local Government and Finance Act 1988)	The officer responsible for the proper administration of the Council's financial affairs	Head of Finance / S151 Officer
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Head of Legal and Commercial Services
S.225	Deposit of documents	Head of Legal and Commercial Services
S.228(3)	Accounts for inspection by any member of the Council	Head of Finance
S.229(5)	Certification of photographic copies of documents	Chief Executive / Head of Legal and Commercial Services
S.236(9) and (10)	Sending of copies of byelaws to parish councils, parish meetings and County Council	Head of Legal and Commercial Services
S.238	Certification of byelaws	Head of Legal and Commercial Services
S.248	Officer who will keep the Roll of Freeman	Head of Legal and Commercial Services
<b>Schedule 12</b>		
<b>Local Government Act 1972</b>		
Para 4(2)(b)	Signing of summons to Council meeting	Chief Executive



## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Head of Legal and Commercial Services
<b>Schedule 14</b>		
Para 25	Certification of resolution passed under this paragraph	Head of Legal and Commercial Services
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Head of Legal and Commercial Services
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Strategic Director of Place
<b>Representations of the People Act 1983</b>		
S.9	Registration Officer	Chief Executive
S.24	Returning Officer for Local Elections	Chief Executive
S.28	Acting Returning Officer for a Parliamentary Election	Chief Executive
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive

# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

Legislative Provision	Function	Proper Officer
<b>Local Elections (Principal Areas) (England and Wales) Rules 2006/3304</b>		
Rule 54	Retention and public inspection of documents after an election	Chief Executive
<b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3304</b>		
Rule 54	Retention and public inspection of documents after an election	Chief Executive
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	Head of Legal and Commercial Services
S.3	Employers certificate for exemption from politically restricted posts	Chief Executive
S.4	Reports of Head of the Paid Service	Chief Executive
S.5	Reports of the Monitoring Officer	Head of Legal and Commercial Services
S.15	Officers to receive notices relating to membership of political groups	Head of Legal and Commercial Services
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political groups	Head of Legal and Commercial Services
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		

# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

Legislative Provision	Function	Proper Officer
	Officer who will give written notice of appointment or dismissal of officers listed in Schedule 1, Part II, paragraph 3	Chief Executive
<b>Local Government Act 2000</b>		
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	Chief Executive
<b>The Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012</b>		
Regulation 7	Access to agenda and connected reports	Head of Legal and Commercial Services
Regulation 9	Publicity in connection with key decisions	Head of Legal and Commercial Services
Regulation 10	General exception relating to the Executive Decision Notice	Head of Legal and Commercial Services
Regulation 11	Special Urgency	Head of Legal and Commercial Services
Regulation 12	Recordings of executive decisions made at the meetings of Cabinet	Head of Legal and Commercial Services
Regulation 13	Individual executive decisions	Head of Legal and Commercial Services
Regulation 14	Inspection of documents following executive decisions	Head of Legal and Commercial Services
Regulation 15	Inspection of background papers	Head of Legal and Commercial Services

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

<b>Legislative Provision</b>	<b>Function</b>	<b>Proper Officer</b>
Regulation 16	Members' rights of access to documents	Head of Legal and Commercial Services
Regulation 20	Confidential/exempt information and exclusion of public from meetings	Head of Legal and Commercial Services
<b>Public Health Act 1936</b>		
S.85(2)	To serve notice requiring remedial action where there are verminous persons or articles	Strategic Director of Place
<b>Public Health Act 1961</b>		
S.37	Control of any verminous article	Strategic Director of Place

# **PART 4**

## **RULES OF PROCEDURE**

**4.1: COUNCIL PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Annual Meeting of the Council</b>
<b>2:</b>	<b>Ordinary Meetings</b>
<b>3:</b>	<b>Extraordinary Meetings</b>
<b>4:</b>	<b>Time and Place of Meetings/Application of Procedure Rules to Boards, Groups and Committees</b>
<b>5:</b>	<b>Notice of and Summons to Meetings</b>
<b>6:</b>	<b>Chairman of Meeting</b>
<b>7:</b>	<b>Quorum</b>
<b>8:</b>	<b>Duration of Meeting</b>
<b>9:</b>	<b>Recording Meetings</b>
<b>10:</b>	<b>Questions by the Public</b>
<b>11:</b>	<b>Questions by Members</b>
<b>12:</b>	<b>Motions - on Notice</b>
<b>13:</b>	<b>Motions and Amendments - Without Notice</b>
<b>14:</b>	<b>Rules of Debate</b>
<b>15:</b>	<b>Previous Decisions and Motions</b>
<b>16:</b>	<b>Voting</b>
<b>17:</b>	<b>Minutes</b>

- 18: Petitions**
- 19: Deputations**
- 20: Exclusion of the Public**
- 21: Members' Conduct**
- 22: Disturbance by Public**
- 23: Suspension and Amendment of Council Procedure Rules**
- 24: Interpretation**

## 1. ANNUAL MEETING OF THE COUNCIL

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**1.1 Timing and Business.** In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- 1.1.1 elect a person to preside if the Chairman is not present;
- 1.1.2 elect the Chairman;
- 1.1.3 appoint the Deputy Chairman;
- 1.1.4 receive any declarations of interest. Where such interest's amount to a Disclosable Pecuniary Interest under the Localism Act 2011, the member must leave the meeting at the time the item arises and must not participate any further in the discussion or vote of that matter. Once the matter is concluded the member may return to continue the other business of the meeting;
- 1.1.5 approve the minutes of the last meeting;
- 1.1.6 receive any announcements from the Chairman and/or the Chief Executive;
- 1.1.7 elect the Leader for a period of one year;
- 1.1.8 receive the report of the Leader setting out the size and membership of his/her Cabinet and how he/she intends Executive powers to be exercised over the ensuing municipal year;
- 1.1.9 appoint at least one Scrutiny Committee, an Audit and Governance Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- 1.1.10 decide the size and terms of reference for those boards and committees;
- 1.1.11 decide the allocation of seats to political groups in accordance with the political balance rules;
- 1.1.12 receive nominations of councillors to serve on each board or committee and outside body; and



- 1.1.13 appoint to those boards committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet;
  - 1.1.14 agree the scheme of delegation set out in Part 3 of this Constitution;
  - 1.1.15 approve a programme of ordinary meetings of the Council for the year (if not already agreed); and
  - 1.1.16 conduct items 2.1.4 to 2.1.12 of the business of an ordinary meeting of Council.
- 1.2** Provided always that this is without prejudice to the right of the Council at any time to establish or dissolve any board or committee or to review its size and terms of reference.

## **2. ORDINARY MEETINGS**

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- 2.1** Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Ordinary meetings will:
- 2.1.1 elect a person to preside if the Chairman or Deputy Chairman is not present;
  - 2.1.2 approve the minutes of the last meeting;
  - 2.1.3 receive any declarations of interest from members. Where such interests amount to a Disclosable Pecuniary Interest under the Localism Act 2011, the member must leave the meeting at the time the item arises and must not participate any further in the discussion or vote on that matter. Once the matter is concluded the member may return to continue the other business of the meeting;
  - 2.1.4 receive any announcements from the Chairman, Leader, members of the Cabinet, or the Chief Executive;
  - 2.1.5 receive any petitions in accordance with the Council's petition scheme or deputations;
  - 2.1.6 receive any questions from, and provide answers to, the public;
  - 2.1.7 receive any questions from members of the Council;
  - 2.1.8 deal with any business from the last Council meeting;
  - 2.1.9 receive reports from the Cabinet and the Council's Boards or committees and receive questions and answers on any of those reports as required by law or specifically referred by those bodies;

2.1.10 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

2.1.11 consider motions; and

2.1.12 consider any other business specified in the summons to the meeting.

**2.2 Announcements.** In making any announcements from the Leader and members of the Cabinet under paragraph 2.1.4 above, the Leader and not more than 2 Cabinet members may indicate to the Chairman and then address the Council for not more than 5 minutes each on a topic of current importance to the authority, its area or the inhabitants of its area.

### 3. EXTRAORDINARY MEETINGS

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**3.1 Calling Extraordinary Meetings.** Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

3.1.1 the Council by resolution;

3.1.2 the Chairman;

3.1.3 the Monitoring Officer; and

3.1.4 any five members of the Council if they have signed a requisition presented to the Chairman and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

**3.2** When requested the Chief Executive shall call a meeting of the Council unless he or she is of the opinion that the business to be discussed at the proposed meeting can conveniently wait until the next ordinary meeting of the Council.

**3.3 Business.** No business may be conducted at an extraordinary meeting other than that specified in the resolution, request or requisition which led to its being called.

### 4. TIME AND PLACE OF MEETINGS/APPLICATION OF PROCEDURE RULES TO BOARDS AND COMMITTEES

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**4.1** All Council meetings will begin at 6.30 p.m. Unless the Council or the Chairman decides otherwise. The Council will normally meet in the Council Offices.

**4.2** Rules 5 to 9, 13.1.1, 13.1.2, 13.1.3, 13.1.5, 13.1.6, 13.1.8 - 13.1.10, 13.1.11, 13.1.12, 13.1.13, 13.1.14, 13.1.15, 13.1.16, 14, 15, 16.1 to 16.3, 16.4, 16.5,

16.6, and 17 to 23 apply to meetings of all boards, groups and committees, except that:

**4.2.1** Rule 8 (Duration of Meetings) does not apply to meetings of any board, group committee, or panel at which the appointment of staff is being considered or a meeting of a quasi-judicial nature;

**4.2.2** Rule 14.1 shall not apply to meetings of the Planning Committee meaning that a debate can proceed without a motion being moved and seconded.

**4.3** Rule 10 – questions by the public shall apply to the Scrutiny Committees.

## **5. NOTICE OF AND SUMMONS TO MEETINGS**

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**5.1** The Chief Executive or other authorised officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least 5 clear days before a meeting, the Chief Executive or other authorised officer will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Clear days excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.

## **6. CHAIRMAN OF MEETING**

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**6.1** The person presiding at a meeting of the Council may exercise any power or duty of the Chairman. Where these rules apply to meetings of boards or committees, references to the Chairman also include the Chairmen of boards or committees.

## **7. QUORUM**

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**7.1** Subject to any specific statutory requirement, the quorum of a meeting will be one quarter of the whole number of members or three voting members, whichever is the greater. If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will stand adjourned. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. DURATION OF MEETING**

- 8.1** All meetings of the Council will end after it has sat for three hours, except that an extension may be agreed by resolution to extend the meeting for no more than half an hour.

## **9. RECORDING MEETINGS**

- 9.1** Members of the public and press may film, photograph or make sound recordings etc of proceedings at council meetings in accordance with the Openness of Local Government Bodies Regulations 2014 and the Council's adopted recording protocol.

## **10. QUESTIONS BY THE PUBLIC**

- 10.1 General.** Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council.

- 10.2 Order of Questions.** Where provision is made for questions by the public at a Council meeting, a maximum of thirty minutes will be allowed for the questions and answers. Questions will be asked in the order of which notice of them was received, except that the Chairman may group together similar questions. The Chairman will decide the time allocated to each question.

- 10.3 Notice of Questions.** A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Commercial Services no later than midday three clear days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Cabinet to whom it is to be put.

- 10.4 Number of Questions.** At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of any one organisation.

- 10.5 Scope of Questions.** The Head of Legal and Commercial Services may reject a question if it:

is not about a matter for which the local authority has a responsibility or which affects the district;

is defamatory, frivolous or offensive;

is substantially the same as a question which has been put at a meeting of the Council in the past six months;

requires the disclosure of confidential or exempt information;

relates to a planning application.

If a question is rejected the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

- 10.6 Record of Questions.** The Head of Legal and Commercial Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Cabinet member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.
- 10.7 Asking the Question at the Meeting.** The Chairman will invite the questioner to put the question to the Cabinet member named in the notice. If a questioner who has submitted a written question is unable to be present, the question will not be dealt with.
- 10.8 Supplemental Question.** A questioner who has put a question in person may also put one brief supplementary question without notice to the Cabinet member who has replied to his or her original question. A supplementary question must arise directly out of the original request or reply. The Chairman may reject a supplementary question on any of the grounds in rule 10.5 above or if the question takes the form of a speech.
- 10.9 Written Answers.** Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Cabinet member to whom it was to be put, will be dealt with by a written answer.
- 10.10 Reference of Question to the Cabinet or a Committee.** Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that the matter raised by a question be referred to the Cabinet or the appropriate board or committee. Once seconded, such a motion will be voted on without discussion.

## 11. QUESTIONS BY MEMBERS

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- 11.1 On Announcements or Reports of the Leader, the Cabinet, or the Chairman of a Board or Committee.** A member may ask the Leader or a member of the Cabinet, or the Chairman of a board or committee questions without notice about any matter contained in any address or report under paragraphs 2.1.4 and 2.1.9 when it is being considered. Questions from members and responses under this provision shall be limited to 5 minutes in total in relation to 2.1.4 and 2.1.9 respectively.
- 11.2 Questions on Notice at Full Council.** Subject to rule 11.3, a member may ask the Chairman, the Leader, any member of the Cabinet or the Chairman of any board or committee a question about any matter in relation to which the Council has powers or duties or which affects the district.

**11.3 Notice of Questions.** A member may only ask a question under Rule 11.2 if either:

- (a) notice has been given by delivering it in writing or electronic mail to the Head of Legal and Commercial Services by no later than midday three clear days before the day of the meeting; or
- (b) the question relates to urgent matters, they have the consent of the member to whom the question is to be put and the content of the question is given to the Head of Legal and Commercial Services by midday on the day of the meeting.

**11.4 Response.** An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) a written answer circulated to the questioner.

**11.5 Supplementary Question.** A member asking a question under Rule 11.2 may ask one supplementary question without notice. A supplementary question must arise directly out of the original question or reply.

**11.6 Number of Questions.** Questions are limited to one per member per meeting, plus one supplementary question.

**11.7 Time for Questions.** There will be a time-limit of thirty minutes on members' questions and answers with no extension of time. Questions not dealt with in this time will be dealt with by written response. The Chairman will decide the time allocated to each question.

**11.8 Format of Questions.** Members must confine their contributions to questions and answers and not make statements or attempt to debate. The Chairman will decide whether a member is contravening this rule and stop the member concerned. The Chairman's ruling will be final.

## **12. MOTIONS - ON NOTICE**

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**12.1 Notice.** Except for motions which can be moved without notice under Rule 13 and motions to remove the Leader, written notice of every motion, signed by at least one member, must be delivered to the Head of Legal and Commercial Services not later than midday on the day seven clear days before the date of the meeting. These will be entered in a book open to inspection by the public.

- 12.2 Motions Set Out in the Agenda.** Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.
- 12.3 Scope.** Motions must be about matters for which the Council has a responsibility or which affect the area. The Chairman may, on the advice of the Chief Executive, refuse a motion which is illegal, scurrilous, improper or out of order.
- 12.4** The Leader may be removed from office during his/her one year term of office by resolution of Council. Such a motion is required to be delivered to the Chief Executive 7 clear days before the meeting. The motion must be in writing, signed by 20% of the total number of councillors and propose a nomination for a new Leader.
- 12.5** In the event that the Leader is removed by a resolution of Council under the above paragraph, the new Leader may be appointed at the same or next available meeting of the Council.

### **13. MOTIONS AND AMENDMENTS - WITHOUT NOTICE**

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- 13.1** The following motions and amendments may be moved without notice:
- 13.1.1 to appoint a Chairman of the meeting at which the motion is moved;
  - 13.1.2 in relation to the accuracy of the Minutes;
  - 13.1.3 to change the order of business in the Agenda;
  - 13.1.4 to refer something to an appropriate body or individual;
  - 13.1.5 to appoint a Committee or member arising from an item on the summons for the meeting;
  - 13.1.6 to receive reports and recommendations of Committees or officers and to make any decisions necessarily arising;
  - 13.1.7 to withdraw a motion;
  - 13.1.8 to amend a motion;
  - 13.1.9 to proceed to the next business;
  - 13.1.10 that the question be now put;
  - 13.1.11 to adjourn a debate;

13.1.12 to adjourn a meeting;

13.1.13 to extend the meeting under Rule 8:

13.1.14 to suspend a Procedure Rule to which Rule 23 applies;

13.1.15 to exclude the public in accordance with the Access to Information Procedure Rules;

13.1.16 not to hear a member further or to require a member to leave the meeting; and

13.1.17 to give the consent of the Council where its consent is required by this Constitution.

## 14. RULES OF DEBATE

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**14.1 No Speeches to be made until Motion Seconded.** No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

**14.2 Right to Require a Motion in Writing.** Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.

**14.3 Secunder's Speech.** When seconding a motion or amendment, a member may reserve his or her speech until later in the debate.

**14.4 Content and Length of Speeches.** Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman.

**14.5 When a Member May Speak Again.** A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he or she last spoke;
- (c) if his or her first speech was on an amendment moved by another member, to speak on the main issues (whether or not the amendment on which he or she spoke was carried);
- (d) to exercise a right of reply;
- (e) on a point of order; and



- (f) by way of personal explanation.

## **14.6 Amendments to Motions**

14.6.1 An amendment must be relevant to the motion and may:

- (i) refer the motion to an appropriate body or individual for consideration or re-consideration;
- (ii) leave out words;
- (iii) leave out words and insert or add others;
- (iv) insert or add words;

as long as the effect is not to negate the motion.

14.6.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

14.6.3 If an amendment is not carried, other amendments to the original motion may be moved.

14.6.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

14.6.5 After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

## **14.7 Alteration of Motion**

14.7.1 A member may alter a motion of which he or she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

14.7.2 A member may alter a motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

14.7.3 Only alterations which could be made as an amendment may be made.

**14.8 Withdrawal of Motion.** A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's

consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## **14.9 Right of Reply**

14.9.1 The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.

14.9.2 If an amendment is moved, the mover of the original motion also has a right of reply at the close of debate on the amendment, but may not otherwise speak on the amendment.

14.9.3 The mover of an amendment shall have no right of reply to the debate on the amendment.

## **14.10 Motions Which May be Moved During Debate**

When a motion is under debate, no other motion may be moved except the following:

14.10.1 to withdraw the motion

14.10.2 to amend the motion;

14.10.3 to proceed to the next business;

14.10.4 that the question be now put;

14.10.5 to adjourn a debate;

14.10.6 to adjourn a meeting;

14.10.7 that the meeting continue for a further half hour;

14.10.8 to exclude the press and public; and

14.10.9 that a member be not further heard or to exclude the member from the meeting.

## **14.11 Closure Motions**

14.11.1 A member may move without comment the following motions at the end of a speech of another member:

(i) to proceed to next business;

(ii) that the question be now put;

(iii) to adjourn a debate; or

(iv) to adjourn a meeting.

14.11.2 If a motion to proceed to next business is seconded and the Chairman thinks the item under discussion has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

14.11.3 If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed, he or she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

14.11.4 If a motion to adjourn the debate or adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

**14.12 Point of Order.** A member may raise a point of order at any time and the Chairman will hear them immediately. A point of order may only relate to the alleged breach of these Council Procedure Rules or the law. The member must indicate the rule or law and the way in which he or she considers it has been broken. The ruling of the Chairman on the matter will be final.

**14.13 Personal Explanation.** A member may make a personal explanation at any time. A personal explanation shall only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

## 15. PREVIOUS DECISIONS AND MOTIONS

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**15.1 Motion to Rescind a Previous Decision.** A motion to rescind a decision arising from a motion moved and adopted at a Council meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the members.

**15.2 Motion Similar to one Previously Rejected.** A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least one third of the members of Council.

- 15.3** Once a motion or amendment to which this Rule applies has been dealt with, no member can propose a similar motion or amendment within the next six months.

## 16. VOTING

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- 16.1 Majority.** Unless this Constitution (or the law) provides otherwise any matter will be decided by a simple majority of those present and voting in the room at the time the question was put.
- 16.2 Chairman's Casting Vote.** If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.
- 16.3 Show of Hands.** Unless a recorded vote is demanded the Chairman will take the vote by a show of hands, or if there is no dissent, by the affirmation of the meeting.
- 16.4 Recorded Vote.** If a member present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- 16.5** Recorded votes must be taken at a budget decision meeting of the Council where it:
- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or
  - (ii) issues a precept under Chapter 4 of Part 1 of that Act.
- 16.6 Right to Require Individual Vote to be Recorded.** Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 16.7 Voting on Appointments.** If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## 17. MINUTES

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- 17.1 Signing the Minutes.** The Chairman will sign the minutes at the next available meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

**17.2 No Requirement to Sign Minutes of Previous Meeting at an Extraordinary Meeting.** Where in relation to any meeting, the next meeting for the purposes of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) of schedule 12 relating to the signing of minutes.

## 18. PETITIONS

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**18.1** The Council has formally adopted a petition scheme.

**18.2** The scheme sets out the process, the signature threshold for receipt of ordinary petitions, a petition to hold an officer to account and a petition for debate. It also sets out how the petition will be dealt with at the Scrutiny Committees or Council.

**18.3** A copy of the petition scheme is available from the Head of Legal and Commercial Services / Monitoring Officer. It is also available on the Council's website which is [www.nwleics.gov.uk](http://www.nwleics.gov.uk)

## 19. DEPUTATIONS

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**19.1** Deputations may be received at any meeting of the Council following three clear days' written notice to the Head of Legal and Commercial Services. They must be about matters for which the Council has a responsibility or which affect the area. The notice must be signed by at least five persons and set out the subject which the deputation wishes to raise and how it relates to the Council's functions or affects the area. The Chairman may, on the advice of the Chief Executive, refuse a deputation which is illegal, scurrilous, improper, out of order or relates to a specific planning application or relates to a matter on which there has been a previous similar deputation within the preceding six months.

**19.2** A person wishing to make a deputation must give written notice to the Head of Legal and Commercial Services no later than midday three clear days before the day of the meeting.

**19.3** A maximum of two deputations only will be permitted at any meeting and they will be selected in the order notice is received. Only one deputation will be permitted if the Head of Legal and Commercial Services receives notice of a petition under Rule 18.

**19.4** A deputation may consist of up to five people, of whom no more than two may speak, except to answer members' questions.

**19.5** The deputation may address the meeting for no more than five minutes and members may then question the deputation for a further five minutes.

- 19.6** The relevant portfolio holder or board or committee Chairman may, if he or she chooses, then address the meeting for up to five minutes.
- 19.7** There shall be no vote taken on any deputation. A member may propose that the subject matter be placed on the agenda of the next ordinary meeting of the relevant board or committee, such a motion to be moved and seconded formally and put without discussion. If no such motion is moved or carried, the petition will be referred to the relevant Director, Head of Service or Team Manager who will respond to the petition in writing within 28 days.

### **20. EXCLUSION OF THE PUBLIC**

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Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 22 (disturbance by the public).

### **21. MEMBERS' CONDUCT**

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- 21.1** When the Chairman stands during a debate any member(s) then standing must sit down and the Council must be silent.
- 21.2** If a member is guilty of misconduct by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by deliberately obstructing business, any member may move that that member is not further heard. If seconded, the motion will be voted on without discussion.
- 21.3** If the member continues to behave improperly after such a motion is carried, any member may move either that the member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 21.4** If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he or she thinks necessary.

### **22. DISTURBANCE BY PUBLIC**

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- 22.1** If a member of the public interrupts proceedings, the Chairman will warn the person concerned and, if the interruption continues, will order the person's removal from the meeting room.
- 22.2** If there is a general disturbance in any part of the meeting room open to the public the Chairman shall order that part to be cleared.

## 23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

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### 23.1 Suspension

23.1.1 Any of the Council Procedure Rules to which this Rule applies may be suspended for all or part of the business of a meeting at which suspension is moved by a motion.

23.1.2 Such a motion cannot be moved without notice unless at least one half of the whole number of members of the Council are present.

23.1.3 This Rule applies to the following Rules:

Rules 8, 10 to 15, 18 and 19.

## 24. INTERPRETATION

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24.1 The ruling of the Chairman as to the construction or application of these standing orders, or as to any proceedings of the Council, shall be final.

24.2 “**Clear days**”. Saturdays, Sundays, Bank holidays, the day stated as the deadline for receipt and the day of the meeting shall be excluded from the calculation of the clear days.

For example, questions from the public to members are required to be submitted by midday three clear days before the meeting. If the meeting is held on Tuesday, the question would need to be submitted by noon on the Wednesday before.

## 4.2: MEMBERS' SUBSTITUTE SCHEME PROCEDURE RULES

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### 1. INTRODUCTION

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- 1.1** The Council recognises that the purpose of the Local Government (Committees and Political Groups) Regulations is to ensure that, in the decision-making process, the political balance of and representation on committees and sub-committees of the Council is maintained. This Scheme for the use of substitutes has been adopted to ensure this principle is maintained.

### 2. APPLICATION

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- 2.1** The scheme will apply to all committees, sub-committees and working groups of the Council except:
- 2.1.1 the Cabinet and any sub-committee established by the Cabinet;
  - 2.1.2 the Audit and Governance Committee and any sub-committee established by the Audit and Governance Committee;
  - 2.1.3 Licensing Sub-Committees and Taxi Licensing Sub-Committee

### 3. NOMINATION AND APPOINTMENT

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- 3.1** The Council, when establishing appointments to committees and working groups of the Council, will also appoint substitutes for elected Members to those bodies on the nomination of the political group leaders. Substitutes to other working groups will be appointed by the establishing body, as appropriate. The substitutes themselves must also be elected members.
- 3.2** The number of substitutes appointed will relate to the number of seats that each political group or grouping has on the body concerned as follows:
- 3.1.1 more than 5 seats - 3 substitutes
  - 3.1.2 2 to 5 seats - 2 substitutes
  - 3.1.3 1 seat - 1 substitute.
- 3.3** On appointment, it shall be the responsibility of a substitute member to keep up to date with the business of the body to which he or she has been appointed to ensure effective decision making.
- 3.4** Cabinet Members may not substitute for Scrutiny Committee Members.



## 4. ATTENDANCE

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- 4.1** It is the responsibility of the member who cannot attend the relevant meeting or take part in the relevant part of the Planning Committee [“the appointor”] to arrange for an appointed substitute to attend when he or she is unable to do so, and inform their party group leader, chair and officers of the substitute members and date of the meeting.
- 4.2** Only the appointed substitute members of a body may serve as a member of that body.
- 4.3** A member who is acting as a substitute for a usual member who is the chairman or vice-chairman of the committee will not, by virtue of that substitution, be entitled to act in that capacity.
- 4.4** A substitute may only serve as a member at any meeting at which the appointor has nominated them, and (with the exception of the Planning Committee) where the appointor intends to be absent for the entire meeting. A substitute may not be appointed for specific items and no substitutions may be made during the course of the meeting, except at Planning Committee.
- 4.5** In the case of Boards, Committees and Sub-Committees, written notice of the substitution must be received by the Democratic and Support Services Team Manager no later than 5pm before the last clear working day before the meeting. (For example, if a meeting is held on a Thursday, notice must be given by 5pm on Tuesday, thus allowing one clear day between.) In the case of other bodies, e.g. working groups, similar notice is helpful but not obligatory. A form is available from Democratic Services for this purpose.
- 4.6** In the event of illness or other circumstances beyond the member’s control, he or she may appoint a substitute at short notice at the discretion of the Chairman of the relevant Committee. It is the responsibility of the appointing member to seek the Chairman’s approval in such an instance.
- 4.7** Notice of the substitution must include the name of the appointer, the substitute, details of the meeting and, where the substitution is only occurring for specific items at Planning Committee, details of those items.
- 4.8** Where there is sufficient time, a copy of the agenda and papers for the meeting concerned, and details of any pre-briefs and site visit arrangements, will be sent to the substitute member upon receipt of the notice, otherwise they will be passed over on the day of the meeting. Members are reminded that where they are able to pass on their own papers to the substitute, it is preferable to do so in the case of short notice.
- 4.9** At the commencement of a meeting, the relevant item at Planning Committee or, if appropriate, on his or her arrival if the meeting has started, the appointed

substitute will advise the Chairman and those present that he or she is attending as a substitute member.

- 4.10** If the appointor attends a meeting after arranging for a substitute member to attend, the substitute member will continue as the voting member of the committee. If a substitute, however, has not arrived by the commencement of the meeting and the original appointed member is present, then the appointed member will continue as the voting member of the committee unless otherwise prohibited from taking part in a meeting or an item at Planning Committee. Both parties must not vote at the same meeting.
- 4.11** Where a substitute member has attended a meeting which is adjourned to a subsequent date, the appointor may attend the reconvened meeting as the voting member, provided that
- 4.11.1** the meeting is not part way through the consideration of an item or issue; and
  - 4.11.2** The appointor is not otherwise prohibited from taking part in the meeting or an item at Planning Committee.
- 4.12** Any member attending as the appointed substitute will be entitled to travelling and subsistence allowance in accordance with the scheme approved by the Council.
- 4.13** When a member attends a meeting as a substitute for a usual member, the minutes and any report of that meeting will include the name of the substitute, in alphabetical order, amongst those attending the meeting, followed by “(substitute for .....)” indicating the name of the usual member

## **5. VOTING**

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- 5.1** The substitute member will be entitled to speak and vote in his or her own capacity, and is not constrained by the views of the member for whom he or she is substituting.
- 5.2** No substitute member for the Licensing Committee, Planning Committee or the Appeals Committee may vote unless he or she has been present for the entire consideration of the item under discussion at that meeting.
- 5.3** The substitute members of the Licensing Committee and Planning Committee must comply with the Local Licensing and Planning codes of conduct and the substitute members of these Committees must have had the necessary training before first acting as a substitute.

**4.3: ACCESS TO INFORMATION PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Scope</b>
<b>2:</b>	<b>Additional Rights to Information</b>
<b>3:</b>	<b>Rights to Attend Meetings</b>
<b>4:</b>	<b>Notice of Meeting</b>
<b>5:</b>	<b>Access to Agenda and Reports Before the Meeting</b>
<b>6:</b>	<b>Items of Business</b>
<b>7:</b>	<b>Supply of Copies</b>
<b>8:</b>	<b>Access to Minutes, etc After the Meeting</b>
<b>9:</b>	<b>Background Papers</b>
<b>10:</b>	<b>Summary of Public's Rights</b>
<b>11:</b>	<b>Exclusion of Access by the Public to Meetings</b>
<b>12:</b>	<b>Exclusion of Access by the Public to Reports</b>
<b>13:</b>	<b>Application of Rules to the Cabinet</b>
<b>14:</b>	<b>Procedure Before Taking Key Decisions</b>
<b>15:</b>	<b>The Executive Decision Notice</b>
<b>16:</b>	<b>General Exception</b>
<b>17:</b>	<b>Special Urgency</b>

- 18: Report to Council**
- 19: Attendance at Private Meetings of the Cabinet**
- 20: Record of Decisions**
- 21: The Scrutiny Committees' Access to Documents**
- 22: Additional Rights of Access for Members**
- 23: Where Rules 13 – 22 Apply**

## **1. SCOPE**

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- 1.1 These rules apply to all meetings of the Council, the Scrutiny Committees, the Audit and Governance Committee, meetings of the Cabinet and other groups (together called “meetings”).

## **2. ADDITIONAL RIGHTS TO INFORMATION**

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- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **3. RIGHTS TO ATTEND MEETINGS**

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- 3.1 Members of the public may attend all meetings subject to the exceptions in these rules.

## **4. NOTICES OF MEETING**

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- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Council Offices, Coalville (“the designated office”).
- 4.2 Where a meeting will include the taking of a confidential executive decision or a key decision, the Council will give at least 28 clear days notice of the intention to take the decision together with details of the meeting at which such a decision will be made.

## **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

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- 5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council’s website at least five clear days before the meeting except:
- 5.1.1 Where the meeting is convened at shorter notice, copies of the agenda and report(s) shall be open to inspection from the time the meeting is convened, and
- 5.1.2 Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any reports for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.
- 5.1.3 Where Rule 14 – 23 applies in relation to confidential executive decisions and/or key decisions.

## **6. ITEMS OF BUSINESS**

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- 6.1** An item of business may not be considered at a meeting unless either:
- 6.1.1 A copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened, or
  - 6.1.2 By reason of special urgency, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2** “Five clear days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3** “Special urgency” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item of report could not have been available for inspection for five clear days before the meeting.
- 6.4** Where the item of business relates to an executive decision Rules 14-17 will apply.

## **7. SUPPLY OF COPIES**

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- 7.1** The Council will in the first instance direct an interested person to the Council’s website and offices where such information is available, but where copies are required the Council will supply copies of:
- 7.1.1 any agenda and reports which are open to public inspection;
  - 7.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - 7.1.3 any other documents not exempt or excluded in connection with an item to any person on payment of a charge for postage and any other costs.

## **8. ACCESS TO MINUTES, ETC AFTER THE MEETING**

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- 8.1** The Council will make available at its offices and on its website copies of the following for six years immediately after a meeting of a decision making body at which a decision is made:
- 8.1.1 Records of all decisions taken by;

- a) Cabinet; and
- b) Where an officer makes a delegated decision following a delegation from Council, a committee, sub-committee or a joint committee in the following circumstances:
  - i) Under a specific authorisation; or
  - ii) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:-
    - a) Grant a permission or licence
    - b) Affect the rights of the individual; or
    - c) Award a contract or incur expenditure which, in either case materially affects the Council's financial position.

8.1.2 Any report considered by the decision maker in making the decision excluding any part which discloses exempt or confidential information.

## **9. BACKGROUND PAPERS**

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### **9.1 List of Background Papers**

9.1.1 The Proper Officer will set out in every report a list of those documents (background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report;
- but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11).

### **9.2 Public Inspection of Background Papers**

9.2.1 Where a report is made available to the public a list of the background papers connected to the report will also be available together with at least one copy of each of those papers. The documents will also be available on the Council's website.

## **10. SUMMARY OF PUBLIC'S RIGHTS**

**10.1** A written summary of the public’s rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council Offices, Coalville.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **11.1 Confidential Information - Requirement to Exclude the Public**

11.1.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **11.2 Exempt Information - Discretion to Exclude the Public**

11.2.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

11.2.2 Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **11.3 Meaning of Confidential Information**

11.3.1 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### **11.4 Meaning of Exempt Information**

Exempt information means information falling within any of the following categories as defined by Schedule 12A of the Local Government Act 1972 (as amended).

(The definition of “the authority” has been slightly abbreviated as it relates to committees and subcommittees)

<b>Description of Exempt Information (defined terms underlined)</b>	<b>Interpretation</b>	<b>Qualification</b>



Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
		Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992
1. Information relating to any individual		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual		Exempt information if and so long, as in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>3. Information relating to the <u>financial</u> or <u>business affairs</u> of any particular person (including <u>the authority</u> holding that information)</p>	<p><u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined</p> <p><u>Financial or business affairs</u> includes contemplated, as well as past or current activities</p> <p><u>Registered</u> in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of the Act)</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be <u>registered</u> under -</p> <p>(a) the Companies Act 1985</p> <p>(b) the Friendly Societies Act 1974</p> <p>(c) the Friendly Society Act 1992</p> <p>(d) the Industrial and Provident Societies Act 1965 to 1978</p> <p>(e) the Building Societies Act 1986</p>
		<p>(f) the Charities Act 1993</p>

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any <u>labour relations matter</u> arising between <u>the authority</u> or a Minister of the Crown and <u>employees</u> of, or <u>office holders</u> under, the authority</p>	<p><u>The authority</u> is reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined</p> <p><u>Employee</u> means a person employed under a contract of service</p> <p><u>Labour relations matter</u> means:</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of the Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
	<p>(applies to trade disputes relating to office holders as well as employees)</p> <p><u>Office holder</u> in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>		<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>6. Information which reveals that <u>the authority</u> proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p>	<p><u>The authority</u> is a reference to the principal council or, as the case may be, the board, committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined [etc]</p>	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

Description of Exempt Information (defined terms underlined)	Interpretation	Qualification
(b) to make an order or direction under any enactment		
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime		Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

## **12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

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- 12.1** If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## **13. APPLICATION OF RULES TO THE CABINET**

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- 13.1** Rules 14-23 apply to the Cabinet, a Cabinet member and its groups. If the Cabinet, a Cabinet member or one of its groups meet to take a decision then it must also comply with Rules 1-11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is defined in Article 13.03 of this Constitution.
- 13.2** If the Cabinet or one of its groups meets to discuss a confidential or key decision to be taken collectively, with an officer (other than a political assistant) present, then it must also comply with Rules 1-11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members where no decision is taken.

## **14. PROCEDURE BEFORE TAKING EXECUTIVE DECISIONS**

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**14.1** Subject to Rule 16 (general exception) and Rule 17 (special urgency), an executive decision may not be taken unless:

14.1.1 A notice (called here An Executive Decision Notice) has been published in connection with the matter in question at the Council offices and on its website;

14.1.2 The relevant Executive Decision Notice has come into effect; and

14.1.3 The requirements of Section 100B of the Local Government Act 1972 (Access to Agenda and Connected Reports) have been complied with.

## **15. THE EXECUTIVE DECISION NOTICE**

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### **15.1 Period of the Executive Decision Notice (“The Notice”)**

15.1.1 The Notice will be prepared by the Leader to cover decisions that are to be taken no sooner than 28 clear days following publication of the Notice.

15.1.2 The Notice must be published at least 28 clear days before the proposed executive decision is taken. If an item is not on the Notice, the decision cannot be taken unless Rules 16 or 17 apply. Any outstanding matters from the previous Notice will be included in the latest Notice.

15.1.3 The most recent Notice shall be taken to have superseded any earlier Notice, or as the case may be, each earlier Notice.

### **15.2 Contents of Executive Decision Notice**

15.2.1 The Executive Decision Notice will contain matters which the Leader has reason to believe will be subject of an executive or key decision to be taken by the Cabinet, or one of its groups, or officers, or under joint arrangements, in the course of the discharge of an executive function during the period covered by the Notice. It will also contain notice of decisions to be taken confidentially. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

(a) the matter in respect of which a decision is to be made;

(b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;

- (c) the date on which, or the period within which, the decision is to be made;
- (d) the procedure for requesting documents connected to the decision;
- (e) that other documents can be submitted;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter about which the decision is to be made; and
- (h) the address where documents are available.

## 15.2.2 Additional Requirements for Key Decisions

- (a) The Executive Decision Notice must specify if a decision to be taken is a key decision
- (b) Where a decision maker intends to make a key decision, that decision must not be made until a notice of the key decision has been published on the Executive Decision Notice which contains:
  - (i) that a key decision is to be made;
  - (ii) the matter in respect of which the decision is to be made;
  - (iii) where the decision maker is an individual, the name of the individual;
  - (iv) where the decision maker is a body, its name and a list of its members;
  - (v) a list of the documents submitted for consideration;
  - (vi) the address from which copies or extracts of documents are available;
  - (vii) that other documents may be submitted for consideration; and
  - (viii) the procedure for requesting documents.
- (c) The Notice specifying what key decisions are to be taken must be published at least 28 clear days before the decision is to be taken.

- (d) The public may be excluded from the meeting at which a key decision is to be taken if information is likely to be disclosed which is confidential or exempt under Schedule 12A.

## 15.2.3 Additional Requirements for Private Meetings

- (a) The Executive Decision Notice must specify if a meeting or any part of the meeting at which an executive decision is to be taken will be in private.
- (b) The steps any person might take who wishes to make representations to the decision-making body or decision taker about whether the matter should be held in public and the date by which those steps must be taken.
- (c) At least five clear days before a private meeting, the decision making body must:
  - (i) confirm or not the decision to hold the meeting in private;
  - (ii) make available at the Council Offices a further notice of its intention to hold the meeting in private or public if appropriate; and
  - (iii) publish that notice on the Council's website.
- (d) The notice must include:
  - (i) a statement of reasons for the meeting to be held in private;
  - (ii) details of any representations received by the decision making body about why the meeting should be open to the public; and
  - (iii) a statement of its response to any such representations.
- (e) Where the date by which a meeting must be held makes compliance with section (d) impracticable, the meeting may only be held in private where the decision making body has obtained agreement from:
  - (i) the chairman of one of the Scrutiny Committees; or
  - (ii) if the Chairman of one of the Scrutiny Committees are unable to act, the Chairman of the Council; or
  - (iii) where there is no Chairman of either of the Scrutiny Committees or of the Council, the Deputy Chairman of the Council,that the meeting is urgent and cannot reasonably be deferred.



- (f) As soon as reasonably practicable after the decision making body has obtained agreement to hold a private meeting, it must:
  - (i) make available at the Council Offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
  - (ii) publish that notice on the Council's website.
- (g) Members of the Cabinet or its groups will be entitled to receive 5 clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## 15.3 Publicity

15.3.1 The Head of Legal and Commercial Services will make available a copy of the Executive Decision Notice ("the Notice") and publish the Notice on the Council's website. The Notice will state:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) the particulars of the matters on which decisions are to be taken;
- (c) the Notice will contain details of the key decisions to be made by or on behalf of the Executive, no sooner than 28 clear days after publication;
- (d) that each Notice will be available for inspection at reasonable hours free of charge at the Council Offices, Coalville;
- (e) that each Notice will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the Notice;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Notice is available;
- (g) that other documents may be submitted to decision takers; and
- (h) the procedure for requesting details of documents (if any) as they become available.

**15.4** Exempt information need not be included in the Executive Decision Notice and confidential information cannot be included.

## 16. GENERAL EXCEPTION

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**16.1** Where the publication of the intention to make an executive decision is impracticable, that decision may only be made where:

16.1.1 The Head of Legal and Commercial Services has informed the chairman of the relevant Scrutiny Committee, by notice in writing, of the matter about which the decision is to be made or where the Chairman is not available, each member of the relevant Scrutiny Committee;

16.1.2 The Head of Legal and Commercial Services has made copies of that notice available to the public at the Council Offices and on the website for inspection;

16.1.3 At least 5 clear days have elapsed since the Head of Legal and Commercial Services complied with 16.1.1 and 16.1.2.

16.1.4 Where such a decision is taken collectively, it must be taken in public, unless it involves consideration of exempt or confidential information.

16.1.5 As soon as reasonably practicable, the Head of Commercial and Support services must:

(a) make available at the Council Offices a notice setting out the reasons why it was impracticable to defer the decision until it has been included on the next Executive Decision Notice; and

(b) publish that notice on the Council's website.

## 17. SPECIAL URGENCY

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**17.1** If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, has obtained the agreement of the chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If the chairman of the relevant Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Deputy Chairman will suffice.

**17.2** As soon as reasonably practicable, the Head of Legal and Commercial Services must:

(a) make available at the Council Offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred: and

- (b) publish that notice on the Council's website.
- 17.3** The Leader will submit a quarterly report to the Council on the executive decisions taken under this Rule in the preceding three months. The report will include the number of decisions taken and a summary of the matter about which each decision was made.

## **18. REPORT TO COUNCIL**

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### **18.1 When a Scrutiny Committee Can Require a Report**

- 18.1.1 If the Scrutiny Committee thinks that a key decision has been taken which was not:
- (a) included in the Executive Decision Notice; or
  - (b) the subject of the general exception procedure; or
  - (c) the subject of an agreement with the relevant Scrutiny Committee Chairman or the Chairman/Deputy Chairman of the Council under Rule 16;

the relevant Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the body specifies. The power to require a report rests with the relevant Scrutiny Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the relevant Scrutiny Committee when so requested by the Chairman of the relevant Scrutiny Committee or any 5 members of the relevant Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

### **18.2 Cabinet's Report to Council**

- 18.2.1 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the body, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **19. ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

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- 19.1** All members of the Cabinet will be served notice of all private meetings of groups of the Cabinet, whether or not they are members of that group.

- 19.2** All members of the Cabinet are entitled to attend a private meeting of any group of the Cabinet and be allowed to speak with the consent of the Chairman of that group.
- 19.3** Notice of private meetings of the Cabinet and its groups will be served on all non-executive members, at the same time as notice is served on members of the Cabinet.
- 19.4** Where a matter under consideration at a private meeting of the Cabinet, or a group of it, is within the remit of a monitoring body any member may attend that private meeting and speak with the consent of the person presiding.
- 19.5** The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its groups. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
- 19.6** A private meeting of the Cabinet may not take any decisions unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, or their nominees, are present or have waived their entitlement to attend. A private Cabinet meeting may only take a decision if there is an officer present with responsibility for recording and publicising the decisions.

## **20. RECORD OF DECISIONS**

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### **20.1 Executive Decision Making at Meetings**

As soon as is reasonably practicable, after a meeting of a decision making body at which an executive decision has been made, whether held in public or private, the Head of Legal and Commercial Services shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- 20.1.1 A record of the decision including the date it was made;
- 20.1.2 A record of the reasons for the decision;
- 20.1.3 Details about any alternative options considered and rejected at the meeting by the decision making body when it made the decision;
- 20.1.4 A record of any conflict of interest declared by any member of the decision making body which made the decision; and
- 20.1.5 A note of any relevant dispensations granted by the Head of Paid Service.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Chief Executive or his or her nominee is present.

## **20.2 Executive Decisions Made by Individual Members of the Cabinet (the Cabinet currently takes all decisions collectively but if decisions are delegated to individual members of the Cabinet the following rules will apply) or by Individual Officers**

20.2.1 All decisions taken individually by members of the Cabinet or by officers must be based on written reports setting out key legal, financial, service and corporate implications and may not be taken unless the Chief Executive (or an officer nominated by him/her) is present.

20.2.2 When an officer prepares a report which is to be given to an individual member for decision, he/she must first give a copy of that report to the Chief Executive (or an officer nominated by him/her).

20.2.3 The Chief Executive will publish the report to the monitoring bodies, the Chief Finance Officer and the Monitoring Officer. The report will be made publicly available as soon as reasonably practicable.

20.2.4 Individual decisions may only be made by members of the Cabinet in the presence of the Chief Executive, Chief Finance Officer or Monitoring Officer or their nominee (unless they waive that requirement) and the officer (or an officer nominated by him/her) whose responsibility it is to record the decision.

20.2.5 The individual decision maker may not make any executive decision until the report has been available for public inspection for at least 5 clear days before the decision is made unless Rule 15.2.2 or 15.2.3 apply.

20.2.6 As soon as is reasonably practicable after an individual member or officer has made an executive decision he or she shall produce, or cause to be produced, a written statement including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time by the member when he or she made the decision;
- (d) a record of any conflict of interest declared by any Cabinet member who was consulted by the member about the decision; and

- (e) a note of any relevant dispensation granted by the Head of Paid Service.

20.2.7 A copy of the written statement setting out the decision must be sent to the Head of Legal and Commercial Services. All decisions of the Cabinet must be published and will be subject to call-in as set out in Part 4 (Section 4.5).

20.2.8 Nothing in these rules relating to the taking of the decision by individual members or officers shall require them to disclose confidential or exempt information.

## **21. SCRUTINY COMMITTEES' ACCESS TO DOCUMENTS**

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**21.1** Subject to Rule 22.2 below, the Scrutiny Committees will be entitled to copies of any document which is in the possession or control of the Cabinet or its groups and which contains material relating to any business transacted at a public or private meeting of the Cabinet or its groups no later than 10 clear days after the Executive receives the request.

**21.2** The Scrutiny Committees will not be entitled to:

- (a) any document that is in draft form;
- (b) any document containing advice provided by a political advisor;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or intend to review;
- (d) where the Executive determine that any member of a Scrutiny Committee is not entitled to copy documents in accordance with sub paragraph 21.1, it must provide a written statement setting out its reasons.

## **22. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

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### **22.1 Material Relating to Previous Business**

22.1.1 All members are entitled to inspect any document which is in the possession or under the control of the Cabinet or any of its groups and contains material relating to any business previously transacted at a public or a private meeting. Where the document contains exempt information falling within paragraphs 1 to 6 of the categories of exempt information the members will be required to sign a register kept for the purpose of such requests.

## **22.2 Material Relating to Executive Decisions**

22.2.1 All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or one of its groups which relates to any executive decision at least 5 clear days before a public meeting at which the decision is to be taken. If it contains exempt information falling within paragraphs 1 to 6 of the categories of exempt information the members will be required to sign a register kept for the purpose of such requests.

22.2.2 All members of the Council will be entitled to inspect any document in the possession or under the control of the Cabinet or one of its groups which relates to any executive decision taken in private when the meeting concludes or immediately after the decision is taken.

## **22.3 Nature of Rights**

22.3.1 These rights of a member are additional to any other rights of access to information a member may have.

## **23. WHERE RULES 13 – 22 APPLY**

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**23.1** Reference to 5 clear days means 5 full and complete days not including the day of the notice, the day of the meeting or weekends or bank holidays.

**23.2** Reference to 28 clear days means 28 full and complete days not including the day of the notice or the day of the meeting but including weekends and bank holidays.

**23.3** Where there is any doubt as to which Scrutiny Committee is the “relevant Scrutiny Committee” the decision of the Head of Legal and Commercial Services shall be final.

(The above definitions are based on legal advice regarding the interpretation of the 2012 Regulations).

**4.4: BUDGET AND POLICY FRAMEWORK  
PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>The Framework for Executive Decisions</b>
<b>2:</b>	<b>Process for Developing the Framework</b>
<b>3:</b>	<b>Decisions Outside the Budget or Policy Framework</b>
<b>4:</b>	<b>Urgent Decisions Outside the Budget or Policy Framework</b>
<b>5:</b>	<b>Virement</b>
<b>6:</b>	<b>In-Year Changes to Budget and Policy Framework</b>
<b>7:</b>	<b>Call-in of Decisions Outside the Budget or Policy Framework</b>
<b>8:</b>	<b>Suspension</b>



## 1. THE FRAMEWORK FOR EXECUTIVE DECISIONS

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- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework document has been agreed, it is the responsibility of the Cabinet and officers to implement it.

## 2. PROCESS FOR DEVELOPING THE FRAMEWORK

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- 2.1 The process by which the budget and policy framework shall be developed is:
- 2.1.1 Two months before a plan/strategy/budget needs to be adopted, the Cabinet will publish initial proposals for inclusion in the budget and policy framework.
  - 2.1.2 Details of the Cabinet's consultation process shall be included in the Executive Decision Notice, published at the Council's main offices and made available on the Council's web site.
  - 2.1.3 Any representations made to the Cabinet shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where a Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
  - 2.1.4 The Cabinet's initial proposals shall be referred to the relevant Scrutiny Committee for advice and consideration.
  - 2.1.5 The proposals will be referred by sending a copy to the Head of Legal and Commercial Services who will forward them to the Chairman of the relevant Scrutiny Committee. If there is no such Chairman, a copy must be sent to every member of that Committee.
  - 2.1.6 The relevant Scrutiny Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, having particular regard not to duplicate any consultation carried out by the Cabinet.
  - 2.1.7 The relevant Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The relevant Scrutiny Committee shall have four weeks to respond to the initial proposals of the Cabinet unless the Cabinet considers that there are special factors that make this timescale inappropriate. If it does, it will inform the relevant Scrutiny Committee of the time for response when the proposals are referred to it.

- 2.1.8 Having considered the report of the relevant Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the relevant Scrutiny Committee.
- 2.1.9 The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration or substitute its own proposals in their place. However, if, having considered a draft plan or strategy, it has any objections to it, the Council must take the action set out in 2.1.10 below.
- 2.1.10 Before the Council:
- (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy
- it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- 2.1.11 Where the Council gives instructions in accordance with 2.1.10, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:
- (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”) with the Cabinet’s reasons for any amendments made to the draft plan or strategy to the Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- 2.1.12 When the period specified by the Council, referred to in Rule 2.1.11, has expired the Council must, when:
- (a) amending the draft plan or strategy or, if there is one, the revised plan or strategy;

- (b) approving for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or a revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

2.1.13 Subject to rule 2.1.17, where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 34 to 36A or 46 to 49B of the Local Government Finance Act 1992 (calculation of budget requirement, etc) and Part 5 of Chapter 1 of the Localism Act 2011; or
- (b) estimates of other amounts to be used for the purposes of such a calculation; or
- (c) estimates of such a calculation, or
- (d) amounts required to be stated as a precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts)

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in Rule 2.1.14.

2.1.14 Before the Council makes a calculation (whether originally or by way of a substitute) in accordance with any of the Sections referred to in Rule 2.1.13 above or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

2.1.15 Where the Council gives instructions in accordance with Rule 2.1.14 above, it must specify a period of at least five working days beginning

on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

- (a) submit a revision of the estimates or amounts as amended by the Cabinet (“revised estimates or amounts”) which have been reconsidered in accordance with the Council’s requirements, with the Cabinet’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or
- (b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.

2.1.16 When the period specified by the Council referred to in paragraph 2.1.15 has expired, the Council must, when making calculations (whether originally or by way of a substitute) in accordance with any of the Sections referred to in Rule 2.1.14 above or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Cabinet’s reasons for those amendments;
- (c) any disagreement that the Cabinet has with any of the Council’s objections; and
- (d) the Cabinet’s reasons for that disagreement which the Leader submitted to the Council, or informed the Council of, within the period specified.

2.1.17 Rules to 2.1.13 to 2.1.16 shall not apply in relation to:

- (a) calculations or substitute calculations which the Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of council tax and precept); and
- (b) amounts stated in the precept issued to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

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**3.1** Subject to the provisions of Rule 5 (virement) the Cabinet, Cabinet members, groups of the Cabinet and any officers or joint arrangements may only take

decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4 below.

- 3.2** If the Cabinet, a Cabinet member, groups of the Cabinet, any officers, or joint arrangements want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the budget or policy framework) shall apply.

#### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

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- 4.1** The Cabinet, a Cabinet member, a group of the Cabinet, or officers (in particular the Chief Executive and/or the Strategic Director of Place and /or the Strategic Director of Housing and Customer Services, or joint arrangements may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- 4.1.1 If it is not practicable to convene a quorate meeting of the full Council; and
- 4.1.2 If the Chairman of the relevant Scrutiny Committee agrees in writing that the decision is a matter of urgency.
- 4.2** The reasons why it is not practicable to convene a quorate meeting of full Council and the Chairman of the relevant Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the relevant Scrutiny Committee, the consent of the Chairman of the Council, and in the absence of both, the Deputy Chairman of the Council, will be sufficient.
- 4.3** Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. VIREMENT**

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- 5.1** Steps taken by the Cabinet, a Cabinet member, a group of the Cabinet, or officers, or joint arrangements to implement Council policy shall not exceed

the budgets allocated to each relevant budget head. However, such bodies or individuals shall be entitled to vire across budget heads within such limits as shall be laid down in the Financial Procedure Rules. Beyond those limits, approval to any virement across budget heads shall require the approval of the full Council.

## **6. IN-YEAR CHANGES TO BUDGET AND POLICY FRAMEWORK**

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- 6.1** The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a Cabinet member, a group of the Cabinet, officers, or joint arrangements must be in line with it. No changes to any budget, policy and/or strategy which make up the budget and policy framework may be made by those bodies or individuals except those changes:
- 6.1.1 Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
  - 6.1.2 Necessary to ensure compliance with the law, ministerial direction or government guidance;
  - 6.1.3 In relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

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- 7.1** Where a Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 7.2** In respect of functions which are the responsibility of the Cabinet, the report of the Monitoring Officer and/or Chief Finance Officer shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet within 21 days of receiving the report to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 7.3** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy

framework or contrary to or not wholly in accordance with the budget, the relevant Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet as soon as practicable on the request from the relevant Scrutiny Committee (or within 28 days if a meeting of the Council is scheduled within that period). At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

## **7.4** The Council may either:

7.4.1 Endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

7.4.2 Amend the budget, financial rule or policy concerned to encompass the decision or proposal of the body or individual responsible for that function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

7.4.3 Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer and/or the Chief Finance Officer.

## **7.5** If the Council does not meet, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier providing that the Monitoring Officer and/or the Chief Finance Officer is/are satisfied that the decision is within the budget and policy framework or falls within Rules 6.1.1-6.1.3.

## **8. SUSPENSION**

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Any part of these rules may be suspended provided such suspension is not contrary to law.

## 4.5: EXECUTIVE PROCEDURE RULES

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### 1. HOW DOES THE CABINET OPERATE?

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#### 1.1 Who May Make Executive Decisions?

The Leader may discharge the Executive functions of the Council or he/she may provide for any Executive functions of the Council to be discharged by:

- (a) the Cabinet as a whole;
- (b) a Committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer of the Authority;
- (e) an area Committee;
- (f) joint arrangements; or
- (g) another local authority.

The arrangements for the discharge of Executive functions determined by the Leader are set out in the executive arrangements of the Constitution (see Article 7 and Part 3 of this Constitution).

#### 1.2 Appointments and Delegation of Executive Functions by the Leader

- (a) At the annual meeting of the Council, the Leader will present to the Council the names of the members appointed to the Cabinet by the Leader (including the Executive member who is appointed as Deputy Leader) and their portfolios.
- (b) Either at the annual meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of:
  - (i) the detailed remits of the portfolios of the Cabinet members;
  - (ii) any delegations made by the Leader in respect of the discharge of Executive functions. The document presented by the Leader to the Monitoring Officer will contain the following information about the discharge of the Council's Executive functions in relation to the coming year:
    - the extent of authority of the Cabinet as a whole;



- the extent of any authority delegated to individual Cabinet members, including details of any limitation on their authority;
- the terms of reference and constitution of such committees of the Cabinet as the Leader appoints and the names of Cabinet members appointed to them;
- the nature and extent of any delegation of Executive functions to area committees, or any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of Executive Functions**

- (a) Where the Leader delegates an Executive function to the Cabinet then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet or to an officer.
- (b) Where the Leader delegates an Executive function to a committee of the Cabinet or an individual member of the Cabinet then unless the Leader directs otherwise, a committee of the Cabinet or an individual member of the Cabinet may delegate further to an officer.
- (c) Even where Executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.
- (d) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he/she has served it on its chair.

### **1.4 The Council's Scheme of Delegation and Executive Functions**

The Leader may amend the Scheme of Delegation containing the details required in Article 7 and set out in Part 3 of this Constitution insofar as it relates to Executive functions at any time during the year in accordance with the procedure set out below.

- (a) Where the Leader wishes to delegate the discharge of an Executive function that has not previously been delegated:
  - (i) to an officer; or
  - (ii) to the Cabinet; or

- (iii) to a Committee of the Cabinet; or
- (iv) to a member of the Cabinet

the Leader must give written notice of the new delegation to both the person or body to whom the Executive function is to be delegated and the Monitoring Officer.

The delegation of the Executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the delegation of the Executive function is entered into the Register of the Delegation of the Executive Functions and the Leader will report the new delegation to Council at the earliest opportunity.

- (b) Where the Leader wishes to transfer the discharge of an Executive function that has been previously delegated to one of the persons or bodies listed at (a)(i)-(iv) above to another of the said persons or bodies at (a)(i)-(iv) above then in each case the Leader must give written notice to the person or body from whom the exercise of the Executive function is to be transferred, the person or body to whom the exercise of the Executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the Executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

The Monitoring Officer will ensure that a record of the transfer of the Executive function is entered into the Register of the Delegation of Executive Functions.

- (c) Where the Leader wishes to withdraw the delegation of an Executive function that has been delegated to one of the persons or bodies listed at (a)(i)-(iv) above and to discharge the Executive function personally, the Leader must give written notice to the person or body from whom the exercise of the Executive function is to be withdrawn and to the Monitoring Officer.

The withdrawal of the delegation of an Executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the withdrawal of the Executive function is entered into the Register of the Delegation of Executive Functions.

## 1.5 Conflicts of Interest

- (a) Where a member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

If the exercise of an executive function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made or otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## 1.6 Meetings of the Cabinet

- (a) The Cabinet will meet in accordance with the programme of meetings agreed at Annual Council under Part 3 Section 5 Paragraph 1.18 of the Council's Constitution, and as such other times as are agreed by the Leader or Deputy leader and duly publicised.
- (b) Meetings of the Cabinet will be subject to the Access to Information Procedure Rules and any other relevant procedure rules in this Constitution.

## 1.7 Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the total number of members of the Cabinet or three members, whichever is the larger.

## 1.8 How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which are the responsibility of the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a Cabinet member or a Committee of the Cabinet, the rules applying to executive decisions taken by them shall be in accordance with the Access to Information Rules in Part 4 of the Constitution.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

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### 2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader shall preside. In the absence of both the Leader and the Deputy Leader, then a person appointed by those present shall preside.

### 2.2 Who May Attend?

- (a) Any member of the Council may attend a meeting of the Cabinet, or a group thereof and with the permission of the Chairman may speak. The Chairman may refuse to give permission if he/she feels that such would be expedient to the efficient conduct of the business.
- (b) Meetings of the Cabinet/Cabinet Committees will normally be open to the public unless confidential or exempt information is to be discussed.
- (c) Subject to the Access to Information Procedure Rules in Part 4 of this Constitution, meetings may occasionally be private.

### 2.3 What Business?

At each meeting of the Cabinet the following business will be conducted:

consideration of the minutes of the last meeting;

declarations of interest, if any (normal Council procedure rules apply to Disclosable Pecuniary Interests);

matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

consideration of reports from Scrutiny Committees;

matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;

dealing with any petitions referred to Cabinet in accordance with the Council's adopted petition scheme.

### 2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of

the nature and extent of consultation with stakeholders and the Scrutiny Committees and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Who can put Items on the Cabinet Agenda?**

Any member of the Council may ask the Chief Executive to put an item on the agenda of a Cabinet for consideration. The item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly call a meeting and include an item on the agenda of that meeting or of a Cabinet meeting which has already been called. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.6 Application of Council Procedure Rules**

Rules 9, 10, 17.1, 17.2 and 18 to 24 of the Council Procedure Rules shall also apply to meetings of the Cabinet.

**4.6: SCRUTINY PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>The Scrutiny Committees</b>
<b>2:</b>	<b>Who May Sit on the Scrutiny Committees?</b>
<b>3:</b>	<b>Co-optees</b>
<b>4:</b>	<b>Meetings of the Scrutiny Committees</b>
<b>5:</b>	<b>Quorum</b>
<b>6:</b>	<b>Who Chairs the Scrutiny Committees Meetings?</b>
<b>7:</b>	<b>Policy Review and Development</b>
<b>8:</b>	<b>Reports From the Scrutiny Committees</b>
<b>9:</b>	<b>Making Sure that the Scrutiny Committees' Reports are Considered by the Cabinet</b>
<b>10:</b>	<b>Rights of Scrutiny Committees Members to Documents</b>
<b>11:</b>	<b>Members and Officers Giving Account</b>
<b>12:</b>	<b>Attendance by Others</b>
<b>13:</b>	<b>Call-In</b>
<b>14:</b>	<b>The Party Whip</b>
<b>15:</b>	<b>Procedure at the Scrutiny Committees Meetings</b>

## 1. THE SCRUTINY COMMITTEES

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The Council will have the Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate, subject to political proportionality. Where there is any doubt as to which Scrutiny Committee is the “relevant Scrutiny Committee” (as referred to in this Constitution), the decision of the Head of Legal and Commercial Services shall be final.

## 2. WHO MAY SIT ON THE SCRUTINY COMMITTEES?

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All councillors, except members of the Cabinet may be members of the Scrutiny Committees. However, no member may be involved in considering a decision in which he/she has been directly involved.

## 3. CO-OPTees

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The Scrutiny Committees shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

## 4. MEETINGS OF THE SCRUTINY COMMITTEES

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Meetings of the Scrutiny Committees shall take place as set out in Paragraph 2.1.3 of Section 5 (Bodies Exercising Council Functions) of Part 3 of this Constitution.

## 5. QUORUM

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The quorum for the Scrutiny Committees shall be as set out for boards and groups in the Council Procedure Rules in Part 4 of this Constitution.

## 6. WHO CHAIRS THE SCRUTINY COMMITTEES MEETINGS?

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The Chairman of the Scrutiny Committees will be drawn from among the councillors sitting on the Scrutiny Committees, and may be elected at the Statutory Annual Council or at the first meeting of the relevant Committee each year.

## 7. POLICY REVIEW AND DEVELOPMENT

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- (a) The role of the Scrutiny Committees in relation to the development of the Council’s budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council’s approach to other matters not forming part of its budget and policy framework, the Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (c) The Scrutiny Committees may, in relation to matters within their terms of reference, hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably considers necessary to inform their deliberations. Each Committee may ask witnesses to attend to address it on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

### **8. REPORTS FROM THE SCRUTINY COMMITTEES**

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- (a) Once it has formed recommendations on proposals for development, a Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet if the proposals are consistent with the existing budgetary and policy framework, or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Scrutiny Committees cannot agree on one single final report to the Council or the Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- (c) The Council or the Cabinet shall consider the report of the Scrutiny Committees after being submitted to the Proper Officer.
- (d) The Chairman or other appropriate member of the relevant Scrutiny Committee shall attend the meeting of the Cabinet to present the Committee's report.

### **9. MAKING SURE THAT THE SCRUTINY COMMITTEES REPORTS ARE CONSIDERED BY THE CABINET**

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- (a) Once a Scrutiny Committee's report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet.
- (b) The Scrutiny Committees will in any event have access to the Cabinet's Executive Decision Notice and timetable for decisions.

### **10. RIGHTS OF SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

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- (a) In addition to their rights as councillors, members of the Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.



- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees as appropriate depending on the particular matter under consideration.

## **11. MEMBERS AND OFFICERS GIVING ACCOUNT**

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### **11.1 At the request of the Scrutiny Committees**

- (a) The Scrutiny Committees may monitor and review decisions made or actions taken in connection with the discharge of any Council functions, insofar as they relate to matters within their terms of reference. As well as reviewing documentation, in fulfilling the monitoring role, they may require any member of the Cabinet, the Head of Paid Service and/or any officer of principal level or above to attend before them to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance.

And it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend the Scrutiny Committees under this provision, the Chairman of the relevant Scrutiny Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 7 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the body. Where the account to be given to the body will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the relevant Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance to take place at the next available meeting of that Scrutiny Committee.
- (d) The Scrutiny Committees may require the Director, Head of Service or Team Manager to interview any member of staff and to record such interview and provide a copy of the statement to the Committee. A member of the relevant Scrutiny Committee shall be present at any interview but only in an observer capacity.

- 11.2** Under the Council's petition scheme the Chief Executive and Directors may be called to account at the Scrutiny Committees by a public petition received in accordance with the Council's adopted petition scheme.

## **12. ATTENDANCE BY OTHERS**

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Each Scrutiny Committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

## **13. CALL-IN**

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Call-in should only be used in exceptional circumstances. These are where members of the Scrutiny Committees have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Cabinet or a group of the Cabinet or a key decision is made by an officer with delegated authority, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 7 days of being made. The Chairman of each Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless any two members (or more) objects to it and require in writing that the decision be called in.
- (c) During that period, the Head of Legal and Commercial Services shall call-in a decision for scrutiny by a Scrutiny Committee if so requested by any two members (or more) of that Committee, and shall then notify the decision taker of the call-in. A meeting of the relevant Scrutiny Committee shall be convened to consider the call-in or it could be considered at the next appropriate scheduled meeting of either Scrutiny Committee, if time scales permit. The Head of Legal and Commercial Services, in consultation with the Head of Paid Service and Section 151 Officer, may reject a request for call-in if, in their opinion, it is repetitious, vexatious or fails to set out any grounds which might reasonably cause Cabinet to change their decision.
- (d) If, having considered the decision, the relevant Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the Council. If referred to the decision maker they shall

then reconsider, amending the decision or not, before adopting a final decision.

- (e) If the matter was referred to the Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet the matter will be referred to the next scheduled meeting. Where the decision was made by an individual, the individual will reconsider the decision within 10 working days of the Council request.
- (f) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## **Exceptions**

- (g) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
  - (i) that the Scrutiny Committees may, in total, only call-in 4 decisions per year;
  - (ii) once a member has signed a request for call-in under paragraph 13 (call-in) above, he/she may not do so again until a period of 3 months has expired.

## **Call-In Urgency**

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman the Deputy Chairman's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of

urgency must be recorded in the minutes and be reported to the next available meeting of the Council, together with the reasons for urgency.

- (ii) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### 14. THE PARTY WHIP

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When considering any matter in respect of which a member of the Scrutiny Committees is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### 15. PROCEDURE AT THE SCRUTINY COMMITTEES' MEETINGS

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- (a) The Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Committee for consideration in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the relevant Scrutiny Committee;
  - (v) the business otherwise set out on the agenda for the meeting; and
  - (vi) dealing with any petitions to hold an officer to account received under the Council's adopted petition scheme.
  
- (b) Where a Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- (c) Following any investigation or review, the relevant Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**4.7: CONTRACT PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Introduction</b>
<b>2:</b>	<b>Value for Money</b>
<b>3:</b>	<b>Special Circumstances (Waiver and Exemption)</b>
<b>4:</b>	<b>Framework Agreements</b>
<b>5:</b>	<b>Selecting a Procurement Route</b>
<b>6:</b>	<b>Conducting a Procurement Exercise</b>
<b>7:</b>	<b>Contracts to which the Public Procurement Regulations Apply</b>
<b>8:</b>	<b>Types of Tender for Band B Contracts</b>
<b>9:</b>	<b>Specifications</b>
<b>10:</b>	<b>Submission of Tenders and Evaluation</b>
<b>11:</b>	<b>Opening and Acceptance of Tenders</b>
<b>12:</b>	<b>Tender Evaluation and Award of Contracts</b>
<b>13:</b>	<b>Contract Conditions</b>
<b>14:</b>	<b>Contract and Performance Management</b>

## 1. INTRODUCTION

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### **Purpose of these Standing Orders**

- 1.1** These Standing Orders are made pursuant to s135 of the Local Government Act 1972. These Standing Orders have been prepared in accordance with the Public Contracts Regulations 2015, the Authority's policies and to facilitate small and medium enterprises in the local area the opportunity to enter the Authority's supply chain.
- 1.2** These Standing Orders set out how the Authority will invite tenders, obtain quotations and award contracts for supplies, services or works. Their role is to ensure that contracts are appropriate for their purpose, provide the right balance between price and quality and are procured in an open way that demonstrates probity and compliance with the Authority's policies and the law. It is important that they are viewed as an aid to good management and compliance and not as a hindrance.

### **Contracts outside the scope of these Standing Orders**

- 1.3** Where the Authority is disposing of goods, officers shall seek advice from the Head of Finance and have regard to the provisions of the Financial Procedure Rules.
- 1.4** These rules do not apply to:
- (a) contracts with local authorities for the joint delivery of services or discharge of functions, save the obligation to secure value for money for the Authority;
  - (b) transactions for the sale, purchase or lease of land or property;
  - (c) contracts which benefit from any exemption to the Public Contracts Regulations 2015 contained in Regulation 12 of those regulations.

### **Probity and Compliance**

- 1.5** Responsibility for compliance with these Standing Orders remains at all time with officers. It shall be the responsibility of the Directors to ensure that staff within his or her directorate comply with these Standing Orders.
- 1.6** No contract shall be entered into unless adequate budgetary provision has been made for the award of that contract.
- 1.7** Any officer, whether a direct employee of the Authority or engaged through an external organisation or supplier who is engaged to work on behalf of the Authority shall, if they become aware of any relationship (current or past), whether pecuniary or not, with any supplier or potential supplier, make a Declaration of Interest to the relevant Head of Service at the earliest opportunity. Where the relevant officer is the Head of Service, a Director or the Chief Executive, the declaration shall be made to another Director or the Chief Executive.

- 1.8** An officer with an interest in a contract shall take no part in advising on the Authority's dealing with that contract without the authorisation of the Head of Service, Director or Chief Executive (as the case may be). Unless such authorisation is obtained, if the officer is present at a meeting when the contract is discussed, he or she shall forthwith declare that interest and withdraw from the meeting while it is under discussion.
- 1.9** The Chief Executive shall record in a book, to be kept for the purposes of recording any notice given by an officer of the Authority, under 1.7 above and/or Section 117 of the Local Government Act 1972 and the book shall be open during office hours to the inspection of any member of the Council.

## **2. VALUE FOR MONEY**

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### **Value of the Contract Opportunity and Aggregation**

- 2.1** The Authority is under a duty to ensure that funds are spent in a way that achieves "value for money" for the Authority. Officers involved in procuring supplies, services or works should be mindful of this duty.
- 2.2** When an officer has identified the need to procure supplies, services or works, the relevant Head of Service or their nominated officer shall assess the value of the proposed arrangement. The value is the total amount that the Authority expects to pay for the contract over a rolling period, either in a single sum or periodically over time. Unless the exact duration of a contract is known, officers should use a 4 year period as the nominal duration of a contract when considering aggregating spend.
- 2.3** Purchases should be aggregated to make the best use of the Authority's purchasing power. Where a recurring pattern of purchases can be identified for similar supplies, services or works across the Authority, consideration shall be given to whether one contract would represent better value in terms of price, service, invoicing or other administrative costs. It is the Head of Services' responsibility to have due regard to the aggregation of contract values.
- 2.4** The principles of aggregation in EU procurement law are designed to ensure that authorities do not deliberately split contracts which have similar characteristics into separate contracts so that they fall below the relevant thresholds (unlawful disaggregation).
- 2.5** Notwithstanding this, procuring officers shall consider the sub-division of procuring supplies, services or works into lots, facilitating access for small and medium enterprises. Where the decision is taken not to sub-divide a procurement into lots, the reasons shall be recorded.



## The Procurement Hierarchy

- 2.6** When an officer has identified a need to procure new supplies, services or works, they shall first consider these options in turn (the Procurement Hierarchy):
- 2.6.1 any current arrangements in existence in-house;
  - 2.6.2 any existing contracts entered into by the Authority; and
  - 2.6.3 any provision available through other third party contracts or framework agreements, including those provided by public sector buying consortia, where they can be shown to offer value for money for the Authority.
- 2.7** Where the officer determines that no provision is available from the sources in the Procurement Hierarchy or that in the circumstances they do not represent value for money, they shall have regard to these Standing Orders in determining which procurement option is the appropriate one to follow.
- 2.8** The Head of Finance is responsible for maintaining a schedule of the Authority's planned procurements. Heads of Service shall be responsible for ensuring that all contracts proposed to be entered into by the Authority in the coming financial year are notified to the Procurement Team for inclusion in the procurement plan.

## **3. SPECIAL CIRCUMSTANCES (EXEMPTION AND WAIVER)**

### Exemption

- 3.1** Notwithstanding the provisions of these Standing Orders and subject only to the requirements of law:
- 3.1.1 exemption from any of the provisions of these Standing Orders may be granted by the Council acting through the Chief Executive (or where appropriate, Acting or Deputy Chief Executive), in consultation with the Chief Finance Officer and the Monitoring Officer, upon it being shown to their satisfaction that there are **special circumstances** justifying such exemption. Such special circumstances shall fall under at least one of the following two categories:
    - (a) only one supplier is available for technical or artistic reasons and no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing of the parameters of the procurement;
    - (b) extreme urgency exists for unforeseen reasons which are not attributable to the Authority and the various time limits cannot be met. Inadequate forward planning would not constitute

special circumstances and an exemption shall not be permitted in such circumstances,

- 3.1.2 any request under 3.1.1 above shall be made in writing on the approved form which shall be certified by the officers specified in 3.1.1 above; and
- 3.1.3 the Cabinet shall be informed of the exercise of any authority pursuant to this Standing Order by the Directors or Chief Executive and any such report will include confirmation that the officers specified in 3.1.1 have been consulted and such exemption granted

## Waiver

- 3.2 If, in exceptional circumstances, authority is sought from Cabinet to waive these Standing Orders, the report to Cabinet must give adequate reasons and specify precisely the procedures to be waived and must first be approved by the Monitoring Officer.
- 3.3 Where specific legislation requires the Authority to let a contract differently from as set out in these Standing Orders, these Standing Orders shall be deemed waived without recourse to Cabinet, Council or the Statutory Officers.

## 4. FRAMEWORK AGREEMENTS

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- 4.1 Where it is determined to use a framework agreement to meet the identified need of the Authority, the officer shall seek the advice of the Procurement Team and Legal Services in relation to the use of such framework and the contractual arrangements.
- 4.2 When calling-off supplies, services or works under a framework agreement, the selection procedure, including award criteria, from within the framework agreement shall be used. Officers must comply with all rules and regulations set out within a framework agreement in relation to direct call-off of contracts (direct award) and re-opening of competition between providers appointed on to that framework (mini-competition).

## 5. SELECTING A PROCUREMENT ROUTE

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### Initial Considerations

- 5.1 In relation to any contract for the supply of supplies, services or works to the Authority the functions described in Section 17(4) of the Local Government Finance Act 1988 shall be exercised without any reference to any of those matters set out in Section 17(5) of that Act. (Section 17(4) describes the functions to which this legislation applies and Section 17.5 details what is regarded as non commercial issues that must be ignored when entering into a contract for the supply of supplies, services or works). This shall at all times be subject to the provisions of 5.2 below.

- 5.2** In relation to any contract for the supply of services not through an existing framework or existing arrangement, the officer shall have regard to the considerations set out in the Public Services (Social Value) Act 2012. Specifically, the officer must consider how the services might (in addition to the service requirement) improve the economic, social and environmental well-being of the district and how the procurement itself might be conducted to secure that improvement.
- 5.3** All procurement documents (including business questionnaires, specifications and contracts) shall be completed prior to advertising the contract opportunity.

### Procedures for Determining Which Procurement Option to Follow

- 5.4** Where an officer has reasonably determined not to use any available options in the Procurement Hierarchy, the following provisions shall apply.
- 5.5** When the officer has assessed the value of the proposed arrangement (see above), the appropriate procurement route shall be determined in accordance with the Threshold Table (below).
- 5.6** Notwithstanding the provisions in the Threshold Table, lower value procurements can be conducted using a more sophisticated process as long as it remains objectively reasonable and proportionate to do so and secures open, transparent and fair competition.

### Threshold Table

Contract Value		Process	Award Procedure based on	Advertise Contract Opportunity	Documentation
From	To				
<b>Minor Purchases</b>					
£0	£999	No prescribed process	Officer's discretion	N/A	Purchase Order
<b>Band A</b>					
£999	£25,000	Quotation	Seeking a minimum of three written quotations	N/A	Budget holder to record details when authorising order
<b>Band B</b>					
£25K	EU	Formal Tender	Full Tender Process	NWL Web site Contracts Finder	ITT documentation using NWL E-tendering Portal
NOTE: the EU threshold is a figure set out by the EU and varies from time to time. Please seek advice from the Procurement Team.					

<b>Band C</b>					
EU	Above	Formal Tender	Full Tender Process	OJEU NWL Web site Contracts Finder	ITT documentation using NWL E-tendering portal

## Authority to award contracts

- 5.7** Officers may only enter into a contract if they have sufficient authority to do so. Legal advice in respect of authority to award contracts can only be given to the extent that such authority is set out in the Constitution. Officers are responsible for knowing the extent of any delegated authority they may have and ensuring they do not exceed that.
- 5.8** The Authority’s Constitution contains the Scheme of Delegation, which sets out what decisions can be made by which body, individual or group of individuals. For the purposes of awarding contracts, the following Authorisation Table provides an initial indication of where those decisions sit. However, officers should take advice from Legal Services as to the appropriate source of authority to award where they are unsure.

## Authorisation Table and Signatories

- 5.9** It is for individual Officers to ascertain the limits of their authority to award contracts and orders. Some Officers have unlimited authorisation levels, please see Paragraph 11 – Designated Authorised Officers of Section 7 – Scheme of Delegation to Staff, Council and Executive Functions. An officer may award a contract provided that the value of that contract does not exceed their level of financial authorisation (see paragraph D.5 of the Financial Procedure Rules). The below table provides a guide for Officers in salary bands A-I, who should check with their line managers and/or the finance department as to what they are and are not authorised to commit the Council to.
- 5.10** The authority to award a contract (i.e. decide that the contract should be given to a particular supplier) is separate from authority to sign the contract. Contracts under which the Council will be liable for sums up to £25,000 may be signed by any officer (or awarded by issuing a purchase order) provided that the contract value does not exceed their financial authorisation. All contracts above £25,000 must be signed by the Head of Legal and Commercial Services or their appointed nominee.

## Authorisation Table

	<b>Approval</b>	<b>Reference in Constitution</b>
<b>Contracts that are:</b> - more than £250,000 in total; - more than £100,000 in any one contract year; <u>OR</u> - more than 5 years long	Cabinet (Financial Key Decision)	Section 4 (2)(31)
<b>Contracts that are:</b> - less than £250,000 in total; - Less than £100,000 in any one contract year; <u>AND</u> - less than 5 years long	Chief Executive or Relevant Director	Scheme of Delegation paragraph 3.4
<b>Up to £99,999</b>	Chief Executive or Relevant Director	Scheme of Delegation paragraph 3.4
<b>Up to £49,999</b>	Heads of Service	As set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
<b>Up to £24,999</b>	Team Managers	As set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
<b>Up to £9,999</b>	Officers in salary bands G, H and I, at the request of their Director or Head of Service	Dependent on individual post and as set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
<b>Up to £4,999</b>	Officers in salary bands D, E and F, at the request of their Director or Head of Service	Dependent on post and as set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)
<b>Up to £2,000</b>	Officers in salary bands A, B & C, at the request of their Director or Head of Service	Dependent on post and as set by the Statutory Officers (paragraph D.5 of the Financial Procedure Rules)

- 5.11** Contracts under which the Council will not incur any costs (such as Information Sharing Agreements or grant documents where the Council is receiving the grant) and contracts for the provision of goods or services in return for a revenue payment may be signed by any Team Manager, Head of Service, Director or the Chief Executive.

## **6. CONDUCTING A PROCUREMENT EXERCISE**

### **Band A Contracts**

- 6.1** For any single contract, not related to or part of any larger procurement, whose value is between £1,000 and £24,999, three written quotations shall be obtained.
- 6.2** Where officers are seeking written quotations:
- 6.2.1 Heads of Service shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;
  - 6.2.2 officers must select the quotation which offers value for money for the Authority. In Band A contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;
  - 6.2.3 The Head of Service shall be responsible for keeping a record for audit purposes of:
    - (a) all those contractors that were requested to provide a quotation;
    - (b) the reasons why those particular contractors were selected to provide a quotation; and
    - (c) the reason for selecting the winning quote;
  - 6.2.4 notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new quotations should be obtained each time, to ensure the prices paid represent value for money for the Authority.
- 6.3** Subject always to the Council's duty to obtain value for money, where the relevant Head of Service is satisfied that there are sufficient reasons for three quotes not being obtained in respect of a Band A contract, that Head of Service may authorise the award of a Band A contract even though fewer than three quotes have been obtained.

## Band B Contracts

- 6.4** For any single contract, not related to or part of any larger procurement, whose value is £25,000 or more, but less than the relevant EU threshold, the officer shall conduct a formal tender using a template to be provided by the Procurement Team and accompanied by terms and conditions prepared with advice from Legal Services.
- 6.5** Where officers conduct a formal tender:
- 6.5.1 the opportunity shall be advertised on the Source Leicestershire website, Contracts Finder and the Authority's website, by the Procurement Team;
  - 6.5.2 Heads of Service shall ensure that the selection process used is fair and equitable and in accordance with these Standing Orders;
  - 6.5.3 officers must select the quote which offers value for money for the authority. In Band B contracts, value for money will normally be shown by choosing the most economically advantageous quotation and in assessing this officers should be mindful of price, quality and the added economic, social and environmental benefits that could be obtained by procuring supplies, services or works in a particular way;
  - 6.5.4 Notwithstanding where the supplies, services or works sought are a repetition of a previous procurement, subject to the rules above in relation to aggregation, new tenders should be obtained each time, to ensure the prices paid represent value for money for the Authority.
- 6.6** The EU threshold is an amount set out by the EU and can vary year to year. The Cabinet Office confirms the amounts in Sterling. Please seek advice from the Procurement Team as to the current EU thresholds.

## **7. CONTRACTS TO WHICH THE PUBLIC PROCUREMENT REGULATIONS APPLY (BAND C – EU)**

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- 7.1** For any contract whose value is more than the threshold amounts set out the Public Contracts Regulations 2015 (as amended from time to time), tenders shall be sought in accordance with those regulations.
- 7.2** The procuring officer must note that the Public Contracts Regulations 2015 contain minimum timescales for a procurement exercise and therefore it is imperative that advice is sought from both the Procurement Team and Legal Services well in advance of the commencement of the procurement exercise.
- 7.3** The provisions of these Standing Orders shall continue to apply to such a contract only to the extent that they do not conflict with the provisions of the Public Contracts Regulations 2015.

## 8. TYPES OF TENDER FOR BAND B CONTRACTS

### Open Tendering

- 8.1** This is a procedure by which a contract is let following publication of an advertisement inviting all those expressing an interest in the contract to submit a bid at the same time. This is a one stage procedure.
- 8.2** The advertisement shall:
- 8.2.1 specify details of the supplies, services or works the Authority is procuring;
  - 8.2.2 specify the contract duration and proposed commencement date;
  - 8.2.3 specify any other requirements for participating in the procurement;
  - 8.2.4 specify a contract reference number;
  - 8.2.5 specify a reasonable (in the circumstances of the contract opportunity) date and time, being not less than 21 days from the date of the advertisement, by which such expressions of interest are to be received by the Authority;
  - 8.2.6 specify the criteria against which submissions are to be evaluated; and
  - 8.2.7 specify the appropriate electronic tender box code and details of how to access documentation.

### Restricted Tendering

- 8.3** This is a two stage procedure by which a contract is let following publication of an advertisement seeking expressions of interest from tenderers to participate. Following evaluation of the pre-qualifying submissions, no fewer than three qualified bidders shall be invited to tender for the contract. This route to the market is particularly suitable where a large response is anticipated. In relation to works, this procedure may only be used for where the value of the works exceeds the threshold in the Public Contracts Regulations 2015 for services. This procedure may not be used for procuring services or supplies save to the extent that such services fall within the scope of Schedule 3 (Social and Other Specific Services) of the Public Contracts Regulations 2015.
- 8.4** The advertisement shall:
- 8.4.1 specify details of the supplies, services or works the Authority is procuring;
  - 8.4.2 specify the contract duration and proposed commencement date;



- 8.4.3 specify any other requirements for participating in the procurement;
  - 8.4.4 specify a contact reference number;
  - 8.4.5 specify a time limit, being not less than 21 days from the date of the advertisement within which such expressions of interest are to be received by the Authority;
  - 8.4.6 specify a time limit, being not less than 21 days from the date of inviting shortlisted bidders to submit their tender, within which such tenders are to be received by the Authority;
  - 8.4.7 specify the criteria against which submissions are to be evaluated; and
  - 8.4.8 specify the appropriate electronic tender box code and details of how to access documentation.
- 8.5** After the expiry of the period specified in the advertisement and following proper evaluation of the returned Standard Selection Questionnaire (SSQ), in accordance with the criteria specified, invitations to tender for the contract shall be sent to:
- 8.5.1 not less than three of the persons or bodies who returned a satisfactorily completed SSQ and has been shortlisted, selected by the Authority; or
  - 8.5.2 where fewer than three persons or bodies have applied or have satisfactorily completed the SSQ, those persons or bodies which the Authority consider suitable.

## **9. SPECIFICATIONS**

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- 9.1** Full tenders shall be accompanied by an appropriate specification, clearly setting out the Authority's requirements for the goods, works or services to be supplied.
- 9.2** Specifications should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the contract to be monitored and managed.
- 9.3** Where appropriate, officers shall take all necessary professional advice to ensure the specification sufficiently expresses the Authority's requirements and ensure the output of the contract represents value for money. Any third party engaged to support the preparation of the specification shall not be invited to bid for the substantive contract.

## **10. SUBMISSION OF TENDERS AND EVALUATION CRITERIA**

### **Submission of Tenders for Band B Contracts**

- 10.1** Where in pursuance of these Standing Orders invitation to tender is made, every invitation shall state the process for registering and submitting tenders and the signed Form of Tender using the NWL E-tendering portal.
- 10.2** No tender received after the time and date specified in the invitation shall be considered, unless the relevant Head of Service thinks it is reasonable to do so in the circumstances.
- 10.3** Every invitation to tender shall state:
- 10.3.1 that the Authority is not bound to accept any tender, including the lowest;
  - 10.3.2 the tender evaluation criteria, with full explanation;
  - 10.3.3 a statement that the Authority is obliged to comply with the Freedom of Information regime;
  - 10.3.4 closing date and time for receipt of tenders and the web address to which tenders should be sent; and
  - 10.3.5 a requirement that the tenderers accept full responsibility for ensuring compliance with the terms of these Standing Orders and that any failure to do so may render that tender liable to disqualification.

### **Evaluation Criteria**

- 10.4** Evaluation criteria must be designed to secure an outcome providing value for money for the Authority on the basis of the Most Economically Advantageous Tender, expressed as the price/quality balance in percentage terms. Appropriate sub-criteria should also be included referring to relevant considerations and guidance should be given to tenderers on how their responses will be scored. Further advice can be provided by the Procurement Team.
- 10.5** Evaluation criteria must not include:
- 10.5.1 non-commercial considerations, save as expressly set out in these Standing Orders;
  - 10.5.2 matters which discriminate against suppliers from the European Economic Area; and

- 10.5.3 a general provision allowing for the highest mark to be awarded for tenders which exceed the specification.
- 10.6** Within every invitation to tender there shall be reference made to the requirements on public bodies with regard to the Freedom of Information Act 2000. Such a reference shall include notice to the tenderer that:
- 10.6.1 the Authority has a duty of 'openness' under the act;
- 10.6.2 it is the Authority and not the tenderer who makes the decision on the release of information within a tender;
- 10.6.3 any claim by the tenderer that information within a tender is exempt under the act will be considered by the Authority. However, a simple assertion that any disclosure would prejudice commercial interests is not sufficient. The assertion must be supported by reasoned argument and where practical, by empirical evidence. Any decision to treat all or some information within a tender as exempt may be reviewed if any further requests are received over time;
- 10.6.4 the Authority will consult with them before making any disclosure; and
- 10.6.5 the Authority has a system for dealing with any appeals under the act.

### **Submission of Tenders for Band C (EU) Contracts**

- 10.7** Tendering processes shall comply with the Public Contracts Regulations 2015. In the event of a conflict between these Standing Orders and the Public Contracts Regulations 2015, the latter shall take precedence.

## **11. OPENING AND ACCEPTANCE OF TENDERS**

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- 11.1** This Rule shall apply to Band B and Band C (EU) contracts
- 11.2** Tenders received under these Standing Orders shall be opened at one time and only following the date on which the receipt of tenders closed.
- 11.3** Tenderers shall be notified of the acceptance or rejection of their tenders.
- 11.4** Detailed feedback shall be provided to all unsuccessful bidders.

## **12. TENDER EVALUATION AND AWARD OF CONTRACTS**

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- 12.1** All tenders shall be properly evaluated by the relevant Director or their nominated officer in accordance with the published award criteria and in accordance with any specific requirements of any relevant EU Directive or

English legislation. The Procurement Team shall be notified of any evaluations being conducted by procuring officers and a member of the Procurement Team may participate in the evaluation process if they consider it appropriate.

**12.2** A tenderer's error in the computation of the pricing of their tender will be corrected and the tenderer asked to stand by the corrected tender or to withdraw the tender.

**12.3** Post tender negotiations shall only be by exception and in accordance with the Public Contracts Regulations 2015. Authority to enter into post tender negotiations may only be granted by the Chief Executive or relevant Director. Officers who are authorised to carry out post-tender negotiations shall ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

**12.4** Where award is based on lowest or highest price, a tender other than the lowest tender if payment is to be made by the Authority or the highest tender if payment is to be received by the Authority shall not be accepted except where there are justifiable reasons for doing so, for instance:

12.4.1 the procurement of a named product required to be compatible with an existing product, i.e. computer software;

12.4.2 an alternative pre-tender evaluation criteria has been determined;

in such circumstances the Statutory Officers shall be consulted and written confirmation of their agreement retained for audit purposes.

**12.5** If the relevant Director considers the lowest priced tender, highest priced tender or most economically advantageous tender (as appropriate) to be abnormal given the nature of the contract, the tenderer shall be asked to clarify in writing the reasons for its tender and the Director shall take that explanation into account in deciding whether the tender will be accepted.

**12.6** All contract awards shall be notified promptly to the Procurement Team in order that the details can be recorded in the Contracts Register and inform the Procurement Plan.

### **13. CONTRACT CONDITIONS**

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**13.1** Every procurement which exceeds £25,000 in value shall be a formal contract in writing and signed by the Head of Legal Services or her nominee. The procuring officer should seek the advice of Legal Services at the earliest opportunity in this regard.

**13.2** Such contract shall, unless the Head of Legal and Commercial Services deems it disproportionate:

- 13.2.1 specify the supplies, services or works to be supplied or executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties or specified in these Standing Orders;
- 13.2.2 where a contract exceeds £200,000 and the Head of Finance deems appropriate, contain a requirement that a contractor give sufficient security for the due performance of the contract provided that this shall not apply where the goods and materials are supplied and payment is not made until completion of works;
- 13.2.3 include provisions for the termination and recovery of any sums paid where there has been evidence of bribery or corruption or any breach of the Bribery Act 2010 or section 117(2) Local Government Act 1972;
- 13.2.4 include provisions entitling the Authority to terminate part or all of the contract or to obtain substituted provision of the supplies, services or works to be supplied under the contract in the event of a breach of contract by or the insolvency of the contractor;
- 13.2.5 include prohibitions on the contractor from sub-contracting, assigning or otherwise transferring the contract without the prior written consent of the Authority and providing that the contractor shall remain liable to the Authority for any part of the contract that may be sub-contracted;
- 13.2.6 include provisions securing the contractor's compliance with relevant legislative requirements, including as a minimum in relation to:
  - (a) Health and Safety;
  - (b) Human Rights;
  - (c) Freedom of Information;
  - (d) Data Protection;
  - (e) Confidentiality;
  - (f) Bribery and corruption; and
  - (g) Equalities and discrimination.
- 13.2.7 provide for indemnities in favour of the Authority for any breach of the above and for the acts and omissions of the contractor in carrying out the contract;
- 13.2.8 provide for compliance with those of the Authority's policies relevant to the provision of the supplies, services or works;
- 13.2.9 provide for the protection of the Authority's intellectual property rights, where appropriate;

- 13.2.10 provide for, where the supplies, services or works require it, appropriate restrictions or conditions precedent in relation to the protection of vulnerable persons, including requiring Disclosure and Barring Service checks;
- 13.2.11 provide for the Authority's right to monitor and audit the supplies, services or works under the contract and for the contractor's provision of assistance in such monitoring and in securing improvements in economy, efficiency and effectiveness, as specified in Section 3 of the Local Government Act 1999, where appropriate. Such assistance may include setting performance indicators, benchmarking implementing performance plans and/or periodically reviewing the services;
- 13.2.12 be governed by the laws of England and subject to the exclusive jurisdiction of the Courts of England;
- 13.2.13 comply with the laws of England and any applicable EU legislation or regulation.
- 13.3** Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standard Specification or Code of Practice.
- 13.4** Every contract which exceeds £250,000 shall be in writing and under the Common Seal of the Authority.
- 13.5** Where a contract exceeds £50,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified, where the appropriate Head of Service considers appropriate.
- 13.6** The provisions of these Standing Orders do not prevent the use of a formal contract for a procurement less than £25,000 where on receipt of advice from Legal Services the relevant Head of Service considers it appropriate.
- 13.7** It shall be a condition of any agreement between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract between the Authority and a third party on the Authority's behalf that, in relation to such contract, he/she shall comply with the requirements of these Standing Orders as if he/she were an officer of the Authority.
- 13.8** In all areas of tendering, negotiating, letting or renewing, performing, reviewing, amending, discharging or terminating any contract to which the Authority is either a party or of which it is a beneficiary, regard shall be had to the requirements of economy, efficiency and effectiveness specified in Section 3 of the Local Government Act 1999.

- 13.9** Ensure compliance with Risk Management Guidelines on insurance levels and require such insurances as the relevant Head of Services determines appropriate in consultation with the Section 151 Officer.
- 13.10** Where a main contractor indicates in their tender submission the use of sub-contractors, the officer will ensure that:
- 13.10.1 the main contractor verifies they have vetted the sub-contractor to ensure that they meet the standards in all areas that the main contractor has undertaken to meet in their submission;
  - 13.10.2 the supplies, services or works they have been sub-contracted by the main contractor to provide, remains the responsibility of the main contractor.
- 13.11** Where a framework agreement is used to meet the Authority's need for supplies, services or works, this Standing Order shall only apply to the extent that the framework's call-off terms do not include these provisions and the framework agreement provides for a variation to such terms.

### **14. CONTRACT AND PERFORMANCE MANAGEMENT**

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- 14.1** Contract management arrangements shall be set out in any invitation to tender and incorporated into any subsequent contract.
- 14.2** An identified contract manager shall be appointed for each Band B and C contract.
- 14.3** The Head of Legal and Commercial Services may agree the variation or novation of any contract originally awarded under delegated authority. The variation or novation of a contract originally awarded by the Cabinet shall only be agreed by the Cabinet, save to the extent that such variation is of a minor nature or accounted for in the contract.
- 14.4** No contract entered into by the Authority may be extended by duration or value unless:
- 14.4.1 where the contract is a Band C (EU) contract, such extension was provided for in the original OJEU notice and contract documentation;
  - 14.4.2 where the contract is a Band B contract or of lesser value, such extension would not mean that, had it been included in the original contract, the overall value would have exceeded the EU threshold; and
  - 14.4.3 alternative options have been considered and the relevant Head of Service is satisfied that this option represents value for money and is in the best interests of the Authority in light of the contractor's performance.

- 14.5** All extensions to Band B and Band C (EU) contracts shall be promptly notified to the Procurement Team.
- 14.6** A contract is a live document. Contract managers and officers shall have regard to the provisions of the contract in observing and monitoring performance of the contract, handling disputes and terminating a contract. Where officers are unclear of the provisions or operation of a contract they should promptly seek advice from Legal Services.



## 4.8 FINANCIAL PROCEDURE RULES (FINANCIAL REGULATIONS)

### 1. INTRODUCTION

#### 1.1 What are the Financial Procedure Rules?

1.1.1 Section 151 of the Local Government Act 1972 states that “every authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.

1.1.2 Financial Procedures provide the framework for managing the Council’s financial affairs. Financial Procedures are supported by more detailed Financial Management Standards which set out how the procedures will be implemented.

1.1.3 The procedures identify the financial responsibilities of the full Council, the Cabinet and officers.

1.1.4 To avoid the need for regular amendment due to changes in post titles generic terms are included for officers as follows:

(a) The term, “Chief Finance Officer,” refers to the Section 151 Officer who is currently the Head of Finance.

(b) The term, “Chief Officers”, refers to the Council’s Chief Executive, and Directors.

(c) The term, “Monitoring Officer”, refers to the Head of Legal and Commercial Services.

(d) The term, “Chief Internal Auditor”, refers to the Audit Manager.

#### 1.2 Why are they important?

1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

1.2.2 Good, sound financial management is a key element of Corporate Governance which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

**1.2.3** Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

**1.2.4** Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

**1.2.5** Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

### **1.3 Who do Financial Procedures apply to?**

1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.

1.3.2 These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.

1.3.3 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

### **1.4 Who is responsible for ensuring that they are applied?**

1.4.1 Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.

1.4.2 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedures to the Council and/or to the Executive Members.

1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.

- 1.4.4 Any person charged with the use or care of the Council's resources and assets should inform him or herself of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice.
- 1.4.5 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement of value for money or the principles of Best Value or the best interests of the Council, he/she shall raise the issue with the Chief Finance Officer who will, if he/she considers necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

## FINANCIAL REGULATION A: FINANCIAL MANAGEMENT

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### INTRODUCTION

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- A.1** Financial management covers all financial accountabilities in relation to the running of the Authority, including the policy framework and budget.

### THE FULL COUNCIL

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- A.2** The full Council is responsible for adopting the Authority's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its constitution. The full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3** The full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its Boards. These delegations and details of who has responsibility for which decisions are set out in the constitution.

### THE CABINET

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- A.4** The Cabinet is responsible for proposing the policy framework and budget to the full Council, and for discharging executive functions in accordance with the policy framework and budget.
- A.5** Cabinet decisions can be delegated to a sub-committee of the Cabinet, an individual Cabinet member or members or an officer.
- A.6** Where A.5 occurs, the Cabinet is responsible for establishing protocols to ensure that individual Cabinet members consult with relevant officers before taking a decision within his, her or their delegated authority. In doing so, the

individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

## SCRUTINY COMMITTEES

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**A.7** The Scrutiny Committees are responsible for scrutinising executive decisions before or after they have been implemented and for holding the Cabinet to account. The Scrutiny Committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Authority.

### **Audit and Governance Committee**

**A.8** The Audit and Governance Committee is established by the full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the council on the adoption and revision of the Members' Code of Conduct, and for monitoring the operation of the code. It may also make recommendations to the full Council on the council's constitution.

### **Other Regulatory Committees**

**A.9** Planning and licensing are not executive functions but are exercised through the multiparty Planning and Licensing Committees under powers delegated by the full Council. The Planning and Licensing Committees report to the full Council.

## THE STATUTORY OFFICERS

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### **Head of the Paid Service (Chief Executive)**

**A.10** The Head of the Paid Service is responsible for the corporate and overall strategic management of the Authority as a whole. He or she must report to and provide information for the Cabinet, the full Council, the Scrutiny Committees and other Committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of the Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions (see below).

### **Monitoring Officer**

**A.11** The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Audit and Governance Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to

the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.

**A.12** The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He or she must also ensure that council members are aware of decisions made by the Cabinet and of those made by officers who have delegated executive responsibility.

**A.13** The Monitoring Officer is responsible for advising all councillors and officers about who has authority to take a particular decision.

**A.14** The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.

**A.15** The Monitoring Officer, together with the Chief Executive, is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:

initiating a new policy

committing expenditure in future years to above the budget level

incurring transfers contrary to virement rules and limits

causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

**A.16** The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **Head of Finance (See A Statement on the Role of the Finance Director in Local Government (CIPFA, 1999))**

**A.17** The Head of Finance has statutory duties in relation to the financial administration and stewardship of the Authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

Section 151 of the Local Government Act 1972

The Local Government Finance Act 1988

The Local Government and Housing Act 1989

The Accounts and Audit Regulations 2003.

**A.18** The Head of Finance 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.

**A.19** The Head of Finance shall:

- (i) report to the Cabinet with respect to the level of financial resources estimated to be available in each financial year;
- (ii) report to the Cabinet quarterly with an annual outturn on the Council's financial position and performance;
- (iii) report to the Cabinet in respect of the Medium Term Financial Strategy.

**A.20** Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council, Cabinet and External Auditor if the Authority or one of its officers:

has made, or is about to make, a decision which involves incurring unlawful expenditure;

has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority;

is about to make an unlawful entry in the Authority's accounts.

Section 114 of the 1988 Act also requires:

the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally;

the Authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources - including legal advice where this is necessary - to carry out the duties under Section 114.

## OTHER OFFICERS

## Team Managers

- A.21** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Head of Finance.
- A.22** It is the responsibility of Team Managers to consult with the Head of Finance and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.
- A.23** Team Managers are responsible for the control and accountability of resources consumed and generated by their service areas.

## OTHER FINANCIAL ACCOUNTABILITIES

### Virement

- A.24** The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- A.25** When a proposal arises to spend money or forego income from a budget area where an underspending would otherwise occur and the overall net expenditure of a Service Area is not altered by such changes this may be approved by the relevant Director/Head of Service/Team Manager in consultation with the Head of Finance.
- A.26** Where in exceptional or unexpected circumstances a Directorate is faced with a material increase in its net expenditure, which cannot reasonably be contained within its resource allocation figure for the year, the Chief Executive or Directors must (wherever possible, prior to incurring the expenditure) submit a request to Cabinet for a supplementary estimate to cover the additional expenditure. The Cabinet will also decide how the expenditure will be funded, e.g. from revenue, loan or otherwise.
- A.27** The Chief Executive, Directors and Heads of Service shall monitor revenue expenditure and the Asset Management Group (Capital Working Party) shall monitor Capital expenditure on a regular basis. Significant matters will be reported to the Cabinet as necessary.

### Treatment of Year-end Balances

- A.28** The full Council is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

### Accounting Policies

**A.29** The Head of Finance is responsible for selecting accounting policies and ensuring that they are applied consistently.

## **Accounting Records and Returns**

**A.30** The Head of Finance is responsible for determining the accounting procedures and records for the Authority.

## **The Annual Statement of Accounts**

**A.31** The Head of Finance is responsible for ensuring that the annual statement of accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC). The full Council is responsible for approving the annual statement of accounts.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

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### **INTRODUCTION**

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**B.1** The full Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

the corporate plan;

the budget;

the capital programme.

### **POLICY FRAMEWORK**

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**B.2** The full Council is responsible for approving the budget and policy framework (which is detailed at Part 2, Article 4 and Part 4, Item 4.3 in the constitution).

**B.3** The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the full Council by the Monitoring Officer.

**B.4** The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.



## Preparation of the Council's Delivery Plan

- B.5** The Head of the Paid Service is responsible for proposing the Delivery Plan to the Cabinet for consideration before its submission to the full Council for approval.

## BUDGETING

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- B.6** The Head of Finance shall report annually to the Cabinet the details of capital and revenue estimates for all the council's functions. He or she shall prepare and update annually a three-year rolling revenue budget forecast. Each year the Cabinet shall consider and recommend, based on corporate priorities, the strategic allocation of resources to services and submit a report to Council.
- B.7** The format and timescale of the estimates shall be determined by the Head of Finance. It is the responsibility of the Directors, Heads of Service and Team Managers to ensure that budget estimates reflecting agreed service plans are submitted to the Head of Finance and that these are prepared and submitted as directed by the Head of Finance.

## Budget Monitoring and Control

### B.8

- (a) The Chief Executive, Head of Finance, Directors, Heads of Service and Team Managers shall:
- (i) only incur revenue expenditure where there is an approved budget provision in that financial year;
  - (ii) only incur capital expenditure where that project is in the Council's capital programme as applied to that financial year;
- (b) The Head of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- (c) It is the responsibility of Team Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Head of Finance. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Head of Finance to any problems.

## Budgetary Control - Capital

**B.9** In addition to B8 above, the following Financial Regulations shall apply:

- (a) whenever a new capital project is considered desirable, the Chief Executive or Directors shall (after submitting the project (with a Project Benefit Analysis) to the Asset Management Group and Corporate Leadership Team) submit the project to the Cabinet which shall, after considering advice from the Head of Finance (to include the implications of the Prudential Code if applicable and any current and future revenue implications) and other appropriate officers, make recommendations to the Council as to its acceptance or otherwise, indicating where appropriate its inclusion on the Long Term Capital Projects List and the level of priority for its implementation;
- (b) subject to (c) below, approval by Council of the Capital Programme shall be a prerequisite for the commencement of a project and to enter into a contract;
- (c) notwithstanding approval in the Capital Programme, if the proposed or actual expenditure (excluding supervision costs) exceed the approved estimate, the Team Manager shall, before proceeding, refer the proposal, with the comments of the Head of Finance, to the Cabinet;
- (d) any re-phasing of capital expenditure between years shall be subject to approval by the Head of Finance;
- (e) the Head of Finance is empowered to authorise spending in an emergency on any unforeseen health and safety work relating to a project.

### EMERGENCIES OR DISASTERS

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**B.10** In the event of an emergency or disaster, these Financial Regulations shall be suspended and the Chief Executive, Strategic Director of Place, Strategic Director of Housing and Customer Services and/or the Head of Finance be given delegated powers to take any action deemed necessary in respect of the financial matters of the Council, subject to such action being reported to the Cabinet.

### MAINTENANCE OF RESERVES

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**B.11** It is the responsibility of the Head of Finance to advise the Cabinet and/or the full Council on prudent levels of reserves for the Authority.

### FINANCIAL REGULATION C: RISK MANAGEMENT AND

## CONTROL OF RESOURCES

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### INTRODUCTION

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- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Authority. This should include the proactive participation of all those associated with planning and delivering services.

### RISK MANAGEMENT

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- C.2** The Cabinet is responsible for approving the Authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.
- C.3** The Head of Finance is responsible for preparing the Authority's risk management policy statement, for promoting it throughout the Authority and for advising the Cabinet on proper insurance cover where appropriate.

### INTERNAL CONTROL

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- C.4** Internal control refers to the systems of control devised by management to help ensure the Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- C.5** The Head of Finance is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.6** It is the responsibility of the Chief Executive, Directors, Heads of Service and Team Managers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- C.7** The duties of providing information regarding any sums of money due to or from the Council and of calculating, checking and recording such amounts, shall be separated as completely as possible from the duty of collecting or disbursing them.

### AUDIT REQUIREMENTS

- C.8** The Accounts and Audit Regulations 2011 (s6) requires every local authority to undertake an adequate and effective internal audit of its accounting records and of its system of internal control. This legal requirement shall be delegated to the Head of Finance. Internal Audit shall, as far as possible, comply with the Public Sector Internal Audit Standards.
- C.9** Internal Audit will have the responsibility to review, appraise and report as necessary on:-
- (a) the adequacy and effectiveness and application of internal controls and processes and systems;
  - (b) the extent of compliance with Financial Regulations and Standing Orders and approved policies and procedures of the Council plus the extent of compliance with external laws and regulation;
  - (c) the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from waste, inefficient administration, poor value for money, fraud or other cause.
- C.10** The Auditor shall have the Authority to:
- (a) enter any Council owned or occupied premises or land at all times (subject to any legal restrictions outside the Council's control);
  - (b) have access at all times to all the Council's records, documents and correspondence;
  - (c) require and receive such explanations from any employee or member of the Council as he or she may deem necessary concerning any matter under examination; and
  - (d) require any employee or member of the Council to produce cash, stores or any other Council owned property under their control.
  - (e) The Senior Internal Auditor shall have access to, and the freedom to report in his/her own name to all boards, members or officers, as he/she deems necessary.
- C.11** Any officer suspecting any irregularity in connection with financial or accountancy transactions shall inform his/her Team Manager, who shall immediately refer the matter to the Senior Internal Auditor who shall consult with the Head of Finance and the appropriate Team Manager and, if necessary, the police. A joint report shall be submitted to the Cabinet, if deemed necessary by the Head of Finance, Team Manager concerned and the Chief Executive.

- C.12** Financial Regulations C.8 to C.11 above are inclusive and complementary to and not a substitution for the statutory audit undertaken by the External Auditors and shall not diminish each Team Manager's responsibility to take adequate measures to safeguard the Council's cash, stores and other assets.

### STORES AND INVENTORIES

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- C.13** Each Team Manager shall be responsible for the custody and physical control of the stocks and stores in his/her service area and the records kept by the storekeepers shall be prescribed by the Head of Finance. Wherever possible, stocks and stores should be marked as the property of the Council.
- C.14** Each Team Manager, in conjunction with the Head of Finance, shall make arrangements for continual stock-taking covering all items at least once per year. Stock-taking procedures shall be conducted by officers independent of the day to day activities within the system. Any surpluses or deficiencies revealed shall be reported to the Head of Finance who shall, in conjunction with the appropriate Team Manager, agree any action required/recommend to the Cabinet any action considered necessary.
- C.15** Stocks shall be maintained within the minimum and maximum levels determined by the appropriate Team Manager, and the maximum level shall not be exceeded, except in special circumstances with the approval of the Head of Finance.
- C.16** Each Team Manager shall prepare and maintain an inventory in a form approved by the Head of Finance. The inventory shall include movable plant and machinery, rolling stock, furniture, fittings and equipment. The only exception is office stationery equipment (for example; calculators, hole punches, staplers, waste bins).

In addition to the divisional inventory, equipment purchased by the Information Technology Section, including that purchased on behalf of other Services, shall be recorded on the Information Technology inventory.

- C.17** All inventories shall be checked annually by Team Managers. Individual surpluses or deficiencies over £50 shall be dealt with in the manner prescribed for stores in paragraph C.14 (above). Where individual inventory items with an estimated value below £50 become surplus to requirements, the Council has a procedure for dealing with such items, which shall be adhered to.
- C.18** The Council's property shall not be removed otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific directions issued by the relevant Team Manager.

- C.19** All items appearing on the Inventory shall be indelibly marked as property of the Council.

### SECURITY

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- C.20** Each Team Manager shall be responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under his/her control. He/she shall consult the Head of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- C.21** The maximum limit for cash holdings shall be agreed with the Head of Finance and shall not be exceeded without his/her express permission.
- C.22** Keys to safes and similar receptacles are to be carried on the person of those responsible at all times. The loss of such keys must be reported to the Head of Finance immediately the loss is discovered.
- C.23** The Head of Finance shall be responsible for maintaining proper security and privacy as respects information held on computer for its use, in accordance with the Data Protection Acts 1984 and 1998, the Computer Misuse Act 1990 and the Freedom of Information Act 2000.

### BANKING ARRANGEMENTS

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- C.24** All arrangements with the Council's Bankers shall be made by or under arrangements approved by the Head of Finance, who shall be authorised to operate such banking accounts as he/she may consider necessary. Such arrangements shall be reported to the Cabinet from time-to-time.
- C.25** Transfers from accounts (but not between accounts) shall not be made unless authorised by one of the Financial Signatories to the Council.
- C.26** The Head of Finance shall be responsible for the ordering and custody of cheques to meet payments by him/her on behalf of the Council. Cheques shall be prepared, verified and accounted for under the direction of the Head of Finance and signed by him/her or one of the Financial Signatories to the Council provided that, for the purpose of this regulation only, 'signature' shall include the printed/facsimile signature of the Head of Finance.

### PETTY CASH AND FLOAT ACCOUNTS

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- C.27** The Head of Finance shall issue guidance as to the operation and management of these accounts.

### **C.28** Team Managers shall ensure that:

- (a) disbursements (other than renewal of imprest) shall be limited to expenses which are unavoidable and urgent. No single item exceeding £50 in amount (unless specifically authorised by the Head of Finance) shall be paid out of the petty cash account. All payments shall be supported by a receipted voucher to the extent that the Head of Finance may require and in particular to enable the recovery of Value Added Tax.
- (b) each account is accurately maintained on an imprest system;
- (c) such accounts are not used for depositing income nor for employees personal expenditure;
- (d) an officer responsible for an account shall make adequate arrangements for the security of cash and accounting records;
- (e) On leaving the employment of the Council or otherwise ceasing to hold an imprest advance, an officer shall account to the Head of Finance for the amounts advanced to him/her and payments made.

## **TREASURY MANAGEMENT**

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**C.29** The Authority has adopted CIPFA's Code of Practice for Treasury Management in the Public Services.

**C.30** The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in the Public Services. The policy statement is proposed to the full Council by the Cabinet. The Head of Finance has delegated responsibility for implementing and monitoring the statement.

**C.31** All money in the hands of the Council shall be aggregated for the purpose of treasury management and shall be under the control of the Head of Finance.

**C.32** The Head of Finance is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.

**C.33** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Head of Finance, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in the Public Services.

**C.34** The Head of Finance is responsible for reporting annually to the Cabinet on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

## STAFFING

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- C.35** The full Council is responsible for determining how officer support for Cabinet and non-executive roles within the Authority will be organised.
- C.36** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for providing overall management to staff. The Human Resources Team Manager is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.37** The Chief Executive, Directors, Heads of Service and Team Managers are responsible for controlling total staff numbers by:
- (a) advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels;
  - (b) adjusting the staffing to a level that can be funded within approved budget provision;
  - (c) varying the provision as necessary within that constraint in order to meet changing operational needs; and
  - (d) the proper use of appointment procedures.

## INSURANCES

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- C.38** The Head of Finance shall effect all insurance cover and register all claims in consultation with other officers where necessary.
- C.39** Team Managers shall give prompt notification to the Head of Finance in writing of all new risks, properties, vehicles or other assets which require to be insured and of any alterations affecting existing insurances.
- C.40** Team Managers shall immediately notify the Head of Finance in writing of any loss, liability or damage or any event likely to lead to a claim and inform the police where necessary unless otherwise decided by the Chief Executive.
- C.41** All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- C.42** The Head of Finance shall annually, or at such other period as he/she may consider necessary, review all insurances in consultation with other Team Managers as appropriate.
- C.43** Team Managers shall consult the Head of Finance respecting the terms of any indemnity which the Council is requested to give.



- C.44** Team Managers shall ensure that their employees are aware of any limitation of cover, e.g. motor insurance covering official duty only.
- C.45** Where a claim arises which is less than or equal to the value of the excess on any policy, the Team Manager shall submit a written request to the Head of Finance to make a specific financial offer. The request must be supported by reasons in favour of settlement and can only be signed by the Chief Executive, Head of Finance or Team Manager.

### CONTRACTS

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- C.46** The Head of Finance shall advise upon the financial aspects of all contracts before acceptance and shall keep a contracts register showing particulars of all contracts entered into by the Council for the execution of work and of payment made under such contracts. The Head of Finance shall retain copies of all contract documents and keep an appropriate register.
- C.47** The appointed Supervising Officer in control of the works shall give written orders in respect of all variations from the specification of the works included in the contracts and copies of these orders shall be forwarded to the Head of Finance with the estimated variations in cost noted thereon. Any such extra variation, where the estimated additional cost of which exceeds 5%, shall be reported to the appropriate Board as soon as practicable with details of the reason for the additional cost and the proposed method of funding the extra cost.
- C.48** Payments to contractors on account of contracts shall be made only on a certificate issued by the Supervising Officer in control of the works which shall show the total amount of the contract, the value of work executed to date, retention money, amount paid to date and amount certified as due. Details, variations and fluctuations included in the value of work to date shall accompany the certificate.
- C.49** On completion of a contract and before the issue of the certificate for final payment thereunder, the appointed Supervising Officer shall produce to the Senior Internal Auditor a detailed statement of the work under the contract, with all vouchers and documents relating to prime cost and provisional sums and any other particulars required showing full measurements, additions, deductions and omissions. The Final Certificate shall not be issued nor shall the contractor be informed that the final account is agreed and the balance under the contract paid until:
- (a) the Senior Internal Auditor has examined the accounts, vouchers and documents, and approved the final account.
  - (b) If any question of propriety of payment arises, the Cabinet shall have directed payment.

- C.50** Claims from contractors in respect of matters not clearly within the terms of an existing contract shall be referred to the Chief Executive/Head of Legal and Commercial Services for consideration of the Council's legal liability and where necessary, to the Head of Finance for financial consideration before a settlement is reached.
- C.51** Where completion of a contract is delayed beyond the completion date or any properly authorised extension thereof, it shall be the duty of the Supervising Officer to take appropriate action in respect of any claim for liquidated damages.
- C.52** In any case where the total cost of any work carried out under a contract exceeds by more than 10%, or £10,000, whichever is the lesser amount, the approved contract sum, a report of such cost shall, after agreement of the final account, be submitted to the appropriate Board by the appropriate Head of Service detailing any additional cost and proposed method of funding not previously reported under Regulation C.47.
- C.53** Subject to the expenditure on such matters being included in approved estimates, all orders or contracts for the supply of goods or materials or for the execution of work shall comply with the Contract Procedure Rules.
- C.54** When, in exceptional circumstances authority is sought to waive Financial Procedure Rules, the report to the appropriate Board must give adequate reasons and specify precisely the procedures to be waived.

### SALARIES

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- C.55** The payment of all salaries, wages and other emoluments to all employees of the Council shall be made by the Head of Finance and under arrangements approved and controlled by him/her.
- C.56** The Head of Finance shall be responsible for all records relating to National Insurance, Income Tax, Superannuation and Statutory Sick Pay. The Human Resources Team Manager shall be responsible for the issue of statements under the Contracts of Employment Acts.
- C.57** Each Head of Service shall be responsible for the completion of timesheets by employees, other than officers, under his/her control and for their evaluation and certification. Timesheets shall be forwarded to the Head of Finance in accordance with his/her directions, who shall be responsible for the preparation of salaries or wages. The Head of Service concerned, under the directions of the Head of Finance shall be responsible for the provision of transport and staff for the payment of salaries or wages.

**C.58** Each Head of Service shall notify the Head of Finance, as soon as possible, and in a form prescribed by him/her, of all matters affecting payment of salaries and wages and in particular:

- (a) appointments, resignations, dismissals, suspensions, secondment and transfers.
- (b) Absences from duty for sickness or other reason, apart from approved leave with pay.
- (c) Changes in remuneration, other than normal increments, pay awards and agreements of general application.
- (d) Information necessary to maintain records of service for superannuation, income tax, national insurance, etc.

**C.59** Each Head of Service, in conjunction with the Human Resources Team Manager, shall make arrangements to annually confirm the authenticity of those employees appearing on the payroll for his/her Service. Such arrangements shall include the verification of individual rates of pay.

### LEASING

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**C.60** All items proposed to be leased shall be approved by the Council prior to arrangements being made.

**C.61** All leasing agreements will be arranged and agreed by the Head of Finance. An agreement can only be signed on behalf of the Council, by the Chief Executive or the Head of Finance, providing that the revenue estimate is not exceeded.

**C.62** The Head of Service responsible for the goods to be leased shall provide the Head of Finance with such information as is required by him/her in order to obtain the best and most appropriate type of lease possible.

### FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES

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#### INTRODUCTION

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**D.1** Sound systems and procedures are essential to an effective framework of accountability and control.

#### GENERAL

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**D.2** The Head of Finance is responsible for the operation of the Authority's accounting systems, the form of accounts and the supporting financial records. Any changes proposed by the Chief Executive, Directors, Heads of Service and Team Managers to the existing financial systems or the

establishment of new systems must be approved by the Head of Finance. However, the Chief Executive, Directors, Heads of Service and Team Managers are responsible for the proper operation of financial processes in their own Services.

- D.3** The Chief Executive, Directors, Heads of Service and Team Managers should ensure that their staff receive relevant financial training that has been approved by the Head of Finance.
- D.4** The Chief Executive, Directors, Heads of Service and Team Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Team Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### AUTHORISED SIGNATORIES

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- D.5** It is the responsibility of the Chief Executive, Directors and Heads of Service to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on their behalf in respect of payments, income collection and placing orders, together with the financial limits of their authority. The financial limits will be determined by the Council's Corporate Leadership Team. Team Managers shall ensure that specimen signatures and initials of such authorised staff are sent to the Head of Finance and such records shall be amended by the Team Manager on the occasion of any change therein.

### CONTROL OF EXPENDITURE

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- D.6** Orders for goods and services shall not be issued unless the expenditure is included in an approved estimate or other specified financial provision.
- D.7** All orders shall be in writing, signed by the appropriate Team Manager or such other officer as nominated by him/her and notified to the Head of Finance.
- D.8** Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility service; and for periodical payments such as rent or rates/local tax, for petty cash purchases or such other exceptions as the Head of Finance may approve.
- D.9** Each order shall conform to the directions of the Council with respect to central purchasing, use of contracts and the standardisation of supplies and materials and be in a form approved by the Head of Finance in accordance with Regulation D.2 above.

- D.10** Monied invoices and/or delivery notes should, where appropriate, accompany the delivery of goods and the receiving officer must certify thereon, at the time of delivery, receipt of the goods. Where ordered and delivered by weight or volume the receiving officer shall make such periodical tests as are necessary to ensure that the quantities charged have actually been delivered.
- D.11** All invoices, accounts and claims relating to amounts due from the Council shall be checked in the Service concerned and such checking being indicated by the initials of the examining officer and certified by the appropriate Team Managers or such other officer as nominated by him/her. The number of the official order and the head of expenditure to which it relates must be indicated thereon. Expenditure/income should be coded in accordance with instructions issued by the Head of Finance, with VAT appropriately identified in order that the Head of Finance may recover output tax (VAT). A VAT invoice/receipt must be obtained in all appropriate cases.
- D.12** The Team Managers concerned shall be responsible for the accuracy of accounts submitted for payment which shall be signed by the Team Managers or authorised officer in accordance with regulation D.5. The passing of an account for payment by or on behalf of the Team Managers shall mean:
- (a) that the materials have been supplied, the work performed or the services rendered and that they are satisfactory as to quality and correct as to quantity;
  - (b) that the price is in accordance with quotations, contract agreement or current market rate whichever is applicable;
  - (c) that the account is allocated to the correct expenditure heading;
  - (d) that all trade and cash discounts and other proper allowances have been deducted;
  - (e) that the account has not been previously paid and that the copy of the official order has been marked off to prevent duplicate payment;
  - (f) that the account is arithmetically correct unless a variation has been agreed by the Head of Finance;
  - (g) that the expenditure is within the Authority's legal powers.

**NOTE:** The passing of an account for payment by a Team Manager or authorised officer confirms that he/she is satisfied that all necessary steps in the certification procedure have been satisfactorily carried out.

Accordingly, it is for the Team Manager or authorised officer to recognise the initials of officers carrying out this preliminary certification procedure as those of officers who are in a position to satisfactorily perform the work responsibly.

It is essential that a minimum of two officers at least should be involved in the preliminary certifications in order that the officer certifying that the goods have been supplied or the work done is different from the officer certifying the remaining items. It is also desirable that the making out of official orders and the entering of goods received records are undertaken by different officers and that this should be divorced from the certification of invoices although it is appreciated that this is not always possible in smaller Services. A Team Manager who delegates the certification of accounts should satisfy him/herself that the procedure is operating satisfactorily by signing all accounts personally from time-to-time).

- D.13** Before authorising payments to a sub-contractor, as defined by the Inland Revenue, for construction work carried out, the certifying officer of the Service concerned shall satisfy himself/herself that the sub-contractor to whom payment is due is the holder of a valid Sub-Contractors Tax Certificate issued by the Inland Revenue, otherwise tax at the appropriate rate must be deducted as required by any statutory provisions in being at that time.
- D.14** Invoices made out by an officer of the ordering Service and statements unaccompanied by the relative invoices and delivery notes, copy invoices or reminders shall not be accepted as a basis for payment.
- D.15** In all cases of purchase of property, the Head of Finance shall be the authorising officer. When requesting payment he/she shall provide full particulars of the property, the name of the vendor/purchaser, the amount of purchase money, expenses and Minute authorisation. Full particulars of the property purchased shall be entered in the official Register of Properties kept by the Head of Finance.
- D.16** Duly certified accounts shall be passed without delay to the Head of Finance who shall examine them to the extent that he/she considers necessary, for which purpose he/she shall be entitled to make such enquiries and to receive such information and explanation as he/she may require.
- D.17** The Head of Finance shall be authorised to pay all accounts duly certified in accordance with these regulations. The normal method of payment shall be by cheque, BACS or other instrument drawn on the Council's banking account.
- D.18** Each Head of Service/Team Manager shall, as soon as possible after 31 March and no later than detailed in the final accounts timetable each year, notify the Head of Finance of outstanding expenditure relating to the previous financial year.

### CONTROL OF INCOME

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- D.19** All arrangements for the collection of monies due to the Council shall be subject to approval by the Head of Finance in conjunction with the appropriate

Team Manager and the Head of Finance shall set up debits for all items of income due. No such items over £10,000 shall be written off as irrecoverable unless approved by the Cabinet. Any request to forego income shall be subject to written approval of the Head of Finance.

- D.20** The Team Managers shall promptly furnish the Head of Finance with such particulars in such form as he/she may require in connection with work done, goods supplied or service rendered and all other amounts due to the Council as may be required by him/her to record correctly all sums due to the Council and to ensure the prompt rendering of accounts for the recovery of income due.
- D.21** The Head of Finance shall be notified promptly of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and the Head of Finance shall have the right to inspect any documents or other evidence in this connection as he/she may decide.
- D.22** All receipt forms, books, tickets and other such items shall be ordered and supplied to Team Managers by the Head of Finance, who shall satisfy himself/herself as to the arrangements for their control.
- D.23** Each employee who receives monies on behalf of the Council or in the normal course of their duty shall give such acknowledgment and enter up punctually such records as may be approved by the Head of Finance. Such income shall be paid to the Head of Finance or direct to the Council's account, either daily or when there is a sum of £100 in hand. Any variation from this procedure shall be subject to the written approval of the Head of Finance. On no account should such monies be paid into the personal account of an employee. No deduction may be made from such money save to the extent that the Head of Finance may specifically authorise. Each officer who so banks money shall enter on the paying-in slip a reference to the related debt or otherwise indicate the origin of the cheque on the reverse of each cheque, the officer shall enter the name of his/her Service, office or establishment.
- D.24** Personal cheques shall not be cashed out of money held on behalf of the Council.
- D.25** Every transfer of official money from one member of staff to another will be evidenced in the records of the Services concerned by the signature of the receiving officer.
- D.26** Post-dated cheques will not normally be accepted. The only formal exception to this rule will be acceptance of a cheque, by the Assistant Senior Exchequer Services Officer, which shall not be dated more than 7 working days in advance\*. This will only be allowed where the debtor has no previous history of dishonoured cheques. The Assistant Senior Exchequer Services Officer

will only accept one cheque per debtor on each occasion. Such cheques will be recorded and retained by the Assistant Senior Exchequer Services Officer.

In exceptional circumstances, any other requests to accept a post-dated cheque must have the approval of the Head of Finance.

\*(This is to allow provision where a debtor is expecting funds to be credited to a bank account during the period it is likely to take to return a cheque and receive replacement.)

- D.27** The Chief Executive, Directors, Heads of Service or Team Managers may in conjunction with the Head of Finance write-off as irrecoverable sundry and other debts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as irrecoverable sundry and other debts not exceeding £25 where these are deemed uneconomical to pursue and cannot be added to a future account. No debts over £10,000 shall be written off as irrecoverable without the approval of Cabinet.

**NOTE:** Outstanding debts will still be pursued after write-off should information be received which indicates that there is a possibility that the debt can be recovered.

- D.28** The Chief Executive, Directors or Heads of Service may, in conjunction with the Head of Finance, write-off as non-refundable credits on accounts not exceeding £10,000. The Chief Executive or Heads of Service may write-off as non-refundable credits on accounts not exceeding £25 where these are deemed uneconomical to pursue and cannot be deducted from a future account. No such items over £10,000 shall be written off as non-refundable without the approval of the Cabinet.

## FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS

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### INTRODUCTION

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- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

### PARTNERSHIPS, JOINT VENTURES AND COMPANIES IN WHICH THE COUNCIL IS A GUARANTOR OR HAS A SHARE HOLDING INTEREST

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- E.2** The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.



- E.3** The Cabinet can delegate functions - including those relating to partnerships - to officers. These are set out in the scheme of delegation that forms part of the Authority's constitution. Where functions are delegated, the Cabinet remains accountable for them to the full Council.
- E.4** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Authority.
- E.5** The Head of Finance must ensure that the accounting arrangements to be adopted relating to partnerships, joint ventures and companies are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.6** Team Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. Where it is proposed that the Council be involved in an arrangement of this nature the appropriate officer will first consult with the Head of Finance and the Head of Legal and Commercial Services on the proposals.
- E.7** The Head of Finance is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- E.8** Further to Regulation E.7 unless secure arrangements are put in place to the contrary, any such arrangements will comply with the Council's Financial Regulations and this shall be stated in any such contracts.

**4.9: OFFICER EMPLOYMENT PROCEDURE RULES**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>General</b>
<b>2:</b>	<b>Recruitment and Appointment</b>
<b>3:</b>	<b>Recruitment of Head of Paid Service and Chief Officers</b>
<b>4:</b>	<b>Appointment of Head of Paid Service</b>
<b>5:</b>	<b>Appointment of Chief Officers</b>
<b>6:</b>	<b>Appointment of Deputy Chief Officers</b>
<b>7:</b>	<b>Procedure for the Permanent Appointment of Chief Officers</b>
<b>8:</b>	<b>Other Appointments</b>
<b>9:</b>	<b>Disciplinary Action</b>
<b>10:</b>	<b>Dismissal</b>

## 1. GENERAL

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- 1.1** Subject to Rule 1.2 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Authority must be discharged, on behalf of the Authority by the Head of Paid Service or by an officer nominated by him or her.
- 1.2** Rule 1.1 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) The Head of the Paid Service.
  - (b) A statutory chief officer.
  - (c) A non-statutory chief officer.
  - (d) A deputy chief officer.
  - (e) A political assistant.
- 1.3** Permanent appointment shall be upon a contract which, unless terminated earlier by either party, would continue for a period of more than 18 months. Interim appointment shall be upon terms which will terminate before the expiry of a period of no more than 18 months, unless extended with the approval of the Appointments Committee (for chief and deputy chief officers) or the Head of Paid Service (for all other officers).
- 1.4** Appointment shall include designation as Head of Paid Service, Chief Finance Officer and Monitoring Officer.

## 2. RECRUITMENT AND APPOINTMENT

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### 2.1 Declarations

- 2.1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- 2.1.2 No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

### 2.2 Seeking support for Appointment

- 2.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.2.2 No councillor will seek support for any person for any appointment with the Council.
- 2.2.3 No councillor shall give a reference (oral or written) for a candidate for employment by the Council.

## **3. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

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- 3.1 Where the Council proposes to appoint a chief officer (including the Head of Paid Service) and it is not proposed that the appointment be made exclusively from among their existing officers or by way of interim appointment, the Council will:
  - 3.1.1 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.
  - 3.1.2 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; and
  - 3.1.3 make arrangements for a copy of the statement mentioned in sub paragraph 3.1.1 to be sent to any person on request.

## **4. APPOINTMENT OF HEAD OF PAID SERVICE**

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- 4.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointments Committee established in accordance with Rule 5.1 below. That Committee must include at least one member of the Cabinet.
- 4.2 The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

## **5. APPOINTMENT OF CHIEF OFFICERS**

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- 5.1 All permanent (as opposed to interim) appointments to chief officer posts shall be made on a resolution of the Appointments Committee, which shall be

established by the Council. The Appointments Committee must include at least one member of the Cabinet.

**5.2** An offer of permanent or interim employment as a chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

**5.3** Subject to paragraph 5.5 below, in these Rules, chief officers are defined as:

5.3.1 the Chief Executive (as Head of Paid Service)

5.3.2 the statutory chief officers (Chief Finance Officer and the Monitoring Officer)

5.3.3 the non-statutory chief officers which are:

(a) officers for which the Chief Executive is responsible

(b) officers in the Chief Executive's Department who report to or who are directly accountable to the Chief Executive by virtue of the nature of their duties; and

(c) officers who report to or who are directly accountable to the Council itself or any committee of the Council by virtue of the nature of their duties.

## **6. APPOINTMENT OF DEPUTY CHIEF OFFICERS**

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**5.4** Subject to paragraph 5.5 below, in these Rules, deputy chief officers are defined as officers in departments who, by virtue of the nature of their duties, either report to or are directly accountable to the statutory or non-statutory chief officer responsible for that department.

**5.5** All permanent (as opposed to interim) appointments to deputy chief officer shall be made by the Head of Paid Service provided that no well-founded objection from any member of the Cabinet has been received.

**5.6** Rules 5.3 and 5.4 do not apply to officers whose duties are solely secretarial and clerical or are in the nature of support services or to officers below Head of Service level.

## **7. PROCEDURE FOR THE PERMANENT APPOINTMENT OF CHIEF OFFICERS**

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**7.1 Appointment Process.** The following process will apply after an Appointments Committee has interviewed all shortlisted candidates:

- 7.1.1 If the Committee agrees on a candidate suitable for the post, it will indicate its 'provisional intention to make an offer' to the Chief Executive.
- 7.1.2 The Committee will inform the Chief Executive of the name of the candidate to whom it wishes to make an offer together with any relevant particulars which the Committee considers relevant in making the appointment.
- 7.1.3 The Chief Executive will notify each member of the Cabinet within 24 hours of:
- (a) the name of the person to whom the Committee wishes to make an offer.
  - (b) any other particulars relevant to the appointment notified by the Committee.
  - (c) the period within which any objection to the making of the offer is to be made by any member of the Cabinet.
- 7.1.4 The period of objection will be 2 working days. If the period of objection is to be shortened, then notification will be by telephone and e-mail.
- 7.1.5 If:
- (a) the Leader notifies the Committee that neither he or she or any other member of the Cabinet has an objection to an offer being made; or
  - (b) the Chief Executive notifies the Committee that no objection has been received from the Cabinet within the objection period;
- the 'provisional intention to make an offer' will become a firm offer and the offer made without the need for the Committee to re-convene.
- 7.1.6 If an objection is received from a member of the Cabinet, the Committee will re-convene to consider the objection. If the Committee is satisfied that any objection received from the Cabinet is not material or is not well founded, it will confirm its decision and a formal offer will be made.

## 8. OTHER APPOINTMENTS

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- 8.1 Appointment of officers below deputy chief officer (other than assistants to the political groups) and interim appointment of all officers other than Head of

Paid Service shall be the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.

- 8.2** Appointment of an Assistant to a political group shall be made in accordance with the wishes of that political group.

## **9. DISCIPLINARY ACTION**

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- 9.1 Suspension.** The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (a Relevant Officer) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

- 9.2 Investigatory Committee.** No other disciplinary action may be taken in respect of any Relevant Officer except in accordance with a recommendation in a report made by the Investigatory Committee.

- 9.3** Where it appears to the Council that an allegation of misconduct by a Relevant Officer requires to be investigated, the Investigatory Committee will arrange for an investigation into the allegation to be carried out on its behalf. Such investigation may be conducted either by:

- a) An officer of the District Council ;or
- b) A suitably qualified external person or body

- 9.4** In the course of the investigation the Investigatory Committee may direct:

9.4.1 that the Council terminate any suspension of the relevant officer where its enquiries reveal no gross misconduct;

9.4.2 that any such suspension must continue beyond the two month period in 8.1;

9.4.3 that the terms on which any such suspension has taken place must be varied in accordance with the direction; or

9.4.4 that no steps (whether by the Council or any Committee, Sub-committee or officer acting on behalf of the Council) towards disciplinary action or further disciplinary action against the relevant officer are to be taken before a report is made under 9.8 below.

- 9.5** The Investigatory Committee or a person acting on their behalf may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council or which the Council has the power to authorise them to inspect.

- 9.6** The Investigatory Committee or a person acting on their behalf may require any member of the Council's staff to answer questions concerning the conduct of the Relevant Officer.
- 9.7** Unless they have previously directed that the suspension be terminated and the officer reinstated, the Investigatory Committee must make a report to the Council:
- 9.7.1 stating the committee's opinion as to whether (and if so, the extent to which) the evidence the committee has obtained supports any allegation of misconduct against the relevant officer; and
  - 9.7.2 recommending any disciplinary action (including the proposed dismissal of the Relevant Officer) which appears to the committee to be appropriate for the Council to take against the relevant officer.
- 9.8** The Investigatory Committee must, no later than the time at which they make a report under 9.8 above to the Council, send a copy of the report to the relevant officer.
- 9.9** Before the taking of a vote at a meeting to consider whether or not to approve a proposal to dismiss a relevant officer the Council must take into account, in particular;
- a) any advice, views or recommendations of the Investigatory Committee
  - b) the conclusions of any investigation into the proposed dismissal; and
  - c) any representations from the relevant officer
- 9.10** Members of the Council will not be involved in disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of disciplinary action.

## **10. DISMISSAL**

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- 10.1** Members of the Council will be involved in the dismissal an officer who is a deputy chief officer or above.

### Statutory Officers

The decision to dismiss a Statutory Officer (Head of Paid Service, Monitoring Officer and Section 151 Officer) is reserved to Council.

- 10.2** Non-statutory Chief officers and Deputy Chief officers

Where a Committee or officer ("the dismissor") proposes to dismiss:



- (iii) a non-statutory chief officer or,
- (iv) a deputy chief officer
- (a) Notice of dismissal must not be given until the dismissor has notified the Head of Paid Service (or where the officer to be dismissed is the Head of Paid Service, the Monitoring Officer) of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and
- (b) The Head of the Paid Service, or as the case may be, the Monitoring Officer, has notified every member of the Cabinet of:
  - (i) The name of the person whom the dismissor wishes to dismiss;
  - (ii) Any other particulars relevant to the dismissal which the dismissor has notified; and
  - (iii) The period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Paid Service/Monitoring Officer; and
- (c) Either:
  - (i) The Leader has within the period specified in the notice under 10.2. b) above notified the dismissor that neither he nor she nor any other member of the Cabinet has any objection to the dismissal;
  - (ii) The Head of Paid Service/Monitoring Officer has notified the dismissor that no objection was received by him or her within that period from the Cabinet;Or:
  - (i) The dismissor is satisfied that any objection received from the Cabinet within that period is not material or is not well founded.
- (d) The dismissal of staff below the position of Deputy Chief Officer is reserved to the Head of Paid Service

# **PART 5**

## **CODES AND PROTOCOLS**

## 5.1 CODE OF CONDUCT OF NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

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The Members' Code of Conduct is intended to promote high standards of behaviour amongst the elected and co-opted members of the council.

The Code is underpinned by the following principles of public life which should be borne in mind when interpreting the meaning of the Code:

- (i) **Selflessness** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- (ii) **Integrity** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- (iii) **Objectivity** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- (iv) **Accountability** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- (v) **Openness** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- (vi) **Honesty** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- (vii) **Leadership** Holders of public office should promote and support these principles by leadership and example.

## PART 1 - GENERAL PROVISIONS

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### 1. Introduction and Interpretation

- 1.1 You should read this Code in conjunction with the Council Procedure Rules as detailed in the Constitution.
- 1.2 This Code applies to **you** as a member of North West Leicestershire District Council.

1.3. It is **your** responsibility to comply with the provisions of this Code and ensure all obligations are met.

1.4 In this Code:

**“Meeting”** means any meeting of:

- (a) the Authority;
- (b) the Cabinet of the Authority;
- (c) any of the Authority’s or its Cabinet’s committees, sub-committees, joint committees, joint sub-committees, or area committees;

1.5 **“Member”** means any person being an elected or co-opted member of the Authority and any independent person appointed by the Authority to assist with the discharge of the Code of Conduct functions.

1.6 In relation to a parish council, references to an authority's Monitoring Officer and an authority's Standards Committee shall be read, respectively, as references to the Monitoring Officer and the Standards Committee of the District Council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

## **2. Scope**

2.1 You must comply with this Code whenever you:

2.1.1 are acting in the capacity of Member of your Authority;

2.1.2 conduct the business of your Authority (which, in this Code, includes the business of the office to which you are elected or appointed).

2.2 Where you act as a representative of North West Leicestershire District Council:

2.2.1 on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct;

2.2.2 on any other body, you must, when acting for that other body, comply with this Code of Conduct except in so far as it conflicts with any other lawful obligations to which that other body may be subject.

2.3 In addition to having effect in relation to conduct in your official capacity, the Code also has effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

2.4 Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal

offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

## **3. Respect**

### **3.1 You must treat others with respect.**

It is the collective responsibility of all Members to create a fair, safe and enjoyable environment for Members, Officers and Residents which is free from discrimination, intimidation and abuse.

### **3.2 You must not:**

3.2.1 do anything which may cause the Authority to breach the Equality Act 2010;

3.2.1 bully any person;

3.2.3 intimidate or attempt to intimidate any person who is or is likely to be:

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct;

3.2.4 do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

## **4. Confidentiality**

4.1 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

4.1.1 you have the consent of a person authorised to give it;

4.1.2 you are required by law to do so;

4.1.3 the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

4.1.4 the disclosure is:

- (aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the Authority.

4.2 You must not prevent another person from gaining access to information to which that person is entitled by law.

## **5. You must not**

5.1 Conduct yourself in a manner which could reasonably be regarded as bringing your authority into disrepute.

5.2 Place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

5.3 Use or attempt to use your position as a member improperly to confer on, or secure for yourself or any other person, an advantage or disadvantage including providing or offering to provide a reference for any candidate for employment or promotion with the Authority.

5.4 Use or allow to be used Council resources improperly for political purposes (including party political purposes) and act in accordance with the Council's reasonable requirements.

## **6. You must**

6.1 When reaching decisions on any matter have regard to any relevant advice provided to you by:

6.1.1 Statutory Officers; or

6.1.2 Senior Officers,

where that officer is acting pursuant to his or her statutory duties.

6.1.3 Any advice from a third party.

6.2 Give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed.

6.3 Make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on individual and independent merit

6.4 Be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for

those decisions and actions, notwithstanding your other obligations under this Code.

## 7. Accountability

- 7.1 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office.

## PART 2 - INTERESTS

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### 8. Disclosable Pecuniary Interests

- 8.1 Subject to Paragraph 11 (sensitive interests), you must within 28 days of

- (a) this code being adopted or
- (b) your election or appointment (where that is later)

Notify the Monitoring Officer of any Disclosable Pecuniary Interests where such interest is

- (i) yours,
- (ii) your spouse's or civil partner's,
- (iii) somebody with whom you are living as husband and wife or civil partners
- (iv) that of your family,
- (v) close associate.

and you are aware that that person has the interest

- 8.2 Subject to Paragraph 11, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or any change to any such interest, notify the Monitoring Officer in writing of that new interest or change pursuant to Paragraph 8.1.

- 8.3 You have a Disclosable Pecuniary Interest if it is of a description specified in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012/1464 as specified below:.

- (i) Any employment, office, trade, profession or carried on for profit or gain;
- (ii) Sponsorship – Any payment or provision or any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out their duties as a member, or towards the election expenses of the member (this includes any payment or financial benefit

from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992).

- (iii) Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:-
  - (a) Under which goods or services are to be provided or works are to be executed; and
  - (b) Which has not been fully discharged
- (iv) Any beneficial interest in land which is within the area of the relevant authority
- (v) Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer
- (vi) Any tenancy (where to the member's knowledge):-
  - a) The landlord is the relevant authority; and
  - b) The tenant is a body in which the relevant person has a beneficial interest
- (vii) Any beneficial interest in securities of a body where:-
  - (a) That body (to the member's knowledge) has a place of business or land in the area of the relevant authority; and
  - (b) Either
    - (i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) If the share capital of that body is of more than one class the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of the class

8.4 Where such an interest exists and has or has not been entered onto the authority's register, you must disclose the interest to any meeting of the authority at which you are present, where you have a Disclosable Interest in any matter being considered and where the matter is not a 'sensitive interest' or where no dispensation has been given.



8.5 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer in writing of the interest within 28 days beginning with the date of disclosure.

8.6 Where you have a Disclosable Pecuniary Interest you must not remain in the meeting or participate in the discussions on the matter on which you hold that Interest.

## **9. Disclosable Non-Pecuniary Interests**

9.1 Subject to Paragraph 11 (sensitive interests), you must within 28 days of

- (a) this code being adopted or
- (b) your election or appointment (where that is later)

notify the Monitoring Officer of any Disclosable Non-Pecuniary Interests.

9.2 Disclosable Non-Pecuniary Interests are defined as (but not limited to) the following under this Code:.

(i) Any gift or hospitality you have received with an estimated value of £25.00 or more which must also be registered in the Gifts and Hospitality Register

(ii) Sensitive Information under Paragraph 11 of the Code of Conduct

(iii) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council

(iv) Any Body:-

(a) Exercising functions of a public nature;

(b) Directed to charitable purposes; or

(c) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member of in the position of general management

9.3 Where you have a Disclosable Non-Pecuniary Interest you may remain in the meeting, speak and vote on the matter unless to do would compromise your impartiality obligations or any other obligations set out in this Code.

## **10. Dispensations**

10.1 Dispensations may be granted by the Monitoring Officer for one meeting only on request in writing from you.

- 10.2 Requests for Dispensations must be made in writing detailing what the interest is, why it is required and for what meeting.
- 10.3 Requests must be made 5 days prior to the meeting at which the Dispensation is required.
- 10.4 Further Dispensations must be sought from the Audit and Governance Committee or its Sub Committee.
- 10.5 Dispensations will only be granted where there are reasonable grounds for doing so and where such grounds are in the public interest.

### **11. Sensitive Interests**

- 11.1 A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

### **GUIDANCE ON THE CODE OF CONDUCT**

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In accepting these Obligations you are committed to behaving in a manner that aims to achieve best value for our residents and maintain public confidence in this authority by the character and behaviour you present while acting in the course of your public duty.

In your role as a Member for North West Leicestershire District Council you must address the principles of the Code of Conduct by

- Championing the needs of residents – the whole community and in a special way your constituents, including those who did not vote for you - and putting their interests first.  
Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the District Council's area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties as a member/co-opted member of this authority.

- Being accountable for decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

**5.2: PROTOCOL ON MEMBER/OFFICER RELATIONS**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Introduction</b>
<b>2:</b>	<b>The Respective Roles of Members and Officers</b>
<b>3:</b>	<b>Officers' Advice and Political Neutrality</b>
<b>4:</b>	<b>Officers' Advice on Declarations of Interest</b>
<b>5:</b>	<b>Personal Relationships</b>
<b>6:</b>	<b>Appointment of Officers</b>
<b>7:</b>	<b>Undue Pressure</b>
<b>8:</b>	<b>Officers' Reports and Advice</b>
<b>9:</b>	<b>Officer Decisions Made Under Delegated Powers</b>
<b>10:</b>	<b>The Officer Relationship with the Leader and Other Cabinet Members</b>
<b>11:</b>	<b>Constructive Criticism/Complaints</b>
<b>12:</b>	<b>Members' Access to Information and to Council Documents</b>
<b>13:</b>	<b>Public Relations and Press Releases</b>
<b>14:</b>	<b>Member Support Services</b>
<b>15:</b>	<b>Correspondence</b>
<b>16:</b>	<b>Unresolved Issues and Amendments to the Protocol</b>

**17:        Contravention of the Protocol**

## 5.2 PROTOCOL ON MEMBER/OFFICER RELATIONS

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### 1. INTRODUCTION

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- 1.1 The purpose of this document is to provide a guide to good working relationships between officers and members of the Council.

### 2. THE RESPECTIVE ROLES OF MEMBERS AND OFFICERS

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- 2.1 Members are elected to make decisions in the interests of the District and to represent their constituents. Under the Council's executive arrangements, members perform roles on the Cabinet, the Scrutiny Committees and on other committees and sub-committees in addition to sitting as members of the Council. Each member of the Cabinet is a portfolio holder, responsible for particular areas of activity. Some members represent the Council on outside bodies.
- 2.2 Officers are employed by and serve the whole Council. They advise the Council, its Committees and Sub-committees and the Cabinet. They implement decisions of the Council, the Cabinet and decision making groups. Officers also make decisions under powers delegated to them.
- 2.3 Officers are responsible to their line manager and, ultimately their Team Manager/Head of Service. Heads of Service, the Strategic Director of Housing and Customer Services and the Strategic Director of Place are accountable to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including the Chief Executive, as the Head of Paid Service. Other officers also hold statutory posts such as Section 151 Officer under the Local Government Act 1972 for financial legality and the Monitoring Officer who is responsible for overseeing the conduct of councillors and the legality of decisions made by the Cabinet.
- 2.4 The Strategic Director of Place, Strategic Director of Housing and Customer Services, Heads of Service and Team Managers have responsibility for delivering their respective services in accordance with the Council's Policies and the provisions of the Council's Constitution.

### 3. OFFICERS' ADVICE AND POLITICAL NEUTRALITY

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- 3.1 Officer advice and support will be provided to:

Council Meetings;

Meetings of the Cabinet and any Committee or Sub-committee established by the Council or Cabinet;

Cabinet members (portfolio holders);

Meetings of the Scrutiny Committees, Audit and Governance Committee and other Committees/Sub-committees;  
Task Groups/Working Parties, etc;

Groups;

Members of Council on Council business.

- 3.2 Officers will also provide advice and assistance to individual members in respect of Council Business, including issues raised by constituents, where appropriate.
- 3.3 Members should not discuss matters relating to staffing, establishment or the organisational structure of the Council or its operational services, with officers other than Team Managers, Heads of Service, the Strategic Director of Place, the Strategic Director of Housing and Customer Services or the Chief Executive. Officers must not discuss with or advise members on such matters without the prior agreement of their Team Manager, Director or the Chief Executive.
- 3.4 Officers must not be requested to advise upon matters of party business or private matters.
- 3.5 All officers must treat political Groups and individual members in a fair and even-handed manner. Officers must maintain political neutrality and members must respect this.
- 3.6 Team Managers, Heads of Service, the Strategic Director of Housing and Customer Services and the Strategic Director of Place may be invited to attend political Group meetings. Where such an invitation is accepted, the same opportunity will be afforded to all other political groups.
- 3.7 Political Group meetings fall outside the Council's decision making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such. The Code of Conduct for Councillors applies to members attending Political Group meetings with respect to Council related matters.

## **4. OFFICERS' ADVICE ON DECLARATIONS OF INTEREST**

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- 4.1 All members are required to abide by the Code of Conduct, which sets out standards governing their conduct. The Monitoring Officer will provide advice and information to members on declarations of interest. It is the member's responsibility to decide whether any interest should be declared. Members are normally expected to seek advice prior to a meeting. Raising such issues for the first time at a Council or public meeting can place officers in a difficult position, and does not reflect well on the Council. Officers must, when

requested to do so, respect members' confidentiality when providing advice on declarations of interest but may otherwise draw to a member's attention the need to declare a known interest.

## 5. PERSONAL RELATIONSHIPS

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**5.1** Close personal familiarity between individual members and officers can damage working relationships and prove embarrassing to other members and officers. There is the danger of favouritism being shown to a particular member or officer. There may be a risk that confidential information will be passed to a member.

**5.2** For these reasons, such personal familiarity is discouraged. Nevertheless, it is recognised that there may be occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.

A member must declare to the Chief Executive and his/her respective Group Leader any relationship with an officer that might be seen as influencing his/her work as a member. This includes a family or close personal relationship. Similarly, the officer concerned should notify his/her Team Manager and the Strategic Director of Housing and Customer Services/Strategic Director of Place/Chief Executive as appropriate, or, in the case of the Strategic Director of Place/Strategic Director of Housing and Customer Services, the Chief Executive, then all Group Leaders should be notified.

## 6. APPOINTMENT OF OFFICERS

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**6.1** The Constitution contains rules of procedure for the appointment of staff. Members cannot appoint staff below Team Manager level. Where members are involved in making appointments, they must not take any part in the appointment of anyone to whom they are:

Married;

A partner;

Otherwise related;

A close friend;

A business associate.

**6.2** Members may be involved in interviewing internal candidates who will be well known to them. On such occasions, members must not allow that knowledge to influence their judgement one way or the other.



## 7. UNDUE PRESSURE

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- 7.1** A member should not apply pressure on an officer to do anything that he/she is not empowered to do, or which is against the officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 7.2** Similarly, an officer must not seek to influence an individual member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees except in accordance with law. Members who receive any such approach from an officer should advise the Chief Executive and/or the Director immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.
- 7.3** Members may contact officers for information/advice about matters relating to officers' responsibilities. Members are expected to exercise caution when approaching junior staff who may feel intimidated by such approaches. Heads of Service (Team Managers) are responsible for organising their staff's workloads and priorities. Members should not ask individual members of staff below Team Manager level to carry out work or research of a particular nature, which might involve staff spending time on matters that may not necessarily form part of the priorities of that particular service. In addition, members must not request individual members of staff to attend meetings or visit particular sites. All such requests must be made to the relevant Team Manager who will decide whether or not the work should be carried out.
- 7.4** Whilst senior officers endeavour to see members without prior appointment this can cause difficulties. Generally speaking, members should make appointments to speak to officers. It can be disruptive to walk in unannounced, and this should be avoided wherever possible. Members should not turn up unannounced with members of the public and must not use their position to secure priority treatment for someone.

## 8. OFFICERS' REPORTS AND ADVICE

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- 8.1** The Team Manager named in a report to the Council or any part of its formal decision making structure will always be fully responsible for the contents of it. Under scrutiny arrangements, an officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given. However, reports will often have been researched and written by other staff who may also be named as 'contact officers' at the end of the report.

## 9. OFFICER DECISIONS MADE UNDER DELEGATED POWERS

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- 9.1** Officers may make decisions under powers delegated to them pursuant to the Scheme of Delegation or by specific authority from the Council or the Cabinet. This may be in consultation with specified members but it is the officer, and not any member, who makes the decision or takes the action and it is the

officer who is accountable for it. Officers will not take decisions they believe to be wrong or unlawful.

- 9.2** Officers will at all times exercise delegated powers in accordance with the principles of the scheme of delegation. In particular, they will comply with the requirement to consult relevant members, and will keep ward members informed, where appropriate, of decisions affecting their wards in accordance with any agreement /arrangements for doing so.

### **10. THE OFFICER RELATIONSHIP WITH THE LEADER AND OTHER CABINET MEMBERS**

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- 10.1** The working relationship between Management Team, Heads of Service and the Leader/Cabinet members will be particularly close. Cabinet members will have broad-ranging portfolio responsibilities. Officers may provide briefing notes, advice and information to the Cabinet/portfolio members in respect of reports or questions at formal Meetings. This relationship, however, must not:

Compromise officers' duties to all members of the Council;

Be so close as to give the appearance of partiality on the part of the officer;

Undermine the confidentiality of any discussions with the Management Team or between senior officers and other members;

Compromise officers' professional responsibility to advise members that a particular course of action should/should not be pursued;

Abrogate officer responsibility for action taken under Delegated Powers.

### **11. CONSTRUCTIVE CRITICISM/COMPLAINTS**

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- 11.1** It is important that there should be mutual courtesy between members and officers. It is important that there are reasonable standards of courtesy and no member or officer should seek to take unfair advantage of their position.
- 11.2** Members and officers should not undermine respect for the other at Council meetings or any other meetings they attend in their capacity as a councillor or Council employee. A personal attack by a councillor on a member of staff, or on staff generally, at a formal meeting will never be acceptable.
- 11.3** Members should not raise matters relating to the conduct or capability of an individual Council officer or officers collectively at any meeting where members of the public are present, including private meeting with a member of the public.
- 11.4** If a member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an officer he/she should raise

the matter with the relevant Team Manager. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Strategic Director of Place/Strategic Director of Housing and Customer Services or Chief Executive who will look into the matter afresh. If the Director believes that there is a case to answer, he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the officer concerned is the Chief Executive, then the member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive. A special procedure, which is set out in the Constitution, applies in relation to action against the Chief Executive, the Strategic Director of Place, the Strategic Director of Housing and Customer Services the Section 151 Officer and the Monitoring Officer.

- 11.5** If an officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a member, or conduct of a member, he/she should raise the matter with his/her Team Manager or Head of Services. If he/she is not satisfied with any action that has been taken as a result, he/she should raise the matter with the Strategic Director of Place/Strategic Director of Housing and Customer Services or Chief Executive. If there is a serious case to answer, the Strategic Director of Place/Strategic Director of Housing and Customer Services, with the agreement of the Chief Executive, will raise the matter in the first instance with the appropriate Group Leader.
- 11.6** Where an officer or member is concerned about potential unlawful conduct of an officer or member, the Council's Whistle Blowing Policy may also be relevant.

## **12. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

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- 12.1** Each member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any agenda of the Council, Cabinet, Board or Committee/Sub-committee meetings of the Council. However, members do not have an automatic right of access to all documents relating to confidential ("Exempt") items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, applications for grants contracts, industrial relations negotiations, legal advice and criminal investigations.
- 12.2** In respect of such confidential information, members will normally receive, or have access to all papers unless they are of particular sensitivity. A member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a member of the Council. The relevant question to be asked is whether he/she needs to know the information to perform such duties. This would normally include matters relating to particular wards.

- 12.3** A member of the Cabinet, or a Board or Council Committee/Sub-committee will have a “need to know” of the documentation relating to that body. In other circumstances, a member will normally be expected to justify the request in specific terms and the motive for requesting the information of a confidential nature will be relevant. The question as to access to such documentation will be determined by the Chief Executive.
- 12.4** Where a member has an interest in a matter, the member will only be entitled to the same rights of access to documentation as would apply to the public generally, although the member would continue to receive the same documentation as is sent to other members of the body concerned.
- 12.5** Any Council information provided to a member must only be used by the member in connection with the proper performance of the member’s duties as member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 12.6** Any confidential information provided to members should be clearly marked as such prior to its provision.
- 12.7** A member has no general entitlement to inspect draft documents, correspondence or working papers.
- 12.8** Further advice regarding members’ rights to inspect Council documents may be obtained from the Democratic and Support Services Team Manager or the Monitoring Officer.

### **13. PUBLIC RELATIONS AND PRESS RELEASES**

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- 13.1** By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. Press releases are written by officers, but they may contain quotations from a member. Such news releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from members to indicate their party political affiliation. The aim will be for the new releases to be objective, factual and informative. All press releases and media interviews should be conducted in accordance with the Council’s Press Release Protocol. All press releases will be issued by the Council’s Communications Team.
- 13.2** The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.

## 14. MEMBER SUPPORT SERVICES

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- 14.1** The Council provides a range of support services, including stationery, typing and postage to enable members to carry out their duties. These may only be used for Council business. They may not be used for party political work of any kind. Members should not ask officers to type, photocopy or otherwise process party political material.
- 14.2** Members will be provided with access to personal computers to enable them to carry out their official duties and to receive e-mails and obtain access to Council documents. Members must abide strictly with the Council's Policy and Protocol regarding the use of Council computers.

## 15. CORRESPONDENCE

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- 15.1** Unless a member or officer requests confidentiality, it may be assumed that correspondence (including e-mail) between a member and an officer is not confidential and may be shown to others. Where confidentiality is not requested, members and officers will exercise discretion in determining whether it is appropriate to disclose correspondence to others. The originator of the correspondence must accept that it may be disclosed to others unless confidentiality has been requested. However, both officers and members have a personal responsibility to maintain confidentiality in any matter which appears to be of a personal or confidential nature, whether or not this has been specifically stated. If, in an officer's view, correspondence on a non-confidential matter between an individual member and an officer is of interest to other members, to keep them fully informed, the original member should be informed when copies are provided to other members.
- 15.2** Where issues are raised by, or with, individual members relating to a matter of general interest in a Council ward, copies of correspondence may be sent to all members for the particular area and the appropriate Cabinet member/Committee/Board Chairman at the discretion of the relevant Team Manager. An exception will be made where the member specifically requests that correspondence is not copied to other members, or there is a political, or other reason, why this is not appropriate.
- 15.3** Officer 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, such as the Leader of the Council/Chairman of the Cabinet, but this should be the exception rather than the norm.
- 15.4** Members should ensure that any letters they send out in their own name, for example as individual ward members to members of the public, do not purport to be or give the impression that they are 'official' letters setting out the Council's position. Nor should members say anything which appears to

commit the Council to a course of action or a position without authority to do so.

### **16. UNRESOLVED ISSUES AND AMENDMENTS TO THE PROTOCOL**

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- 16.1** If there are any issues of concern, which are not dealt with by this protocol, then the relevant member or officer may discuss the matter with the Chief Executive, Directors, Monitoring Officer or the Head of Human Resources and Organisational Development, as appropriate, with a view to advice being provided.
- 16.2** This protocol will be reviewed periodically by the Audit and Governance Committee, who will make recommendations to the Council on proposed amendments.

### **17. CONTRAVENTION OF THE PROTOCOL**

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- 17.1** Any contravention of this protocol shall be reported to the Monitoring Officer. If appropriate, the Monitoring Officer may refer the matter in the first instance to the relevant Group Leader. If the contravention cannot be resolved at this stage, and relates to a potential breach of the Code of Conduct, the Monitoring Officer may deal with the matter via the arrangements adopted by the Council for local filtration of complaints about members.

**5.3: EMPLOYEES' CODE OF CONDUCT**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Standards</b>
<b>2:</b>	<b>Disclosure of Information</b>
<b>3:</b>	<b>Political Neutrality</b>
<b>4:</b>	<b>Relationships</b>
<b>5:</b>	<b>Appointment and Other Employment Matters</b>
<b>6:</b>	<b>Outside Commitments</b>
<b>7:</b>	<b>Personal Interests</b>
<b>8:</b>	<b>Equality Issues</b>
<b>9:</b>	<b>Separation of Roles During Tendering</b>
<b>10:</b>	<b>Corruption</b>
<b>11:</b>	<b>Computer Software</b>
<b>12:</b>	<b>Use of Public Money</b>
<b>13:</b>	<b>Gifts and Hospitality</b>
<b>14:</b>	<b>Sponsorship - Giving and Receiving</b>

## 5.3 EMPLOYEES' CODE OF CONDUCT

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### INTRODUCTION

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The Council exists to serve and represent the people of North West Leicestershire. The people, therefore, have a right to expect the highest standards of conduct from everyone who works for the Council. This Code is designed to help you in your day to day work. It outlines existing laws, regulations and conditions of service, together with further guidance. We are all working in a commercially orientated environment, so this advice is most important if we are to meet these challenges.

### STATUS OF THE CODE

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We have based this code on a model, recommended by the Local Government and Management Board, which we have adapted for use within this Council. It sets out the minimum standards that are expected of you. The Code aims to lay down guidelines which will help you maintain and improve standards and protect you from misunderstanding or criticism. However, you should also understand that if you fail to comply with the Code, you may be subject to disciplinary action.

### WHO THE CODE IS AIMED AT

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The Code will inevitably affect some staff more than others. Nonetheless, the Code applies to all Council employees. Any actions you take, as a member of a company or a voluntary organisation should meet the standards laid down in the Code.

## 1. STANDARDS

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- 1.1 As a Council employee, you must conduct yourself to the highest standards. This will ensure that public confidence in your integrity cannot be shaken by the least suspicion, however ill-founded, that you could in any way be influenced by improper motives.
- 1.2 You must give the highest standards of service to the public. Where it is part of your duties, you must also provide appropriate advice to councillors and fellow employees with impartiality. If you are aware of any deficiency in the provision of service, you must bring it to the attention of your manager. You must do this through established divisional procedures and you may do so without any fear of recrimination. If you are aware of any impropriety or breach of procedure, you must report it to your manager.

## 2. DISCLOSURE OF INFORMATION

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- 2.1 The Council practices open government. However, where information is necessarily confidential, you must only make it available on a "need to know" basis. If you need guidance on provision of information, consult laid down divisional procedures or your manager.



- 2.2** You must not use any information which you obtain during your employment for personal gain or benefit. Furthermore, you must not pass information on to others who might use it in such a way.
- 2.3** If you receive any information from a councillor or a fellow employee which is personal to that person and does not belong to the Council, you must not divulge it without the prior approval of that person. The only exception is where disclosure is required or sanctioned by law.

## **3. POLITICAL NEUTRALITY**

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- 3.1** As an employee, you serve the Council as a whole. It follows that you must serve all councillors and not just those of any single political group.
- 3.2** If you are required to advise political groups, you must do so in ways which do not compromise your political neutrality.
- 3.3** You must follow every lawful expressed policy of the Council. You must not allow your own personal or political opinions to interfere with your work. This applies whether or not your post is politically restricted.

## **4. RELATIONSHIPS**

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### **4.1 Councillors**

Mutual respect between employees and councillors is essential to good local government. You must, therefore, avoid close personal familiarity with individual councillors (other than relatives). Such familiarity can be embarrassing to other employees and councillors, and can damage working relationships.

### **4.2 The Local Community and Service Users**

You must always remember your responsibilities to the community we serve and make sure that you treat all groups and individuals within that community courteously, efficiently and impartially.

### **4.3 Contractors**

If you have had any current or previous relationship of a business or private nature with an external contractor or potential contractor, you must tell your manager. It is essential that all orders and contracts are awarded on merit, by fair competition against other tenders, and you must show no special favours to businesses run by, for example, friends, partners or relatives in this process.

- 4.4** If your job involves engaging, supervising or any other official relationship with contractors, you must tell your manager if you have had any current or

previous relationship of a business or private nature with an external contractors or potential contractor. This will then be entered in a register.

### **5. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

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- 5.1** If you are involved in making appointments, you must make sure that these are made on merit and with your decision being based on the ability of the candidate to undertake the duties of the post. Anything else would be unlawful. To avoid any possible accusation of bias, you must not be involved in an appointment where you are related to, or have a close personal relationship, with an applicant.
- 5.2** You must not be involved in making decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner, etc.

### **6. OUTSIDE COMMITMENTS**

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- 6.1** You must be clear about your contractual obligations to the Council and must not involve yourself in outside employment which might conflict with the Authority's interests. If you are graded at spinal point 28 or above, you must have the Council's specific consent before you take up any additional employment.
- 6.2** You must follow Council rules on ownership of intellectual property or copyright created during your employment.

### **7. PERSONAL INTERESTS**

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- 7.1** If you have any non-financial interests, which could conflict with the Council's interests, you must declare these to your manager.
- 7.2** If you have any financial interests, which might conflict with the Council's interests, you must declare these to your manager.
- 7.3** If you are a member of any organisation which is not open to the public without both formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct, you must declare this to your manager.
- 7.4** You must not allow your membership of any organisation to influence you in the conduct of your duties and responsibilities.

### **8. EQUALITY ISSUES**

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- 8.1** You must comply with both the law and the Council's policies on all issues relating to questions of equality.

**8.2** You must treat all members of the local community, customers and employees with fairness, equity and respect.

### **9. SEPARATION OF ROLES DURING TENDERING**

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**9.1** If your job involves you in the tendering process and dealing with contractors, you must be clear about the separation of client and contractor roles within the Council. If you are a senior employee with both a client and contractor responsibility, you must be aware of the need for both accountability and openness.

**9.2** If you are employed in a contractor or client unit, you must be fair and impartial in your dealings with all customers, suppliers, other contractors and sub-contractors.

**9.3** If you have access to confidential information on tenders or costs for either internal or external contractors, you must not disclose this information to any unauthorised person or organisation.

**9.4** If you are contemplating involvement in a management buy-out, you must tell your manager immediately you decide to proceed and take no part in the process of awarding a contract.

**9.5** You must show no special favour towards current or former employees or their partners, close relatives or associates when awarding contracts to businesses run by them or employing them in a senior or relevant capacity.

### **10. CORRUPTION**

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**10.1** You must not corruptly receive or give any gift, loan, fee, reward or advantage for either doing or not doing anything or for showing favour or disfavour to any person or organisation in your official capacity. To do so is a serious criminal offence.

### **11. COMPUTER SOFTWARE**

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**11.1** If your job involves use of computers, you must make sure that you use only properly licensed computer software in accordance with the Council's I.T. policy.

### **12. USE OF PUBLIC MONEY**

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**12.1** You must ensure that you use any public funds entrusted to you in a responsible and lawful manner. You must always strive to ensure value for money to the local community and to avoid any legal challenge against the Authority.

## 13. GIFTS AND HOSPITALITY

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- 13.1** If you are offered any gifts or hospitality, you must not accept these without the prior authorisation of your manager. There is a presumption that gifts and hospitality will not be accepted. Any which are authorised must be recorded in the Officer Gifts and Hospitality Register kept by the Chief Executive.
- 13.2** Insignificant items of a token value only, such as pens or diaries, are excluded from these provisions. Significant items comprise gifts or hospitality with more than a token value. If in doubt, consult your manager.
- 13.3** You must only accept offers of hospitality if there is a genuine need for you to be present to give or receive information or to represent the Authority. You must not accept offers to attend purely social or sporting functions, unless these are part of the life of our local community or where the Authority should be seen to be represented. All acceptances must have the prior authorisation of your manager and recorded in the Employee Gifts and Hospitality Register.
- 13.4** If you have to decline an offer of hospitality, you must do so courteously but firmly, informing those making the offer of the procedures and standards operated by the council.
- 13.5** You must not accept significant gifts or hospitality from contractors or outside suppliers. If in doubt, consult your manager.
- 13.6** If you are authorised to receive hospitality, you must nevertheless still be particularly sensitive about its timings in relation to any decisions which the Authority may be taking which involve those providing the hospitality.
- 13.7** Hospitality provided for attendance at relevant conferences and courses is acceptable providing:
- It is clear that the hospitality is corporate rather than personal,
- The Council's consent has been obtained in advance (where possible) through your manager, and
- The Council is satisfied that any purchasing decisions you may be involved in are not being compromised.
- 13.8** If you are involved in visits to inspect equipment, etc, you must ensure that the Council meets the cost of such visits to avoid any question of the integrity of subsequent purchasing decisions being jeopardised.

- 13.9** Any queries on the interpretation of the code and the procedure to be followed should be directed to the Monitoring Officer.

### **14. SPONSORSHIP - GIVING AND RECEIVING**

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- 14.1** You must apply the basic conventions concerning acceptance of gifts or hospitality, any involvement you may have with an outside organisation which wishes to sponsor, or is seeking to sponsor, a local government activity, whether by invitation, tender, negotiation or voluntarily. You must take particular care when dealing with contractors or potential contractors.
- 14.2** Where the Council wishes to sponsor an event or service, you must make full disclosure to your manager if either yourself, partner, spouse or close relative stands to benefit from such sponsorship. In the same way, you must make sure that you give impartial advice and that you have no conflict of interest where the Council gives support to community groups through sponsorship, grant aid, financial or other means.

**ALWAYS ERR ON THE SIDE OF CAUTION. IF IN DOUBT, ASK  
YOUR MANAGER FOR ADVICE.**

## 5.4: PLANNING CODE OF CONDUCT

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Introduction</b>
<b>2:</b>	<b>The Role and Conduct of Members and Officers</b>
<b>3:</b>	<b>Interests of Members</b>
<b>4:</b>	<b>Dual-Hatted Members and Members on Other Bodies</b>
<b>5:</b>	<b>Councillors Who Are Not Members of the Committee</b>
<b>6:</b>	<b>Development Proposed by the Council or a Council Owned Company</b>
<b>7:</b>	<b>Development Proposals Submitted by or Involving Councillors and Officials in their Private Capacity</b>
<b>8:</b>	<b>Statutory Duties</b>
<b>9:</b>	<b>Lobbying Of and By Members</b>
<b>10:</b>	<b>Pre and Post Application Discussions and Negotiations</b>
<b>11:</b>	<b>Officer Reports to Committee</b>
<b>12:</b>	<b>Planning Considerations</b>
<b>13:</b>	<b>The Decision Making Process</b>
<b>14:</b>	<b>Site Visits by the Committee</b>
<b>15:</b>	<b>Representations on Planning Applications</b>
<b>16:</b>	<b>Review of Decisions</b>
<b>17:</b>	<b>Training</b>

## 5.4 PLANNING CODE OF CONDUCT

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This Code of Practice supplements the Council's Code of Conduct for Members and where appropriate Members should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### 1. INTRODUCTION

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- 1.1** Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of members of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2** The planning system can only function effectively if there is trust among those involved. There must be trust between Members and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3** The general principles that underlie the Council's Code of Conduct for Members and apply to this Code of Practice are:
  - 1.3.1** Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2** Members should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3** Members should make decisions on merit.
  - 1.3.4** Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5** Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6** Members should respect the impartiality and integrity of Officers.

- 1.4** The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5** This Code of Practice sets out practices and procedures that Members and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6** Failure to follow this Code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.
- 1.7** This Code of Practice sets out principles to guide members and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.
- 1.8** Members of Planning Committee are required to be impartial at all times and should refrain from wearing any item that indicates a political affiliation, stance, lobby or similar influence (such as clothing in party colours party, party emblems etc) in the course of site visits conducted by the planning committee. Similarly, members shall not make political statements whilst on any business concerned with the functions of Planning Committee.

## **2. THE ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

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- 2.1** Members and Officers have different, but complementary roles. Both serve the public but Members are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2** The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3** Whilst Members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Members involved in making a planning decision. A key role of the planning system is the consideration of development proposals in the wider public interest.
- 2.4** Members' decisions shall not discriminate in favour of any individuals or groups and they alone have the responsibility to decide what view to take. Members must, therefore, consider all of the material issues in the light of



Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.

- 2.5** Whilst Members should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6** Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7** Officers in their role of advising Members shall provide:
  - 2.7.1** Impartial and professional advice;
  - 2.7.2** Consistency of interpretation of planning policy; and
  - 2.7.3** Complete written reports covering all necessary information for a decision to be made.
- 2.8** The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9** That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Members or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is. If the Planning Committee is minded to refuse or grant an application contrary to officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Members to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.10** The Council shall have a designated head of the planning service, who is qualified for election to membership of the RTPI and who has direct access to elected members as their professional adviser on planning matters. Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 of the Local Government Act 2000.
- 2.11** Members shall follow the advice in the Member's Code of Conduct about accepting gifts and hospitality. Members should treat with extreme caution

any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality book as soon as possible.

## **3. INTERESTS OF MEMBERS**

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**3.1** Where members have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.

**3.2** Where the interest is such that members of the public may feel that the member will not be able to approach matters with an open mind and consider the application on its planning merits, members should consider withdrawing from the Committee for that item.

**3.3** These principles apply equally to members who are not members of Planning Committee. Members who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.

**3.4** In all cases members shall not sit on Planning Committee to determine applications that relate to land:

**3.4.1** that is in their ward; or

**3.4.2** that is in the ward neighbouring their ward where the application materially impacts their ward,

and members in such cases shall be replaced on Planning Committee by a substitute for the duration of that application.

**3.5** Members should seek guidance from officers.

**3.6** Members of Planning Committee and Officers who attend Planning Committee regularly must complete the Annual Return required for this purpose.

**3.7** The Code of Conduct for Members provides guidance as to personal and prejudicial interests which may affect a member's ability to take part in the decision-making process. However, members may have other interests which may influence their decision which will not amount to personal or prejudicial interests for the purposes of the Code. In order to maintain the integrity of the planning system, members should be careful to ensure that such interests do not unduly influence their decisions. Examples of such interests are:-

**3.7.1** from ward concerns;

**3.7.2** from membership of other Committees of the Council;

- 3.7.3 from membership of other public or community bodies;
  - 3.7.4 from membership of voluntary associations and trusts (including where appointed by the Council);
  - 3.7.5 from a connection with a particular policy initiative of the Council;
  - 3.7.6 from membership of clubs, societies and groups; and
  - 3.7.7 from hobbies and other leisure interests.
- 3.8 Such interests may mean that a Member is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a member from participating in making the planning decision when the matter is considered by Planning Committee providing that the member has not already decided how they will vote on the matter before the Committee. Members should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the member considers that this is not possible, the member should withdraw from consideration of that item.
- 3.9 As a minimum, the integrity of the planning system requires openness on the part of members; it must operate fairly and be seen to operate fairly.

#### **4. DUAL-HATTED MEMBERS AND MEMBERS ON OTHER BODIES**

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- 4.1 Planning Committee members who are members of parish or town councils may find they are expected to express a view at a parish or town council meeting, or vote on whether or not the parish or town council should object or comment on a proposal from that parish or town council's point of view.
- 4.2 They may then have to consider the same matter as a District Council member if it is determined by the Planning Committee.
- 4.3 Members are also appointed to outside public bodies or internal boards or groups, who may then act as consultees or interested parties and are of course permitted to join interest groups which reflect areas of interest such as a local civic society, CPRE, etc.
- 4.4 Where members have dual parish/town and District Council membership, or are members of other consultee bodies or interested parties, they may find themselves having to vote differently on a matter when they consider it at District level, having heard the technical and legal background from officers.
- 4.5 This is not inconsistency, but the consequence of having to fulfil totally separate and different roles.
- 4.6 Where members have dual parish/town council/District Council membership or sit on consultee bodies and issues come up for discussion at different

levels, members can take part at the lower/consultee level provided that they have not already made up their mind on the matter and are not biased, and they:

- a) make it clear at the lower level that their views are expressed on the limited information before them;
- b) they will reserve their judgement and independence to make up their own mind on separate proposal, based on their overriding duty to the whole community and not just to the people in that area ward or parish, as and when it comes before the District and when they have heard all of the relevant information; and
- c) they will not in any way commit themselves as to how they or others may vote when the proposal comes before the Planning Committee at District level.

**4.7** Membership of a parish or town council, consultee body or pressure group (and participation in its debates and votes) will not constitute a Disclosable Interest in a matter within its area or upon which it may or may not have commented on when it is considered at District level unless:

- a) The business being considered substantially affects the wellbeing or financial standing or purpose of the relevant body.
- b) The member or the body has taken a leading role in supporting or opposing the matter, within the area or elsewhere.

**4.8** In (a) or (b) above a member is likely to have a Disclosable Pecuniary Interest where the business relates to the financial position of the body or a planning application or matter made by or relating to it.

**4.9** However, members must give the above careful consideration, and remain bound by the other parts of the Members' Code of Conduct and this Code in relation to the matter.

**4.10** Members who are a trustee or company director of a body whose matter is under consideration and where appointed by the Council should always disclose this as a Disclosable Pecuniary Interest where any financial benefit may accrue.

Note: The above advice represents a pragmatic approach to the participation of dual-hatted members in planning matters. As members are aware, the risk under the Code of Conduct and declaration of interests rests with the individual member. For that reason, members are further advised to consider the facts of each case before making a decision on their level of participation. This is particularly important in controversial/high profile matters and/or where the member may play a prominent role in the determination at District level. If

a member is in doubt they are reminded to seek advice from the Monitoring Officer at an early stage.

## **5. COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE**

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- 5.1** Councillors who are not on the Planning Committee may make written representations to the Strategic Director of Place about a planning application in the same way that any other interested person may do so and may address the Planning Committee provided that they do not have Disclosable Pecuniary Interest in the application being considered and that their involvement would not amount to a breach of any other obligations of the Code i.e., seeking to unduly influence the outcome of a planning application. For the avoidance of doubt where that interest is a Disclosable Pecuniary Interest, they are not permitted to participate in the planning process in their official capacity as a Councillor.
- 5.2** When a councillor who is not a member of the Planning Committee speaks at a meeting they shall disclose at the earliest opportunity any Disclosable Interest, the fact that they have been in contact with the applicant, agent, advisor or an interested party if this is the case, and make it clear whether they are speaking on behalf of such persons or any other particular interest. A councillor who has a Disclosable Non-Pecuniary Interest in a matter may attend a meeting of the Planning Committee at which that application is considered in order to speak, make representations, answer questions or give evidence in accordance with the Code of Conduct.
- 5.3** Any councillor who is not on the Planning Committee but who is at one of its meetings should sit separately from the Committee, so as to demonstrate clearly that they are not taking part in the discussion, consideration or vote.
- 5.4** They should not communicate in any way with members of the Planning Committee or pass papers or documents to them before or during the meeting.

## **6. DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

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- 6.1** Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 6.2** Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 6.3** Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare a personal and prejudicial interest and take no part in the discussion and determination of that proposal, except where they are the local Member when they may speak on matters of local concern but shall not vote.

**6.4** Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

### **7. DEVELOPMENT PROPOSALS SUBMITTED BY OR INVOLVING COUNCILLORS AND OFFICIALS IN THEIR PRIVATE CAPACITY**

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**7.1** Planning proposals submitted to their own Authority by councillors and officials in their private capacity or in which they are involved can give rise to suspicions of impropriety. Such proposals can take a variety of forms including planning applications and development plan proposals. It is, of course, perfectly legitimate for such proposals to be submitted. However, it is vital that they are handled in a way, which gives no grounds for accusations of favouritism, bias, or maladministration.

**7.2** Officers whether or not they are members of the Royal Town Planning Institute (RTPI), should also have regard to and be guided by the RTPI's Code of Professional Conduct.

**7.3** Should a member or officer submit their own proposal to the Authority in their private capacity they serve they must take no part in its processing. While they may properly seek pre-application advice from officers in exactly the same way as any other application, they must avoid all contact, whether direct or indirect, with members of the Planning Committee concerning the application. They can still represent their views to the Council, and seek to influence the decision in ways that are not improper. This could include:

- a) making written representations in the member or officer's private capacity;
- b) using a professional representative on their behalf;
- c) arranging for another member of the Authority to present the views of a member's constituent subject to that member's Code of Conduct obligations.

**7.4** For the sake of transparency in decision making, all planning applications that are recommended for approval by officers and are submitted by:

- a) a serving member or officer of the Council, or
- b) The close relative of a serving member or officer of the Council

shall be determined by the Planning Committee except for the approval of an application which in the opinion of the Strategic Director of Place (or his nominated officer) is unlikely to have any major impacts and to which no objections have been received.

The Strategic Director of Place will notify the Monitoring Officer as soon as such an application is received.

- 7.5** Members of the Planning Committee must consider whether the nature of any relationship with the member (and/or officer) submitting the planning application requires that they make a declaration of interest and if necessary also withdraw from taking part in the determination of the application where the interest is a Disclosable Pecuniary Interest or is likely to breach some other obligation under the Code of Conduct.
- 7.6** No planning officer of the Council shall engage, other than on behalf of the Council, in any work on any town planning or related matter for which the Council is the local planning authority.
- 7.7** Members of Planning Committee should not act as agents or submit planning applications for other parties or voluntary bodies. To do so would give rise to the suspicion that the member was not impartial or may influence other members in the decision making process.
- 7.8** Any member who is a planning or similar agent will not be appointed to the Planning Committee.
- 7.9** Non Planning Committee members who act as agents (or advisors) for people pursuing a planning matter within the Authority must play no part in the decision making process for that proposal and must not seek to otherwise improperly influence the decision making process.
- 7.10** There may be occasions where the Council is the applicant for planning permission. Any councillor who was a party to the decision to apply for planning permission or who has previously expressed a view on the application shall not participate in the determination of the application by the Planning Committee

## **8. STATUTORY DUTIES**

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The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

### **8.1 Equality Act 2010**

Section 149 provides that:

**8.1.1** A council must, in the exercise of its functions, have due regard to the need to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

**8.1.2** The above powers relate to the following protected characteristics:-

- (a) Ages;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

## **8.2 Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

## **8.3 Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

## **8.4 Crime and Order**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”



## 9. LOBBYING OF AND BY MEMBERS

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- 9.1** Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a Planning Committee. However, reacting to lobbying can lead to the impartiality of a Member being called into question and require that Member to declare an interest.
- 9.2** The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 9.3** The time for individual Members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 9.4** A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Planning Committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members who are lobbied should:
- 9.4.1** make clear that they reserve their final decision on a proposal until the committee meeting;
  - 9.4.2** only give procedural advice;
  - 9.4.3** consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 9.4.4** not seek to meet an applicant or potential applicant alone.
- 9.5** Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Members (other than when addressing the Planning Committee). Members shall not put pressure on officers for a particular recommendation.
- 9.6** The local Member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (either

presenting their own views if they are an affected party or representing the views of their ward members) but not vote. The member of an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, be allowed to attend and speak but not vote. A local Member who has a personal or prejudicial interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.

- 9.7** If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare a personal and prejudicial interest and not vote or decide on the matter. However, subject to the rules of committee that Member shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 9.8** Members of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Member cannot be instructed how to exercise their vote on a planning matter.
- 9.9** Members should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate Officers.

### **10. PRE- AND POST- APPLICATION DISCUSSION AND NEGOTIATIONS**

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- 10.1** Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 10.2** It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 10.3** Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 10.4** A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 10.5** Members need to preserve their role as impartial decision makers and should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions

when Members are involved, it should be part of a structured arrangement with Officers, including a senior planning officer. Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.

- 10.6** Members may receive information from applicants and give information to applicants and Members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Members should be provided to the officers dealing with the application. Members who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## **11. OFFICER REPORTS TO COMMITTEE**

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- 11.1** The Head of Planning and Infrastructure will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning and Infrastructure shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Head of Planning and Infrastructure in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 11.2** Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 11.3** The Head of Planning and Infrastructure will have available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## **12. PLANNING CONSIDERATIONS**

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- 12.1** Planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 12.2** Members of Planning Committee and any substitutes shall attend training sessions which may be organised from time to time. Members who have not attended all such training sessions shall not be allowed to sit on Planning Committee and a substitute who has attended the required training shall take their place. All other members are encouraged to attend training sessions.

- 12.3** Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 12.4** Briefly, at the date of the preparation of this Protocol, material planning considerations include:-
- 12.4.1** Government Guidance (contained in such documents as Circulars, National Planning Policy Framework , National Planning Policy Guidance , Mineral Policy Guidance Notes, Planning Policy Statements and Ministerial announcements);
  - 12.4.2** Supplementary Planning Documents adopted by any related Committee;
  - 12.4.3** non-statutory planning policies adopted by the Council;
  - 12.4.4** the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
  - 12.4.5** the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
  - 12.4.6** representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
  - 12.4.7** planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990;
  - 12.4.8** if deliberate unauthorised development has taken place.
- 12.5** It should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 12.6** It is the responsibility of officers in preparing reports and recommendations to members to identify the material planning considerations and warn members about those matters which are immaterial planning decisions.
- 12.7** Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.

- 12.8** The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 12.9** Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 12.10** It will be inevitable that all the considerations will not point whether to grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, members must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

### **13. THE DECISION MAKING PROCESS**

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- 13.1** Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 13.2** Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 13.3** If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 13.4** Where the Planning Committee decide to adopt the recommendation of the Head of Planning and Regeneration, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 13.5** Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning and Regeneration, (having first considered whether to defer the application), agreement shall be reached at the meeting on the planning reasons for that decision. They shall be fully minuted by the Head of Legal and Commercial Services.
- 13.6** The reasons for Committee's decision to defer any proposal should also be recorded.

### **14. SITE VISITS BY THE COMMITTEE**

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- 14.1** A site visit may be held if the Head of Planning and Infrastructure in consultation with Chair of the relevant committee considers it will assist members in reaching their decision. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material. Members should try to attend site visits organised by the Council where possible.
- 14.2** Site visits will be organised in accordance with the following procedures:
- 14.2.1** The Head of Legal and Commercial Services will invite the local Member to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the relevant Planning Committee the local Member for the adjacent division will also be invited.
  - 14.2.2** The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
  - 14.2.3** Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
  - 14.2.4** On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning and Infrastructure or his/her representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning and Infrastructure, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
  - 14.2.5** When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all members have the same information.
- 14.3** Members should not enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless you feel it is essential for you to visit the site other than through attending the official site visit and you have first spoken to the Head of Planning and Infrastructure about your intention to do so and why

(which will be recorded on file) and you can ensure you will comply with these good practice rules on site visits.

## **15. PLANNING APPLICATION DEBATES AND REPRESENTATIONS**

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**15.1** At Planning Committee, each application shall be debated as follows:

**15.1.1** At the meeting the Head of Planning and Infrastructure (or his nominated officer) will present his/her report first.

**15.1.2** Subject to paragraph 15.3, the objectors will make their representations, subject to a time limit of 3 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.

**15.1.3** Subject to paragraph 15.3, the applicant will then make his or her representations, subject to a time limit of 3 minutes (except at the discretion of the Chair), and may be asked questions by the Committee.

**15.1.4** Subject to paragraph 15.3, the ward member (and any neighbouring ward members whose wards are materially impacted by the application) may make their representations, subject to a time limit of 5 minutes, and may be asked questions by the Committee. If the relevant ward member or neighbouring ward member has a Disclosable Pecuniary Interest that is affected by an application, they may not speak but may nominate an alternate member to speak on behalf of their constituents.

**15.1.5** Where the Chair exercises their discretion to extend the time limit for either the objectors or the applicant, then similar provision shall be made for the other parties (should they so wish) to ensure that all parties receive a fair hearing.

**15.1.6** Officers may comment on the representations and the merits of the application.

**15.1.7** The Committee will proceed to debate the application. The Rules of Debate set out in Rule 14 (Rules of Debate) of Section 4.1 (Council Procedure Rules) of Part 4 (Rules of Procedure) of this Constitution shall apply except that Rule 14.1 shall not apply meaning that the debate can proceed without a motion being moved and seconded.

**15.1.8** Following the Committee's debate, officers may comment on the content and themes emerging from the debate in order to assist in framing the debate in a planning context.

- 15.1.9** The Chair will then ask for a motion in respect of the application to be moved and seconded and, subject to any of the motions listed in paragraphs 14.10.1 to 14.10.9 of Rule 14 (Rules of Debate) of Section 4.1 (Council Procedure Rules) of Part 4 (Rules of Procedure) of this Constitution being moved, the Committee shall make a decision by simple majority. All votes of the Planning Committee shall be recorded votes. The minute will include the reasons for the decision.
- 15.2** Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members will be given the opportunity to inspect all letters received before the decision on the application is made.
- 15.3** There will be occasions when applicants, objectors and/or ward members whose ward is affected by the application, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will apply:
- 15.3.1** The applicant will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The ward members, applicant and the objectors will be informed that they have the right to attend the Committee and make representations in person. They will be asked to indicate whether they wish to do this and, if so, they will be invited to the meeting at which the decision is to be made. They must register to speak at the meeting by 12.00 noon on the last working day prior to the meeting and if they fail to do so they will not be allowed to speak unless the Chair exercises his discretion to permit them to do so. People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 15 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting. Speakers can also use the Council's IT system to make electronic submissions to the Committee provided that the submission is delivered to the Council by 12.00 noon at the latest on the last working day prior to the meeting.
- 15.3.2** Each group of speakers (objectors and supporters) will be allowed a maximum of three minutes to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson.

## 16. REVIEW OF DECISIONS

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- 16.1** The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 16.2** Visits to application sites previously considered by the Council shall be organised by the Head of Planning and Infrastructure and shall be open to all members to attend.

### **17. TRAINING**

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- 17.1** Members shall not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council. Members so prevented from taking part shall be replaced by a substitute who has attended the mandatory training.
- 17.2** Members should endeavour to attend any other specialised training sessions provided since these will be designed to extend Members' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

## **5.5: LICENSING CODE OF CONDUCT**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>Introduction</b>
<b>2:</b>	<b>Relationship with the Members' Code of Conduct</b>
<b>3:</b>	<b>Legal Background</b>
<b>4:</b>	<b>Training of Councillors</b>
<b>5:</b>	<b>Licensing Applications by Councillors, Officers and the Council</b>
<b>6:</b>	<b>Lobbying</b>
<b>7:</b>	<b>Discussions Before the Hearing</b>
<b>8:</b>	<b>Declaration of Disclosable Non-Pecuniary and Pecuniary Interests</b>
<b>9:</b>	<b>Pre-determination and Bias</b>
<b>10:</b>	<b>Membership of a Parish/Town Council</b>
<b>11:</b>	<b>Conduct at the Hearing</b>
<b>12:</b>	<b>Councillors as Interested Parties under Licensing Act 2003</b>

## 5.5 LICENSING CODE OF CONDUCT

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### 1. INTRODUCTION

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- 1.1** This Code of Conduct (the Licensing Code) gives advice to members who:
- Are members of the Licensing Committee and who sit on Licensing Sub-committee.
  - Wish to address the Committee or a hearing panel on any licensing issue.
  - Are involved outside the Committee on licensing applications or other licensing matters - including informal occasions such as meetings with officers or public and consultative meetings.
  - Are involved in applications for licences under the Licensing Act 2003 and the Gambling Act 2005.
- 1.2** Most decisions taken by councillors are administrative in nature. The work of the Licensing Committee and Sub-committees are different in that its proceedings are quasi judicial and the rules of natural justice apply. This imposes a new and higher set of standards on those councillors who are involved in the decision making process. Failure to abide by these standards may render the Council or individual councillors open to challenge either through the courts or the Audit and Governance Committee.
- 1.3** This Code provides a set of guidelines for councillors. It is part of the Council's ethical framework and should be read in conjunction with the Members' Code of Conduct and the Protocol on Member/Officer Relations.
- 1.4** A key aim of the Licensing Code is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or is not well founded in any way. Members must make these decisions openly, impartially with sound judgement and for justifiable reasons.
- 1.5** The Human Rights Act 1998 has implications for the licensing system and has created enhanced requirements for procedural fairness, transparency and accountability in decision making.
- 1.6** The Licensing Code is intended to minimise the prospect of legal or other challenge to decisions. Non-compliance without good reason could be taken into account in investigations into possible maladministration or may have implications for the standing of councillors and the Council as a whole.

## 2. RELATIONSHIP WITH THE MEMBERS' CODE OF CONDUCT

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- 2.1 Members must comply with the Members' Code of Conduct and the rules in that Code must be applied before considering the Licensing Code.
- 2.2 The Licensing Code is not intended to form a part of the adopted Members' Code of Conduct but is a separate document, which is complimentary and supportive of the Members' Code of Conduct and also the source of expanded guidance in the particular area of licensing.

## 3. LEGAL BACKGROUND

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### 3.1 Human Rights Act

3.1.1 The Human Rights Act 1998, which came into full effect on 2 October 2000, incorporated the key articles of the European Convention on Human Rights into domestic law. The Convention guarantees certain basic human rights. As far as possible legislation (including the licensing laws) must be interpreted in such a way as to conform with Convention rights. Decisions on licensing issues are actions of a public authority and so must be compatible with Convention rights.

3.1.2 Members of the Sub-committee need to be aware of the rights contained in the Convention when making decisions and in particular:

- **Article 6: Right to a fair trial**

In the determination of a person's civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

- **Article 8: Right to respect for family and private life**

Everyone has a right to respect for his or her private life, and his or her home and correspondence.

- **Article 1 of the First Protocol: Protection of property**

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his or her possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

- **Article 14: Prohibition of discrimination**

The enjoyment of the rights and freedoms in the Convention shall be secured without discrimination on any ground such as

sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- 3.1.3 Most Convention rights are not absolute and there are circumstances when an interference with a person's rights is permitted although any interference with the rights must be proportionate and go no further than is necessary.

## 3.2 Quasi-Judicial Hearings

- 3.2.1 A quasi-judicial hearing is one:

- which affects a person's livelihood
- which involves disciplinary action
- which affects property.

- 3.2.2 These hearings are subject to the rules of natural justice. Properly applied, the rules of natural justice will ensure that the requirements of the Convention, that a hearing is both "fair" and presided over by an "independent and impartial tribunal", are met.

- 3.2.3 There are two principles underlying the rules of natural justice. First, all parties must be given a chance to put their case under conditions which do not put one party at a substantial disadvantage to the other party. All parties should be given sufficient notice of the hearing, the applicant should have disclosure of the nature of the objections/representations as well as knowing who is objecting/making a representation and there should be a right to question witnesses.

- 3.2.4 Second, a person who has an interest in an application must be disqualified from considering it. The Licensing Sub-committee must be impartial - not only must there be no actual bias but there must be no perception of bias.

- 3.2.5 The procedure rules which govern hearings of the Licensing Sub-committee reflect the requirements of the Human Rights Act and the rules of natural justice. To avoid any allegations of bias or perceived bias, councillors sitting on the Licensing Sub-committee must strictly observe those procedure rules.

## 4. TRAINING OF COUNCILLORS

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- 4.1** Because the technical and propriety issues associated with licensing are not straightforward, it is the Council's policy to arrange training on the work of the Licensing Sub-committee for all councillors who sit on the Sub-committee. Councillors must undertake the training before participating in a meeting of the Sub-committee. Other councillors are free to attend the training in order to gain an understanding of licensing issues.

## 5. LICENSING APPLICATIONS BY COUNCILLORS, OFFICERS AND THE COUNCIL

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- 5.1** Proposals to the Council by serving and former councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So can proposals for a Council's own applications.
- 5.2** It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- 5.3** Recent decisions by the Adjudication Panel on standards issues make it very difficult for members who have a professional qualification to act in presenting cases in that capacity for applicants or to act as professional witnesses in hearings.
- 5.4** Councillors and officers who submit their own proposal should notify the Monitoring Officer of the proposal and play no part in its processing or determination and avoid contact, whether direct or indirect with members of the Sub-committee concerning the application.

## 6. LOBBYING

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- 6.1** Councillors may be approached or lobbied by an applicant, councillor, agent or objector about a particular licensing application. Lobbying is a normal and perfectly proper part of the political process but it does not sit well with the quasi judicial nature of the Licensing Sub-committee when a councillor must enter the meeting with an open mind and make an impartial determination on the relative merits of all the evidence presented at the hearing. Being lobbied in advance of the meeting is incompatible with this high standard.
- 6.2** If a member is approached, he or she should advise the lobbyist to address any comments or concerns to the Strategic Director of Place. In no circumstances should a councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and Disclosable pecuniary. A councillor who feels that he or she has been exposed to undue or persistent lobbying should advise the Monitoring Officer.

- 6.3** Other councillors should not lobby members of the Licensing Sub-committee, directly or indirectly, about issues which are due to be determined by the Licensing Sub-committee.
- 6.4** When attending a public meeting at which a licensing issue is raised, a member of the Licensing Sub-committee should take great care to maintain an impartial role and not express a conclusive view on any pre-application proposals or submitted application.
- 6.5** Correspondence received by any member of the Council (whether on the Licensing Sub-committee or not), should be passed without delay to the Chief Executive so that all relevant views can be made available to those councillors or officers responsible for determining the application. A reply by a councillor should, as a rule, simply note the contents of the correspondence and advise that it has been passed to officers.

### **7. DISCUSSIONS BEFORE THE HEARING**

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- 7.1** Pre-application discussions - discussion between a potential applicant and representatives of the Council may be of considerable benefit to both parties. Similarly, a meeting between the Council and potential objectors may also be beneficial. However, it would be easy for such discussions to become or be seen (especially by objectors/persons making representations) to become part of a lobbying process. In the circumstances, pre-application discussions should be avoided by members of the Licensing Sub-committee.
- 7.2** Post-application discussions - a councillor should not approach an applicant for a licence in an effort to securing changes to the application. Such an approach would inevitably give rise to allegations of partiality or bias.
- 7.3** Generally, any contact with applicants should be conducted with and through officers and should always be reported to the Licensing Sub-committee. Requests to a councillor for a meeting should be passed to the Chief Executive.

### **8. DECLARATION OF DISCLOSABLE NON-PECUNIARY AND PECUNIARY INTERESTS**

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- 8.1** The Code of Conduct for Members and the Council's Member/Officer Protocol gives advice on the declaration of interests.
- 8.2** Where interests arise, the member must declare these in accordance with this Code of Conduct.
- 8.3** It is important that all councillors are familiar with the Code of Conduct for Members. Where in relation to any item any councillor has a Disclosable Interest in an application (as defined in the Code), this must be declared at

the earliest opportunity in the declaration of interests section of the agenda, or at any time subsequently, or as soon as practicable when the interest becomes apparent. This is important as the quorum of a Licensing Sub-committee is its full compliment of 3 members and a late declaration of a Disclosable pecuniary interest may leave the meeting inquorate and unable to proceed.

- 8.4** Where a member is in any doubt about whether they have an interest, they may always seek the advice of the Council's Monitoring Officer or legal advisor at the meeting, disclosing all material facts. Whenever possible, advice should be taken before meetings. Ultimately however, the duty to declare and the decision as to whether an interest should be disclosed rests with the elected member concerned.

### **9. PRE-DETERMINATION AND BIAS**

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- 9.1** The right to a fair and unbiased hearing (particularly in the light of the Human Rights Act 1998) is a general legal requirement and applies to licensing decision making in addition to the Code of Conduct for Members.
- 9.2** Whilst the Localism Act 2011 provides for councillors to take a more proactive stance in relation to local issues, councillors must attend Sub-committee meetings with an open mind and only determine applications on the basis of the evidence and representations made to them at the hearing. If a councillor fails to determine an application on this basis it may amount to bias and to a breach of their obligations under the Code of Conduct.
- 9.3** The suggestion of any bias may put the Council at risk of a finding of maladministration and it could also lead to legal proceedings for bias or a failure to take into account all factors enabling the proposal to be considered on its merits.
- 9.4** There is a general acceptance that a member may consider matters in several capacities as different factors may apply to different decisions. However, given the size of Licensing Sub-committee and the proportionately greater influence an individual member will have, members should exercise caution in such situations, as it may preclude them from taking part in a licensing hearing.

### **10. MEMBERSHIP OF A PARISH/TOWN COUNCIL**

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- 10.1** Where a parish/town council makes representations on a licensing application they are an "interested party" under the Acts. A District member who is also a member of that parish/town council may have a Disclosable Interest and are advised to seek advice from the Council's Monitoring Officer before sitting on the Licensing Committee.



- 10.2** Members are also advised that in the interests of transparency they should not become involved at a District level in applications made by a parish council on which they serve. If they wish to do so they must make clear that they are acting in the capacity of parish councillor and not District.

### **11. CONDUCT AT THE HEARING**

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- 11.1** The essence of the rules of natural justice are that councillors not only act fairly but are also seen to act fairly. Councillors must follow the agreed procedure at all times and should only ask questions at the appropriate points in the procedure. At no time should a councillor express a view which could be seen as pre-judging the outcome. During the course of the hearing councillors should not discuss (or appear to discuss) aspects of the case with the applicant, an objector, their respective advisors or any member of the public nor should they accept letters or documents from anyone other than the clerk.
- 11.2** Again, to ensure compliance with the rules of natural justice, councillors on the Sub-committee must ensure that they hear the evidence and arguments for and against the application and must be present for the entire hearing.

### **12. COUNCILLORS AS INTERESTED PARTIES UNDER THE LICENSING ACT 2003**

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- 12.1** Since January 2010 Councillors are regarded as interested parties in their own right. They are entitled to make representations or call for reviews in respect of any premises in any Ward licensed within the Councils area.
- 12.2** They do not have to await instructions from residents or other organisations, but can act on their own initiative. The representation must be relevant. That is, it is made within the timescales allowed, relates to one or more of the Licensing Objectives and is not malicious or vexatious.
- 12.3** A Councillor can still represent another interested party/parties (provided that interested party is not a family member or close associate) who has made a representation. The Councillor will still be subject to the Code of Conduct when representing interested parties. The Councillor must demonstrate to the licensing authority that they have been requested to represent the interested party and only put forward the views of the interested party.
- 12.4** A member of the Licensing Committee can make representations, call for a review and address the Committee as an interested party, but would not be able to sit as a member of the sub-committee when the application is considered.

- 12.5** The representation made by the Councillor carries no less nor any more weight than the representations made by other interested parties.
- 12.6** The Act and Hearing regulations govern the procedure and specify the rights for applicants, responsible authorities and interested parties. The Councillor will be bound by these procedure rules.
- 12.7** Councillors addressing the sub-committee should disclose any interests they may have and their standing at the hearing.
- 12.8** The Code of Conduct for members states that a Councillor with a Disclosable Pecuniary Interest cannot act as a representor where that interest relates to himself/herself, a member of his/her family or a close associate. A member may, however, act in a private capacity in such circumstances provided that it is made clear to the Committee that the member is exercising his/her private rights.
- 12.9** A Councillor who is not on the Committee but who is at one of its meetings in his/her professional capacity should sit apart from the Committee or Sub-committee to demonstrate that he/she is not taking part in the discussion or determination unless his/her presence in that capacity would be a breach of the obligations of the Code of Conduct, for example, influencing a decision by presence. If the Councillor is attending in his/her private capacity as a member of the public, this should be made clear to the Committee and his/her rights are the same as those afforded to any member of the public.
- 12.10** Councillors who are opposed in principle to any category of application or alcoholic liquor, form of entertainment or gambling, either in their own Ward or District wide should not seek nomination to the Committee.

## 5.6 PROCEDURE AND RESOLUTION OF DISPUTE/CONFLICT BETWEEN OFFICERS AND MEMBERS

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### INTRODUCTION

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This procedure has been developed as a quick and largely informal way of resolving disputes or conflict between officers and members. This procedure does not preclude the existing rights of the parties to initiate the Council's grievance or disciplinary procedures. It aims to foster mutual respect and courtesy and to develop good working relationships between officers and members. It will be conducted in private and will examine under performance or mistakes in a developmental way without attributing blame.

### THE PROCEDURE

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Both councillors and officers shall have regard to the existing codes of conduct as setting clear ground rules on behaviour.

This procedure should be seen as additional to rather than as a substitute for the Council's existing grievance or disciplinary procedures. Any party may wish to be accompanied during part or the whole of the process.

In addition it does not preclude the involvement of external agencies in appropriate circumstances.

It will be expected that before the procedure is implemented that the parties to the dispute/conflict will have met to identify in writing specifically what the difference is and to discuss the matter in a meaningful way with a view to resolving the difference (where this is reasonably practical).

In the event that a difference cannot be resolved the Chief Executive shall be informed as soon as possible.

The Chief Executive shall notify the Leader of the Council and the appropriate Head of Service or Team Manager without delay.

The Head of Service or Team Manager shall convene a meeting ideally within 2 days between the two parties to the dispute and him or herself.

Where the dispute is between a Head of Service and a member the meeting shall take place between the two parties together with the Strategic Director of Place/Director of Housing and Customer Services or Chief Executive and the Leader of the Council.

Where there is a conflict between the Chief Executive and a member, the Leader shall be involved.

Any meetings shall encourage a full and frank exchange of views in a professional manner in an endeavour to resolve the conflict.

In the unlikely event of the matter not being resolved as above it will be referred to the Chief Executive and the Leader of the Council to try and break the deadlock. Should the matter remain unresolved it shall be open to the parties to initiate the Council's formal grievance or disciplinary procedures as appropriate.

## 5.7 OUTLINE ROLES AND RESPONSIBILITIES FOR COUNCILLORS

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### PART A - ALL MEMBERS OF THE COUNCIL

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#### Standards of Behaviour

1. To adhere to the Nolan principles of Standards in Public Life and the Council's Code of Conduct for Councillors.
2. To respond to communications from or on behalf of your constituents within a reasonable time. To complete and return any questionnaires you may receive from the Council.
3. To uphold the Council's reputation by promoting its policies, values and achievements and to refrain from making comment to the media or other audiences which would be damaging to the image of the Council as a whole.
4. To uphold the office of councillor and to do nothing which would bring such into disrepute.
5. To treat members of staff with respect and to develop sound, professional relationships with them.
6. To respect the political impartiality of members of staff.
7. To uphold the right of other members who do not necessarily share your views, the right to express their own views and to have the courtesy to listen to those views.
8. To comply with the Council's Standing Orders and to do nothing as an individual which would commit the Council to a particular course of action or leave the Council open to a charge of maladministration.
9. To observe confidentiality.

#### Commitment to the Council

10. To demonstrate commitment to and work towards achieving the Council's corporate objectives.
11. To demonstrate commitment to the local government modernisation agenda and the principles of Best Value.

#### Training - Developing

12. Subject to personal circumstances, to set aside time to undergo appropriate training and development.

## Seeking Support and Advice

13. To take advice from officers on any matter of Council business.
14. To seek support from officers where necessary to develop your representational role.
15. To seek appropriate advice concerning your dealings with the press and public in your representational role.

## Communications

16. To develop effective channels of communication with officers and other councillors.

## Representational Role

17. To bring forward constituents' views and concerns and grievances and to have in place appropriate methods to be available to local constituents and organisations e.g. via holding surgeries, canvassing (other than at election time), making oneself available.

To have contact with constituents and community groups and to represent the people to the Council rather than defending the Council's actions.

To actively reviews steps taken to listen to all the different communities within the ward and to bring forward improvements to ensure that you reach socially excluded groups and minorities.

To actively review steps taken to listen to all the different communities within the ward and to bring forward improvements to ensure that you reach the parts previously missed.

To help and assist local communities and groups in accessing services provided by the Council.

## Meetings

Upon appointment as a representative of the Council on a community or other body, to regularly attend meetings of that body and to report back to the Council the deliberations of that outside body and to distribute relevant written information.

To regularly attend any internal meetings as required and to participate effectively representing the views of the people at those meetings.

## Scrutiny Function

To accept that the scrutiny process means that the Council recognises that you have to allow colleagues to publicly question each other.

To co-operate and take part in the scrutiny process of the Council when required.

## **PART B - THE EXECUTIVE COUNCILLOR**

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To actively build partnerships with outside bodies.

To actively represent the Council at a strategic level where appropriate.

In dealing with resource allocation priorities and the preparation of policy plans, to do such in an impartial and proper manner.

## **PART C - THE NON-EXECUTIVE COUNCILLOR**

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To carry out the scrutiny function in a proper manner having regard to approved protocols and to seek and take advice from officers as appropriate.

In formulating proposed changes and in submitting proposals to the Cabinet to do so in a constructive way.

To actively channel grievances, needs and aspirations of your constituents and community bodies into the scrutiny process.

To adhere to the protocols and processes agreed by the Council for operation of the scrutiny function.

## **PART D - THE CHAIRMAN OF THE COUNCIL**

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To provide the civic leadership for the Council.

To preside at all meetings of the Council.

To represent the Authority in the community at major civic and ceremonial functions.

## **PART E - THE DEPUTY CHAIRMAN OF THE COUNCIL**

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To assist the Chairman in providing the civic leadership for the Council.

To deputise for the Chairman in fulfilling the duties set out above in the key tasks for the Chairman.

## **PART F - THE LEADER OF THE COUNCIL**

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To provide the political leadership for the Council and to take the lead in ensuring that the Council's policies and strategies are progressed.

To ensure that the work of the executive and non-executive member is co-ordinated and progressed effectively.

To take the lead for overseeing the implementation of the changes to the political management and officer structures.

To represent the Authority in discussions and negotiations with county, regional and national organisations and others as appropriate in pursuing the interest of the Council and its communities.

To act as the Council's principal political spokesman.

To have regular meetings and communication with the Chief Executive and the Management Team and to work with the Chief Executive to fulfil the Council's objectives.

Where appropriate to act in the case of disputes between members and officers.

## **PART G - DEPUTY LEADER OF THE COUNCIL**

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To assist the Leader in providing the political leadership for the Council.

To deputise for the Leader in fulfilling the responsibilities set out above.

## **PART H - CHAIRMAN OF THE CABINET**

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To respond to questions at Council meetings during the public question and answer session when required.

To chair meetings of the Cabinet.

To attend agenda briefing meetings.

To lead Board consideration of the budget for approval by the Council.

To report as required on the work of the Board in implementing the Council's policy programme.

## **PART J - CHAIRMEN OF THE SCRUTINY COMMITTEES**

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To respond to questions at Council meetings during the public question and answer session when required.



To chair meetings of the relevant Scrutiny Committee.

To attend agenda briefing meetings.

To lead consideration of the Council's scrutiny function in so far as the relevant Scrutiny Committee is concerned.

To report, as required, on the work of the relevant Scrutiny Committee in implementing the Council's scrutiny function.

## **PART K - DEPUTY CHAIRMEN OF THE SCRUTINY COMMITTEES**

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To deputise for the relevant Chairman and to assist him or her in carrying out the specified responsibilities.

## **PART L - CHAIRMAN OF COMMITTEES**

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To chair meetings of the committee.

To attend agenda briefing meetings as required.

## **PART M - DEPUTY CHAIRMEN OF COMMITTEE**

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To deputise for the Chairman and to assist him or her in carrying out the specified responsibilities.

**5.8: MONITORING OFFICER PROTOCOL**

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<b>Rule</b>	<b>Subject</b>
<b>1:</b>	<b>General Introduction to Statutory Responsibilities and Functions</b>
<b>2:</b>	<b>Working Arrangements</b>
<b>3:</b>	<b>Monitoring Officer's Rights</b>
<b>4:</b>	<b>Proper Officer</b>
<b>5:</b>	<b>Conflicts of Interest</b>
<b>6:</b>	<b>Insurance and Indemnity Arrangements</b>
<b>7:</b>	<b>Breach of This Protocol</b>
<b>8:</b>	<b>Post of Monitoring Officer</b>

## 5.8 MONITORING OFFICER PROTOCOL

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### 1. GENERAL INTRODUCTION TO STATUTORY RESPONSIBILITIES AND FUNCTIONS

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- 1.1** The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989 (LGHA 1989) and is accountable to the Council. That Act, the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 place personal obligations on the appointee in respect of the Council, which are summarised as a schedule annexed to this document.
- 1.2** This protocol provides some general information on how those statutory requirements will be discharged at this Council.
- 1.3** The duties of the Monitoring Officer under Section 5 of the LGHA 1989 are to report to the Authority on any proposal, decision or omission by the Authority (or a Committee or Sub-committee, or a Joint Committee on which the Authority is represented) or an officer of the Authority, which has given rise to, or is likely or would give rise to:
- (a) a contravention of law or any code of practice made or approved by or under any enactment; or
  - (b) such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974, i.e. in connection with action taken by or on behalf of the Authority, in exercise of the Authority's administrative functions.

It is the Monitoring Officer's duty to consult with both the Head of Paid Service and the Section 151 Officer during the preparation of a report and as soon as practicable after its preparation to arrange for a copy of it to be sent to each member of the Authority. The Monitoring Officer is bound to perform all of his or her duties personally, save that during absence or illness, a deputy nominated by him or her may undertake them.

- 1.4** Where there are town and parish councils within unitary and district authorities, other obligations are placed upon the Monitoring Officer. The protocol does not focus on these aspects.
- 1.5** In general terms, the Monitoring Officer's ability to discharge his or her duties and responsibilities will depend, to a large extent, on members and officers:
- complying with the law (including any relevant Codes of Conduct);
  - complying with any general guidance issued, from time to time, by the Audit and Governance Committee and the Monitoring Officer;

- making lawful and proportionate decisions; and
- generally, not taking action that would bring the Council, their Officers or professions into disrepute.

## 2. WORKING ARRANGEMENTS

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- 2.1** Having excellent working relations with members and officers will assist in the discharge of the statutory responsibilities of the Monitoring Officer and maintaining high standards of conduct, governance and legal compliance. 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. Members and officers must, therefore, work with the Monitoring Officer (and his/her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2** Having effective working liaison and relationships with the Audit and Governance Committee (and its members), the External Auditor and the Local Government Ombudsman will also assist in the discharge of those statutory responsibilities. This will include having the authority 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.

## 3. MONITORING OFFICER'S RIGHTS

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- 3.1** The following arrangements and understandings between the Monitoring Officer, members and officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will have the right to:
- (a) be advised by members and officers of any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;
  - (b) access to any meetings of officers or members (or both) of the Authority, whether or not such meetings include any other persons (for the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council);
  - (c) receive advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision of the Council may be made formulated or briefed upon (including a failure to take a decision where one should have been taken) at or before the Council, Executive Cabinet, Executive Cabinet member, committee meetings and/or Corporate Leadership Team (or equivalent arrangements);
  - (d) require when carrying out any investigation(s):

- (i) such advice and assistance from the Authority that he or she considers is reasonably needed to assist him or her,
  - (ii) unqualified access to any officer or member who the Monitoring Officer wishes to make inquiries of or who he or she believes can assist in the discharge of his/her functions, and
  - (iii) any information and documents held by the Council;
- (e) disclose information and documents to the appropriate and relevant authority (even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the Authority);
- (f) ensure or facilitate that the other statutory officers (Head of Paid Service and Section 151 Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;
- (g) meet with the Head of Paid Service and the Section 151 Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;
- (h) report on ethical governance issues and on the Constitution following consultation, where appropriate, with the Head of Paid Service and Section 151 Officer;
- (i) report to the Council as necessary on the staff accommodation and resources he/she requires to discharge his/her statutory functions and to be provided with the same;
- (j) obtain legal advice on any matter which he/she believes may be a reportable incident, at the Authority's expense;
- (k) defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved, subject to any necessary consultation with all or any of Head of Paid Service, Section 151 Officer, the Chairman of the Council, Leader, Deputy Leader and the Audit and Governance Committee;
- (l) notify (after consultation with the Head of Paid Service and the Section 151 Officer) the police, the Authority's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
- (m) seek to resolve potential reportable incidents by avoiding or rectifying the illegality, failure of process or breach of code, or by identifying alternative and

legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the Head of Paid Service and the Section 151 Officer, he/she is of the opinion that such is necessary in order to respond properly to such an incident;

- (n) prepare any training programme for members or officers on ethical standards and Code of Conduct issues.
- (o) To make reports to and receive reports from the Audit and Governance Committee, subject (where appropriate) to consultation with the Head of Paid Service and the Section 151 Officer.

## **4. PROPER OFFICER**

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- 4.1** Councils may place “Proper Officer” and other obligations on the Monitoring Officer, through the Council’s Constitution and elsewhere, but these are delegated functions of the Authority rather than personal duties under statute. Whilst the exercise of these functions equally require good working arrangements, they differ slightly from authority to authority. For the sake of commonality and clarity of the protocol, they are not directly addressed here.
- 4.2** The Proper Officer list is contained at Part 3, Section 8 of the Council’s Constitution.

## **5. CONFLICTS OF INTEREST**

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- 5.1** Where the Monitoring Officer is aware he/she has a potential conflict of interest he/she shall refer the matter to the Deputy Monitoring Officer or another appropriate party (and report to the Head of Paid Service and/or the Authority as appropriate).

## **6. INSURANCE AND INDEMNITY ARRANGEMENTS**

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- 6.1** The Section 151 Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

## **7. BREACH OF THIS PROTOCOL**

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- 7.1** Complaints against any breach of this protocol by a member may be:
  - dealt with informally by the Monitoring Officer or
  - referred to the Audit and Governance Committee as appropriate by the Monitoring Officer (or if the Monitoring Officer so requests, referred to the Head of Paid Service) or
  - referred to the relevant Leader and/or whip of the political group.

7.2 Complaints against any breach of this protocol by an officer may be referred to the Head of Paid Service for assessment.

## 8. POST OF MONITORING OFFICER

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8.1 For the purposes of this protocol, the term “Monitoring Officer” includes:

- any person nominated by the Monitoring Officer as a Deputy Monitoring Officer for the purposes of Section 5(7) of the Local Government and Housing Act 1989; and
- any person nominated under the provisions of Section 82A(2) or (3) of that Local Government Act 2000 to perform any function.

## SCHEDULE

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### SUMMARY OF MONITORING OFFICER FUNCTIONS

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	Description	Source
1.	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2.	Report of any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3.	Appointment of Deputy.	Section 5 Local Government and Housing Act 1989.
4.	Report on resources.	Section 5 Local Government and Housing Act 1989.
5.	Investigate allegations of misconduct of councillors under the Authority’s Code of Conduct in compliance with the Council’s adopted arrangements.	Localism Act 2011 Section 28 and associated regulations and guidance.
6.	Establish and maintain registers of members’ interests and gifts and hospitality.	Section 29 of the Localism Act 2011 and Code of Conduct for Members.
7.	Advice to members on interpretation of Code of Conduct.	Code of Conduct for Members.

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION

	<b>Description</b>	<b>Source</b>
8.	Key role in promoting and maintaining high standards of conduct through support to the Audit and Governance Committee.	New Council Constitutions Guidance paragraph 8.20.
9.	Advising on appropriateness of compensation for maladministration.	Section 92 Local Government Act 2000.
10.	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members.	New Council Constitutions Guidance paragraph 8.21.
11.	Refer relevant matters to the Audit and Governance Committee (or its Sub-committees) for initial assessment, review and hearing.	Council's adopted arrangements under Section 28 of Localism Act 2011.
12.	Advise on any indemnities and insurance issues for members/officers.	Regulations under Local Government Act 2000.
13.	Advise on the introduction of Local Assessment arrangements.	Local Government and Public Involvement in Health Act 2007 (including amendments to the Local Government Act 2000).
14.	Act as the qualified person.	S36 Freedom of Information Act 2000 and Information Commissioner's Office Awareness Guidance No. 25.

The officer holding the designation Monitoring Officer also holds certain Proper Officer appointments as detailed in the Constitution.



# **PART 6**

## **MEMBERS' ALLOWANCES SCHEME**

## SECTION 1 - NWLDC MEMBERS' ALLOWANCES SCHEME

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### NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

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The North West Leicestershire District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 hereby makes the following scheme (a full copy can be made available on request):

#### **1. Citation**

This scheme may be cited as the North West Leicestershire District Council Members' Allowances Scheme. A full copy can be made available on request.

#### **2. Interpretation**

In this scheme

"Councillor" means a member of the North West Leicestershire District Council who is a councillor.

"Year" means the 12 months ending with 31 March.

#### **3. Basic Allowance**

Subject to paragraphs 6 and 7, for each year a basic allowance of £3,933.13 shall be paid to each councillor.

#### **4. Special Responsibility Allowances**

- (i) For each year a special responsibility allowance shall be paid to those councillors who hold the special responsibilities in relation to the Authority that are specified in Schedule 1 to this scheme.
- (ii) Subject to paragraphs 6 and 7, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

#### **5. Renunciation**

A councillor may by notice in writing given to the Head of Legal and Commercial Services, elect to forego any part of his/her entitlement to an allowance under this scheme.

#### **6. Part-year Entitlements**

- (i) The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or

ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.

- (ii) If an amendment to this scheme changes the amount to which a councillor is entitled, by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:
  - (a) Beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (b) Beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (iii) Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
- (iv) Where this scheme is amended as mentioned in sub paragraph (ii), and the term of office of a councillor does not subsist throughout the period mentioned in sub paragraph (ii)(a), the entitlement of any such councillor to a basic allowance referable to each such period (ascertained in accordance with that sub paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a councillor subsists bears to the number of days in that period.
- (v) Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him/her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that year.
- (vi) Where this scheme is amended as mentioned in sub paragraph (ii), and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub paragraph (ii)(a) of that paragraph any such special responsibilities as entitle him/her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub paragraph) as bears to the whole the same proportion as the number of days

in that period during which he/she has such special responsibilities bears to the number of days in that period.

## **7. Co-optees Allowance**

An annual co-optees allowance will be paid to the independent members of the Audit and Governance Committee and the Independent Remuneration Panel.

## **8. Payments shall be made**

- (i) In respect of basic allowances and special responsibility allowance, subject to sub paragraph (ii), in instalments of one twelfth of the amount specified in this scheme on the 25th day of each month.
- (ii) Where a payment of one twelfth of the amount specified in this scheme in respect of a basic allowance or a special responsibility allowance would result in the councillor receiving more than the amount to which, by virtue of paragraph 7, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he/she is entitled.

## **9. Annual Review of the Level of Allowances**

All allowances will be increased annually on 1 April by the same percentage as the National Joint Council staff pay award (scp 28).

## SCHEDULE 1

### SPECIAL RESPONSIBILITY ALLOWANCES

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable, and the amounts of those allowances:

	<b>Multiple</b>	<b>SRA</b>
		<b>2018/19 £</b>
Chairman of the Council	1	3,933.13
Deputy Chairman of the Council	1/8 (12.5%)	491.64
Leader	4	15,732.52
Deputy Leader	2.5	9,832.83
Portfolio Holder	1.5	5,899.69
Opposition Leader (*)	1	3,933.13
Chairmen (Scrutiny Committees)	1.3	5,113.06
Chairman (Planning Committee)	1.3	5,113.06
Chairman (Licensing Committee)	1.3	5,113.06
Chairman (Audit & Governance Committee)	1.3	5,113.06

\* An opposition group must consist of at least 5 members to qualify for the Special Responsibility Allowance.

Normally only one special responsibility allowance will be paid per councillor, being the highest of the allowances available to him/her. However, where the Council requires a member to undertake additional duties that attract a Special Responsibility Allowance the member will receive 100% of the higher allowance and 50% of the other allowance.

## SCHEDULE 2

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### APPROVED DUTIES

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The following are specified as approved duties for the payment of travelling and subsistence allowances.

- (a) Any meeting (not being a meeting of a board, sub-group or working party of this Council or a planning site visit) the holding of which is authorised by the Council or any of its boards, provided that it is a meeting to which members of at least two political groups on the Council have been invited.
- (b) A meeting of any other body to which the Council makes appointments or nominations, or of any group or sub group of such a body.
- (c) A meeting of any association of authorities of which the Council is a member.
- (d) Carrying out by a member of the Council any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.
- (e) As an appointed representative of the Council at any visit to obtain any advice or information as a consequence of a report to, or decision of, any council, board, group, sub group, working party, etc.
- (f) Attendance at training courses funded by the District Council.

Note: The bodies covered by paragraph (b) are those listed as "Outside Bodies" in the minutes of the Annual Meeting of the Council each year, together with any meetings of outside bodies specified by the Council or a board from time to time. Any other meetings authorised by the Council involving members of more than one political party automatically become "Approved duties" under (a).

## SECTION 2 - NWLDC CARERS' ALLOWANCES SCHEME

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### NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

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#### **Childcare**

The scheme to provide for the reimbursement of expenditure incurred by members in providing childcare arrangements to facilitate their attendance at approved duties of the Council in accordance with the following requirements:

That payment is made to someone other than a close relation.

That payments for the care of under 8s are restricted to payments to registered childminders and other statutory approved childcare providers.

That payments be restricted to the care of children up to their 14<sup>th</sup> birthday who normally reside with the member.

That no payments be made in respect of the care of children of compulsory school age during school hours.

#### **Care of Dependants**

The reimbursement of expenditure on professional care for an elderly, sick or disabled dependent relative normally residing with the member and requiring constant care subject to payments being restricted to agencies or persons qualified to provide the care other than close relations.

#### **General Conditions**

The following conditions will apply to both types of allowance:

That payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of an hourly rate of £7.73 per hour for each hour of absence from home and are subject to the production of satisfactory receipts by the member. This hourly rate will be increased annually on 1 April by the same percentage as the National Joint Council staff pay award (SCP 28).

That members self-certify claims confirming that they have incurred expenditure in accordance with the scheme.

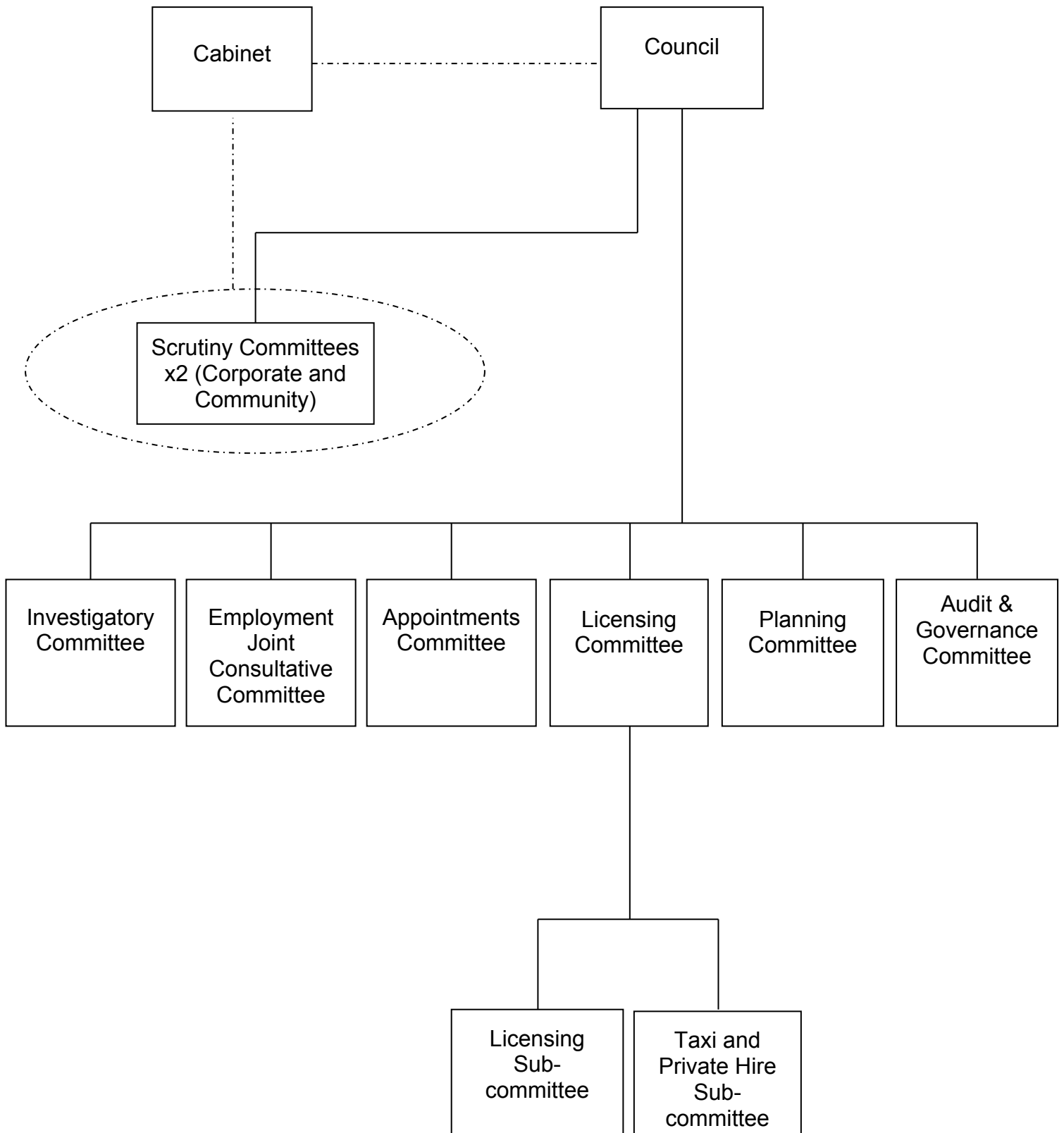
That qualifying meetings be restricted to those regarded as approved duties in the Council's scheme.

# **PART 7**

## **MEMBER STRUCTURE**



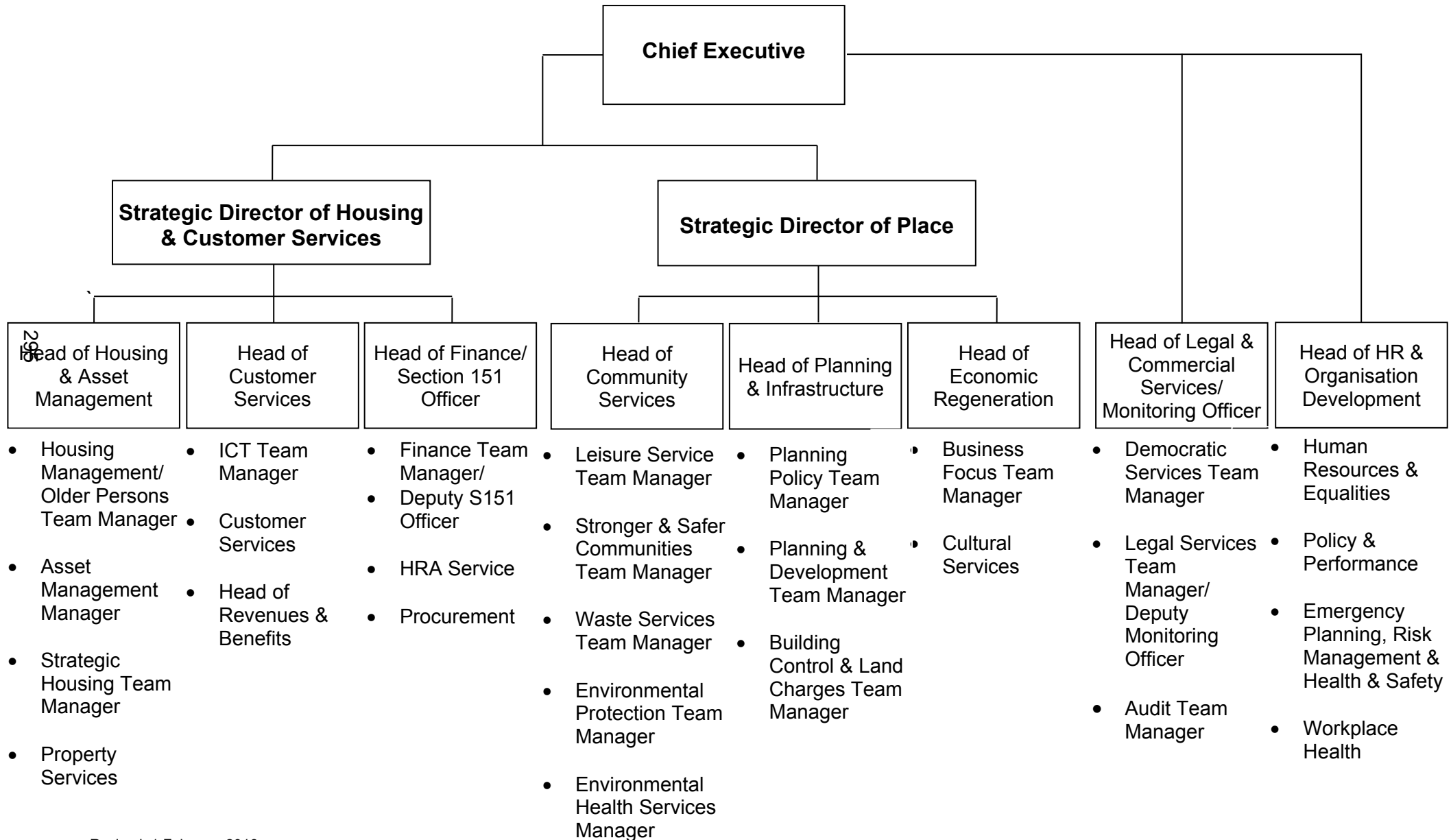
# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION



# **PART 8**

## **DEPARTMENTAL STRUCTURE**

# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL CONSTITUTION



# **PART 9**

## **GLOSSARY OF COMMON TERMS**

## GLOSSARY OF COMMON TERMS USED IN THE CONSTITUTION

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The Constitution uses a number of words or phrases that have a certain meaning. Some of these are defined in legislation.

Below are plain English definitions for words or phrases referred to within the Constitution. Please refer to the body of the Constitution or the relevant legislation for more detailed descriptions.

<b>Abstain</b>	When a Councillor chooses not to vote on a motion.
<b>Access to Information</b>	By law the public must be given reasonable notice of matters to be discussed at a Council, Committee or Sub-Committee meeting.
<b>Adjourn</b>	When a meeting is briefly suspended.
<b>Affirmation of the Meeting</b>	When something is agreed by general consensus of the members present.
<b>Agenda</b>	A document containing reports which sets out the business to be considered at a meeting. The Agenda is published at least five clear working days before the meeting.
<b>Amendment</b>	A change to a motion.
<b>Annual Council</b>	The yearly ceremonial meeting of the Council at which the Leader and Chairman of the Council are elected.
<b>Articles</b>	The basic rules governing the Council's business.
<b>Background Papers</b>	Documents on which reports are primarily based. The law says that report authors must list any papers used in compiling a report for decision, and these papers must be available for four years to anyone wishing to inspect them.
<b>Budget</b>	All the financial resources allocated to different services.
<b>Budget and Policy Framework</b>	The plans and strategies adopted by the Council within which the Executive must operate.
<b>Cabinet</b>	The Councillors who make up the Executive.

<b>Call-In</b>	A mechanism which allows Scrutiny to examine and challenge an Executive decision before it is implemented.
<b>Carried</b>	When a motion is carried, it is agreed.
<b>Casting Vote</b>	The Chairman has a casting vote which decides the matter when votes are equally divided.
<b>Chairman</b>	The person appointed to oversee meetings.
<b>Chief Executive</b>	The most senior officer, with overall responsibility for the management and operation of the Council. Also known as the Head of Paid Service.
<b>Chief Finance Officer</b>	The officer responsible for the administration of the Council's finances. Also known as the Section 151 Officer.
<b>Clear Days</b>	Clear days does not include the day the papers are sent out or the date of the meeting. So for example, if a meeting is taking place on a Tuesday, the agenda must be published on the Monday in the week before the meeting.
<b>Closure Motion</b>	When a member moves that a vote is taken to decide a question under consideration immediately, without further debate.
<b>Code of Conduct</b>	A set of rules to guide behaviour.
<b>Committees</b>	May be established by the Council to assist with non-Executive functions.
<b>Confidential Information</b>	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order. See also 'Exempt Information' below.
<b>Constitution</b>	A document setting out how the Council operates, how decisions are made and all the procedures which have to be followed.

<b>Co-Optee</b>	A person who is not elected but is appointed to serve on a Committee or Sub-Committee in a participatory capacity.
<b>Council</b>	The 38 Councillors Elected for North West Leicestershire.
<b>Councillor</b>	A person elected to represent their Ward on the Council.
<b>Council Tax</b>	A tax charged to households by local authorities, based on the estimated value of the property and the number of people living in it.
<b>Debate</b>	A discussion on an issue in which different views are put forward.
<b>Declarations of Interest</b>	Councillors have to abide by a Code of Conduct, part of which requires them to declare any interests they have which could influence any decisions they make.
<b>Defer</b>	When an issue is put off or postponed until a future time.
<b>Delegated Powers</b>	Formal authorisation for a committee, portfolio holder or officer to take an action which is the ultimate responsibility of the Council or Executive.
<b>Deputations</b>	A person or group appointed to represent issues on behalf of others at Council meetings.
<b>Deputy Chairman</b>	The person appointed to preside in the absence of the Chairman.
<b>Deputy Leader</b>	The Councillor elected to the position of Deputy Leader of the Council.
<b>Directors</b>	The officers in charge of the Council Directorates, namely the Strategic Director of Place and the Strategic Director of Housing and Customer Services.
<b>Dispensation</b>	Where Councillors have an interest in a matter, the Audit and Governance Committee may, in some circumstances, grant a Councillor a dispensation to speak, and sometimes to vote, depending upon the nature of the interest.

<b>District</b>	The geographical area which the Council provides services for.
<b>Exclusion of the Public</b>	The public are excluded from meetings when exempt or confidential information is being considered.
<b>Executive</b>	The Leader and the Cabinet; responsible for carrying out almost all of the local authority's functions.
<b>Executive Decisions</b>	Decisions which can be made by the Cabinet, a member or committee of the Cabinet, or an officer.
<b>Executive Decision Notice</b>	A public document of executive and key decisions to be taken by the Executive or officers no earlier than 28 days after its publication.
<b>Executive Functions</b>	Functions which can be carried out by the Cabinet, a member or committee of the Cabinet, or an officer.
<b>Exempt Information</b>	Information falling into one of seven categories which usually cannot be publicly disclosed – see the Access to Information Procedure Rules in Part 4 of the Constitution.
<b>Extraordinary Meeting</b>	A meeting convened for a specific purpose.
<b>General Exception</b>	A procedure which must be followed when items which are likely to be Executive/Key decisions have not been included in the Executive Decision Notice before the decision will be taken.
<b>General Fund</b>	Used to pay for items of everyday expenditure such as salaries.
<b>Group Leader</b>	Leader of a political group.
<b>Head of Legal and Commercial Services</b>	See Monitoring Officer below.
<b>Head of Paid Service</b>	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.



<b>Head of Service</b>	An officer with responsibility for a specific service area who reports to a Director.
<b>Independent Member</b>	A Councillor who is not a member of a recognised political party. In the context of the Audit and Governance Committee, this also refers to the non-elected members.
<b>Joint Arrangements</b>	Services provided in partnership with other Councils or by or on behalf of those Councils.
<b>Key Decision</b>	An Executive decision which involves significant expenditure or savings, or which has a significant impact on local communities.
<b>Leader</b>	Usually the Councillor who heads the largest political group, and is elected by the full Council to the position of Leader of the Council. The Leader chairs the Executive.
<b>Local Authority</b>	The Council.
<b>Local Choice Functions</b>	Activities which can be the responsibility of the Council or Cabinet.
<b>Meeting</b>	a meeting of the Council or of the Cabinet, a Committee or of a Sub-Committee.
<b>Member</b>	Elected Councillors, or a person co-opted to the Council's Committees.
<b>Minister of the Crown</b>	A government Cabinet minister.
<b>Minutes</b>	A public record of decisions taken at meetings of the Council, its Committees and Sub-Committees.
<b>Monitoring Officer</b>	The Council officer charged with ensuring that everything that the Council does is fair and lawful. The Monitoring Officer is currently the Head of Legal and Commercial Services.
<b>Motions</b>	A formal proposal made by a Councillor for the consideration of the meeting.

<b>Move (a Motion)</b>	A motion is moved when a formal proposal is made by a Councillor.
<b>Negate (a Motion)</b>	A motion is negated when it is made ineffective.
<b>Non-Executive Members</b>	All Councillors that are not members of the Cabinet.
<b>Notice of Meeting</b>	The public notice stating the date, time and place of a meeting.
<b>Outside Body</b>	An external organisation which has invited the Authority to nominate representative(s) to serve on its management body.
<b>Petition</b>	A formal written request, signed by more than fifteen people, appealing to the Council.
<b>Point of Order</b>	A question raised to clarify whether the procedural rules are being adhered to.
<b>Political Balance/ Proportionality</b>	Comes from legal rules which dictate that Committees of the Council (but not the Executive) must include elected politicians in proportion to the size of their political groups on the Council as a whole.
<b>Portfolio Holder</b>	Responsible for ensuring the effective management and delivery of Executive functions. Each Portfolio Holder has specific areas of responsibility.
<b>Precept</b>	A proportion of Council Tax which is paid to other authorities such as the County Council and Police.
<b>Procedure Rules</b>	Rules governing how the Council operates and how decisions are taken.
<b>Proper Officer</b>	A senior officer of the Council who is given a set of responsibilities by statute.
<b>Proposal/Proposition</b>	Another term for a motion.

<b>Quasi Judicial</b>	A process of decision-making which is similar to a court of law, in that each party with an interest in the matter under consideration has an opportunity to make their case, following which a decision on the facts and representations is made.
<b>Quorum</b>	The minimum number of people who have to be present before a meeting can take place.
<b>Recorded Vote</b>	A vote in which the names of those voting for and against are recorded.
<b>Register of Interests</b>	The record of all interests declared by Councillors.
<b>Regulatory Committees</b>	The Committees of the Council that are charged with regulatory functions, such as Planning and Licensing Committee.
<b>Representation</b>	A statement of reasons made when appealing or protesting.
<b>Rescind (a Decision)</b>	When a decision is revoked or withdrawn.
<b>Resolution</b>	A motion/decision agreed by a meeting is subsequently referred to as a resolution.
<b>Right of Reply</b>	The mover of a motion has a right to reply at the close of debate on a motion or amendment.
<b>Scheme of Delegation</b>	Sets out which committee, Councillor or officer is responsible for particular functions of the Council.
<b>Scrutiny</b>	Provides support and advice to the Executive by contributing to the development and review of policy; also holds the Executive to account by questioning. Challenging and monitoring performance.
<b>Second</b>	When a motion is endorsed by another member, it is 'seconded', and can then be voted upon.
<b>Secretary of State</b>	The head of a major government department.
<b>Special Urgency</b>	A procedure which must be followed when an Executive/ Key Decision needs to be taken urgently.

<b>Stakeholder</b>	A person or group that may be affected by a matter.
<b>Statutory</b>	Required by law.
<b>Sub-Committee</b>	A formal decision-making body with functions referred or delegated to it by a Committee.
<b>Substantive Motion</b>	The term used to refer to a motion which has been amended by agreement of the meeting.
<b>Summons to Meeting</b>	The term used to describe the Agenda for meetings of the Council.
<b>Team Manager</b>	An officer with responsibility for a specific service area who reports to a Head of Service.
<b>Tendering</b>	The making of an offer by a contractor to carry out work.
<b>Terms of Reference</b>	The description of what a committee, sub-committee or panel may concern itself with.
<b>Virement</b>	Moving budget funds from one area of expenditure to another within a financial year.
<b>Ward</b>	The defined area within the District which a Councillor represents. The Councillor is elected to represent the interests of the constituents in their Ward.
<b>Whip</b>	A member of a political party who gives instructions to members regarding meetings and attendance.