

Appendix B – Extracts of the Constitution showing proposed changes

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1. Planning Call-in

SECTION D4 - PLANNING COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Committee scope

- 1.1 The majority of planning applications are dealt with by Officers under delegated powers from the **Planning Committee**, as they are relatively straightforward. Consequently, the determination of all non-executive decisions under the Planning Acts is delegated to the Strategic Directors, apart from those matters reserved to the Planning Committee under this Section D4.
- 1.2 Where development control functions are discharged by the **Planning Committee**, the meeting will consider applications and related planning matters which are being determined or considered by the Council as the Local Planning Authority.
- 1.3 Without prejudice to the generality of paragraph 1.1 above, the Planning Committee has delegated responsibility for determining the following to the Strategic Directors:
 - Agricultural Prior Approval
 - East Midlands Airport Informal Notification
 - Certificate of Alternative Appropriate Development
 - Certificate of Lawful Development – Existing
 - Certificate of Lawful Development – Proposed
 - County Council Consultation
 - Demolition Prior Approval
 - Discharge of Conditions
 - Habitat Regulations Assessment
 - Hedgerow Removal Notice
 - Neighbouring Authority Consultation
 - Non-Material Amendment
 - Overhead Lines Notification
 - Pre-Application Advice
 - Pre-Application Advice - Major
 - Applications querying whether Planning Permission is required
 - Prior Approval for Householder development
 - Works to trees in a conservation area

Composition

- 1.4 The **Planning Committee** will comprise 11 Councillors in **Political Balance**.
- 1.5 The Chair will be appointed by **Full Council** annually.

Quorum

- 1.6 The **Planning Committee Quorum** will be 3 **Councillors**.

Substitutes

- 1.7 Each group may appoint substitutes in accordance with the **Councillors' Substitute Scheme Procedure Rules** in **Part 3**.

2 MATTERS RESERVED FOR THE PLANNING COMMITTEE

- 2.1 The determination of an application that is contrary to the provisions of an approved or draft development plan policy and is recommended for permission, which in the opinion of the relevant Strategic Director the application is likely to:
 - (a) be potentially controversial; or
 - (b) be of significant public interest; or
 - (c) have a significant adverse impact on the environment; or
 - (d) raise matters which should be referred to the Planning Committee.
- 2.2 The determination of an application that 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 planning objections (in the opinion of the relevant Strategic Director) have been received.
- 2.3 The determination of an application where a legal agreement (S106 or similar) is required, except in the case of minor non-contentious agreements or minor amendments to existing legal agreements.
- 2.4 Excluding those types of applications detailed at paragraph 1.3 above, the determination of an application where the effective use of the Call- in procedure has been executed in accordance with paragraph 3.:
 - ~~(a) a ward member of the ward to which the application relates or the ward member of an adjoining ward (if that adjoining ward is materially impacted by the application) has notified the relevant Strategic Director (in writing or by email within 4 weeks of being notified of the application) that the application should be determined by the Planning Committee; and~~

~~(b) in the opinion of the Chair having consulted the relevant Strategic Director (or his nominated officer):~~

~~(i) the notification is supported by one or more material planning grounds; and~~

~~(ii) the item relates to a matter of local concern,~~

~~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 (b) above.~~

~~Where the Chair decides that an application does not satisfy (b)(i) or (ii) above, written reasons shall be given to the requesting member.~~

2.5 The determination of an application that is recommended for approval by officers and is 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

except for the approval of an application which in the opinion of the relevant Strategic Director (or a nominated officer) is unlikely to have any major impacts and to which no objections have been received.

2.6 The determination of any application or matter that the relevant Strategic Director refers to the Planning Committee, including (but not limited to) any consultation on an executive function, provided that 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.

2.7 The making of orders to revoke or modify planning permissions, to impose conditions to remove buildings or repair listed buildings.

2.8 To consider objections or other representations in relation to making tree preservation orders.

2.9 Serving Building Preservation Notices or Listed Building Repair Notices, except where it is necessary to serve a notice in an emergency.

2.10 To determine matters referred to it following the receipt of objections or other representations in relation to:

(a) Public Footpath Orders under the Town and Country Planning Act 1990;

(b) Footpath Diversion Orders under the Highways Act 1980.

3. Call in procedure

3.1 Call -in for the purpose of Para 2.4 is when the Chair of Planning Committee, in

consultation with the Strategic Director (or his nominated officer), is satisfied that the following requirements are met:

3.1.1 the notification is supported by one or more material planning grounds; and

3.1.2 the item relates to a matter of local concern.

3.2 If a decision is made that the application does not satisfy 3.3.1 and/or 3.3.2, written reasons shall be given.

3.3 The Chair of Planning Committee shall have cause to consider a request for Call-in if:

3.3.1 a ward member of the ward to which the application relates or the ward member of an adjoining ward (if that adjoining ward is materially impacted by the application) has notified the relevant Strategic Director (in writing or by email within 28 days of being notified of the application) that the application should be determined by the Planning Committee; or

3.3.2 a ward member of the ward to which the application relates or the ward member of an adjoining ward (if that adjoining ward is materially impacted by the application) has not notified the relevant Strategic Director but has a conflict of interest which would result in them being unable to take part in the application in question.

3.4 If the Chair of Planning Committee is the ward member at (3.3.1) or (3.3.2) above, or the Chair has some other conflict of interest (provided that where the interest falls under para 2.5, the requirements of 2.5 are engaged) then the duty to consider the request for Call-in shall pass to the Deputy Chair.

3.5 If both the Chair and Deputy Chair have a conflict of interest (provided that where the interest falls under para 2.5, the requirements of 2.5 are engaged) then the duty to consider the request for Call-in shall pass to the Planning Portfolio Holder.

3.6 For the purpose of this clause 3 a conflict of interest is where a member has a registerable interest which would prevent them from making a decision in accordance with the Councillors Code of Conduct.

2. Political Balance

Political Balance	<p>Political balance means: (i) That not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group; (ii) That the majority of seats on the body are allocated to a political group holding the majority of seats on the Council; (iii) That, subject to (i) and (ii) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority; and (iv) That, subject to (i) and (iii) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council. Further information is contained in the annual appointments report.</p>
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3. Right to Buy Delegation

8. Disposal Delegation and Annual Rental Delegation

SECTION G2 - GENERAL DELEGATIONS TO DESIGNATED OFFICERS

1 General

- 1.1 To exercise any functions, powers and duties of the Council to secure the effective management of their service areas including the authorisation of any procedures or contracts within the framework of **Financial Procedure Rules in Part 3** and **Contract Procedure Rules in Part 3**, and taking and implementing decisions to maintain the operational effectiveness of their service areas where these fall within a policy decision made by the Council or Cabinet.
- 1.2 To implement and develop initiatives within the strategic policy framework and other Council plans and policy documents.
- 1.3 To carry out, or authorise the carrying out, of the functions of the **Proper Officer** of the Council in any legislation relating to those areas of responsibility assigned to **Designated Officers**.
- 1.4 To exercise the general power of competence under the Localism Act 2011 where appropriate.

2 Incidental powers

- 2.1 In addition to any of their general and/or specific delegated functions and powers set out below, to enter into arrangements or do anything else which is calculated to facilitate, or is conducive or incidental to, the discharge of such delegated functions.

3 Service Performance

- 3.1 To make arrangements to secure value for money in respect of their service areas, to secure continuous improvement in the way functions are exercised having regard to a combination of economy, efficiency and effectiveness, and to maximise economic, environmental and social value.
- 3.2 To arrange consultation with tax payers, non-domestic rate-payers, service users and other local representatives about fulfilment of the best value duties and to involve representatives of local persons in the exercise of Council functions.
- 3.3 To meet business critical and key performance indicator targets.
- 3.4 To enter into any agreement with any other public body for the supply of goods and/or services subject to this being in accordance with the Council's **Budget and Policy Framework**, the **Financial Procedure Rules in Part 3** and the **Contract Procedure Rules in Part 3**.
- 3.5 To make arrangements for co-ordinating the activities of the Council and those of any charity established for purposes similar or complementary to services provided by the Council in the interests of persons who may benefit from those services or from the charity and to disclose to any such charity any information obtained in connection

with the services provided by the Council.

- 3.6 To approve any severance payment to any Officer up to £20,000 in consultation with the **S151 Officer** and **Monitoring Officer**, provided that any proposed severance payment to the **Head of Paid Service** will be dealt with either by the **Investigatory Committee** or **Full Council** (dependent on the value of the proposed severance payment).

4 **Legal**

- 4.1 To recommend to the **Head of Legal and Support Services**, where it is necessary to give effect to a decision of the Council, the need 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.
- 4.2 To recommend to the **Head of Legal and Support Services**, the negotiation and settling of claims and disputes without recourse to court proceedings including the use of alternative dispute resolution.
- 4.3 Subject to the agreement of the **Head of Legal and Support Services**, to authorise Officers to appear on the Council's behalf in proceedings before any Court or Tribunal.
- 4.4 To prepare, issue and serve any statutory notice, demand, certificate, order, or requisition for information in respect of functions in their area, including the authentication of such documents save that the authentication of documents necessary for any legal procedure or proceedings is reserved to the **Head of Legal and Support Services**.
- 4.5 To authorise Officers to enter and/or inspect any land or premises in respect of which the Council has a statutory power or duty to enter or inspect including the obtaining and enforcement of a search warrant.
- 4.6 To authorise any Officer exercising a power to enter and/or seize items found on premises to exercise the powers of seizure, to give the required notice and to perform the duties to return certain items seized and to secure certain items seized.
- 4.7 To apply, or to authorise other Officers to apply, to a Court for a warrant to enter any land or premises, in exercise of his/her responsibilities.
- 4.8 To certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings.
- 4.9 To authorise the recovery of sundry debts of any sum to which the Council is entitled.
- 4.10 To take the action necessary to comply with any court order made against the Council.
- 4.11 To appoint Officers as authorised Officers for any statutory purpose.
- 4.12 To accept, hold and administer any property on trust (in consultation with the

Head of Legal and Support Services and S151 Officer).

- 4.13 To supply photocopies of documents to the general public subject to making such charges as may be agreed in an approved scheme in accordance with the provisions of the Copyright, Designs and Patents Act 1988.

5 Administrative Matters

- 5.1 Power to deal with requests for access to Council premises by the media.
- 5.2 Power to waive charges, where justified in exceptional circumstances and where this is legally permissible.

6 Finance

- 6.1 Officers are referred to the **Financial Procedure Rules** in **Part 3** of the **Constitution**.

7 Contracts

- 7.1 Officers are referred to the **Contract Procedure Rules** in **Part 3** of the **Constitution**.

8 Property Matters

- 8.1 Any decision concerning the management or use of land held for the operational requirements of the Officers of a service area, subject to the following provisions.
- 8.2 Powers to take any action or sign any document under the Land Registration Rules, including the release of mortgages or charges; and powers to give any undertaking are reserved to the **Head of Legal and Support Services**.
- 8.3 Subject to the agreement of the **S151 Officer**, the power to acquire any land or property with a capital value up to or equalling £100,000 except by use of compulsory powers is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant Portfolio Holder. The power to acquire any land or property with a capital value over £100,000 is reserved to Cabinet.
- 8.4 Subject to the agreement of the **S151 Officer**, the power to dispose of any land or property with a capital value up to or equal to £30,000 is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant Portfolio Holder. Disposal of any land or property with a capital value over £30,000 is reserved to Cabinet. [For clarity, this clause 8.4 does not apply to disposals under Part V Of the Housing Act or disposals made by way of lease of 7 years or greater. This is provided for under paragraph 8.6.](#)
- 8.5 Subject to the agreement of the **S151 Officer**, the power to take a lease or licence of any land or property for any period where the rent is up to £100,000 per annum is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant Portfolio Holder. Taking a lease or licence of any land or property for any period where the rent is over £100,000 per annum is reserved to Cabinet.

8.6 [Subject to the agreement of the Section 151 Officer, the power to grant a lease or licence at Market Rent of any land or property that is part of the Council's Commercial Portfolio for any period up to a maximum of 15 years where the rent is up to £40,000 per annum is reserved to the Chief Executive and the Strategic Directors in consultation with the relevant Portfolio Holder](#)

9 **Emergencies (e.g. flooding, power failure etc.)**

9.1 Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, all **Designated Officers** may:

9.1.1 incur such expenditure as is considered necessary in taking action (either by the Council itself or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in the **District** or among its inhabitants the effects or potential effects of the event; and

9.1.2 make grants or loans to other persons or bodies in respect of any such action taken by those persons or bodies, subject to ratification where necessary, as soon as possible, and subject to agreement of a **Strategic Director** or the **Chief Executive**.

9.2 The preparation of Civil Emergency Plans for the Council, in consultation with all necessary outside bodies and organisations.

10 **Responding to consultations and proposals**

10.1 To respond to consultations and to make comments and representations on matters notified to the Council by third parties including (but not limited to) Government Departments, statutory undertakers and local authorities, in consultation with the relevant Strategic Director and **Portfolio Holder**.

11 **Submission of grant funding bids**

11.1 To submit bids for grant funding and/or other financial assistance to Government departments and other organisations and bodies for projects and initiatives consistent with Council policies, following consultation with the relevant Strategic Director and **Portfolio Holder**, and to enter into any such agreements and arrangements as necessary to secure such funding, in accordance with the **Contract Procedure Rules** in **Part 3** and the **Financial Procedure Rules** in **Part 3**.

12 **Complaints**

12.1 To take action regarding complaints received.

12.2 To settle any Ombudsman / Complaint Cases:

12.2.1 cases of alleged maladministration where there has not been a finding of maladministration by the Ombudsman; and

12.2.2 complaints that have been brought against the Council under any of its internal complaints procedures in conjunction with the **Head of Legal and Support Services**.

12.3 To approve compensation payments to remedy complaints in accordance with the Council's Complaints Procedure and **Financial Procedure Rules** in **Part 3**.

13 **Attestation of the Common Seal of the Council**

13.1 A decision of the Council, Cabinet, a Committee or any Officer with delegated authority, will be sufficient authority for sealing any document necessary to give effect to the decision.

13.2 The Common Seal will be affixed to those documents which in the opinion of the **Head of Legal and Support Services** should be sealed or where required by the **Contract Procedure Rules** in **Part 3**.

13.3 The affixing of the Seal on documents shall be attested by the **Head of Legal and Support Services** or any Officer authorised by him/her.

4. Civic Council and Awards Element

SECTION C - FULL COUNCIL

ONLY THE FULL COUNCIL SHALL HAVE RESPONSIBILITY:

1. to approve, adopt and agree changes to the **Constitution** (subject to paragraph 3.12 of Section G3 of Part 2);
2. to approve, adopt and agree changes to the **Budget and Policy Framework**;
3. to approve, adopt and agree changes to the Council's [Pay Policy Statement](#);
4. to approve, adopt and agree changes to the **Councillors' Allowance Scheme in Part 5**, following a report from the Independent Remuneration Panel;
5. to approve, adopt and agree changes to any applications to the Secretary of State for a **Housing Land Transfer**;
6. for the appointment of an Electoral Registration Officer;
7. for the appointment of a Returning or Acting Returning Officer for Parliamentary, local and Police and Crime Commissioner elections and referenda;
8. for Parishes including:
 - 8.1. dealing with any issues relating to the establishment and any community governance review of parish councils and their consequent electoral arrangements;
 - 8.2. dissolving small parish councils under section 10 of the Local Government Act 1972;
 - 8.3. making orders for grouping parishes, dissolving groups and separating parishes from groups under section 11 of the Local Government Act 1972;
 - 8.4. dividing electoral divisions into polling districts at local government elections under;
 - 8.5. making temporary appointments to parish councils;
 - 8.6. changing the name of a parish.
9. for the name and status of areas and individuals including:
 - 9.1. changing the name of the **District**;
 - 9.2. conferring the title of Honorary Alderman or admission to be and Honorary Freeman.

10. for agreeing the basis on which appointments to outside bodies should be made and appointing to outside bodies except where appointment to those bodies is an **Executive Function** or has been otherwise delegated;
11. to agree the appointment of **Councillors** to **Committees** in **Political Balance**;
12. 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;
13. to elect the Chair and appoint the **Deputy Chair of the Council**;
14. to elect the Leader of the Council for a one year term and to remove the Leader of the Council;
15. to determine annually the revenue and capital budgets (the Medium Term Financial Strategy) and levying Council Tax and the capital programme along with the **Treasury Management** Strategy, Investment Strategy and any Prudential Indicators;
16. to take decisions which would represent a departure from the strategies and budgets previously agreed in the **Budget and Policy Framework** including determining supplementary estimates which are outside the authority spend available to the **Cabinet**;
17. agreeing and/or amending the terms of reference for Non-Executive Committees and working groups (save those constituted by the **Scrutiny Committee**) and deciding on their composition;
18. to make, amend, revoke, re-enact or adopt by-laws and promoting or opposing the making of local legislation or personal Bills;
19. confirming the appointment or dismissal of the **Head of Paid Service**;
20. to designate the appropriate Officer posts as the **Monitoring Officer** and the **S151 Officer**;
21. to appoint **Independent Person(s)** under the Localism Act 2011 in relation to the **Councillors' Code of Conduct** in **Part 4** and Statutory Officer discipline;
22. to appoint Chairs of **Committees** (though Committees may appoint to fill a casual vacancy);
23. to determine any matter which is properly referred to it for determination by a **Committee** or **Sub-Committee** in relation to **Non-Executive Functions**;
24. to determine whether functions which are classified as "Local Choice" functions should be reserved to the Council or exercised by Cabinet;

25. to designate streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;
26. to discharge all licensing functions and such other matters which must be reserved to the **Full Council** as specified in the Licensing Act 2003 (the “Act”), or any Regulations published in relation to the Act or any other legislation or any statute or regulations amending, consolidating or replacing them including approving, reviewing and revising any Statement of Licensing Policy in relation to the Licensing Act 2003;
27. to discharge all functions which must be reserved to **Full Council** as specified in the Gambling Act 2005, or any other ancillary regulations or legislative provisions amending, consolidating or replacing the same, including:
 - 27.1. approving and revising any Statement of Gambling Policy;
 - 27.2. resolving not to issue any casino premises licences in the next three years;
28. subject to the urgency procedure contained in the **Access to Information Procedure Rules** in **Part 3**, 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;
29. determining senior management structure of the organisation;
30. agreeing procedure rules, standing orders and financial regulations;
31. proposals relating to district boundaries, electoral wards and the number of district councillors;
32. agreeing an annual schedule of meetings for **Full Council** and **Committees**;
33. adopting and amending the **Council’s Councillors’ Code of Conduct** in **Part 4** and other codes and protocols comprising the ethical framework;
34. accepting the delegation of **Non-Executive Functions** from another local authority;
35. power to promote or oppose local or personal Bills
36. agree payments in relation to termination of employment of statutory Officers and any severance package exceeding £100,000; and
37. all other matters which, by law, must be reserved to Council.
38. [to make discretionary Civic Awards](#)

5. Definition of Quorum

Quorum

The minimum number of people who have to be present [and entitled to vote](#) before a meeting can take place.

6. Ability for Strategic Directors to act on each others behalf

SECTION G1 - INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION

- 1 “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “Officers” in this **Constitution** includes all the people who operate in this capacity including contractors, consultants and agency staff.
- 2 The Council operates a “cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its Officers.
- 3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, **Full Council** and the **Cabinet** have delegated to Officers the powers that they need to perform their roles.
- 4 Certain Officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These Officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles.
- 5 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive** (as the most senior officer of the Council) supported by the other senior roles which are set out below and which together are referred to as the “**Senior Officers**”:
 - 5.1 **Strategic Directors** one of whom will be the **S151 Officer**;
 - 5.2 Head of Legal and Support Services (**Monitoring Officer**); and
 - 5.3 Heads of Service.
- 6 The **Head of Paid Service**, the **S151 Officer** and the **Monitoring Officer** are also called “**Statutory Officers**” (because every Council is required by statute - the law - to have these posts).
- 7 It is possible (subject to any legal restrictions) for the roles of the **S151 Officer** and/or the **Monitoring Officer** to be combined with another of the **Senior Officer** posts (or with other Officer posts in the Council).
- 8 There are also a number of formal functions which the Council has to allocate to named Officers called “**Proper Officers**”.
- 9 **Section A** of this Part 2 shows the current management structure of the Council, showing more detail about the roles and responsibilities of the **Chief Officers** and the

Officers supporting them to deliver all the Council's services.

General Principles Relating to Officer Delegation

- 10 For the purposes of Officer delegated powers, both within this part and any other part of the **Constitution**, the term “**Designated Officers**” shall include the following Officers:
 - 10.1 The **Chief Executive**;
 - 10.2 The **Strategic Directors**;
 - 10.3 Head of Legal and Support Services (**Monitoring Officer**); and
 - 10.4 All **Heads of Service**.
- 11 This scheme gives the power for the **Designated Officers** to take decisions and institute any process or take any steps in relation to all the functions in their areas of responsibility except where:
 - 11.1 a matter is prohibited by law from being delegated to an **Officer**, or
 - 11.2 a matter has been specifically reserved to **Councillors** or excluded from delegation by this scheme, by a decision of the **Full Council**, the **Cabinet/Executive** or a **Committee** or **Sub-Committee**.
- 12 No Officer may take **Key Decisions** unless specifically provided for within the **Constitution** or specifically delegated by the **Leader**, the **Cabinet**, a Committee of Cabinet or a **Cabinet Member**.
- 13 The cascade principle under which this Scheme operates means that any Officer given powers under this scheme can further delegate those powers to other Officers either:
 - 13.1 through a Local Scheme of Delegation (which sets out all the standing delegations given to specific Officers in defined areas of the Council's service areas). There is a list of the Local Schemes of Delegation; or
 - 13.2 through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the Officer delegating the power and saved on the register of Specific Delegations. A Specific Delegation does not need to be given where an Officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub-Committee.
14. The functions delegated to the Strategic Directors under this scheme of delegation are those functions, which fall within their areas of responsibility. However, save where powers are conferred in accordance with the Strategic Directors position as section 151 officer, Strategic Directors can exercise the powers of other Strategic Directors.”

General limitations on exercise of powers

- ~~44~~15. Any matters falling within the scope of the Scheme will be subject to any limitation, imposed by statute, by the **Full Council** or **Cabinet** and/or any duly authorised Committee. In addition, in exercising these powers each **Designated Officer**:
- 13.3 Will comply with relevant Procedure Rules including the **Financial Procedure Rules** in **Part 3** and **Contract Procedure Rules** in **Part 3**. In the event of any inconsistency or conflict between the **Financial Procedure Rules** and/or **Contract Procedure Rules** and these delegations then the former shall prevail. In the event that the inconsistency or conflict cannot be resolved by the application of this rule then the matter shall be settled by the **Chief Executive** with advice, where necessary and appropriate, from the **S151 Officer** and/or the **Monitoring Officer**;
 - 13.4 Will not depart from any approved policies, scheme, or, any direction of the **Full Council** or **Cabinet** and/or appropriate Committee;
 - 13.5 Will have due regard to the Public Sector Equality Duty;
 - 13.6 Will consult the appropriate professional or technical Officer of the Council, in particular the **Monitoring Officer** and **S151 Officer**, in any case involving professional or technical consideration not within the capacity of the Officer concerned; and
 - 13.7 Will take account of any Council Strategy and the **Budget and Policy Framework** approved by Council in relation to the management functions for which he/she is authorised.
- ~~45~~16. The exercise by Officers of the powers delegated under this **Constitution** involving the incurring of any expenditure is subject to there being sufficient approved provision within the budget to cover that expenditure.
- ~~46~~17. Any delegation under the Scheme will be without prejudice to the overriding right of the **Council** or **Cabinet** and any duly authorised **Committee** to withdraw or amend the powers or to decide any matter and, in particular, any **Designated Officer** may, in any case, instead of exercising their powers under the Scheme, refer any matter to the **Council**, the **Cabinet** or **Committee** for decision.
- ~~47~~18. The Scheme will also be subject to the right of the **Council** or **Cabinet** and/or any duly authorised Committee to rescind the Scheme or any part or parts of the Scheme.

7. Community Bodies

SECTION E - ROLES AND RESPONSIBILITIES FOR COUNCILLORS

Part A - All Councillors

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 Councillors 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

18. 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

19. 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

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

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 outside](#) 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 Chair of the Council

To provide the civic leadership for the Council.

To preside at all meetings of the Council.

To represent the Council in the community at major civic and ceremonial functions.

Part E - The Deputy Chair of the Council

To assist the **Chair** in providing the civic leadership for the Council.

To deputise for the **Chair** in fulfilling the duties set out above in the key tasks for the **Chair**.

Part F - The Leader of the Council

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 Councillor 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 Council 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 Councillors and Officers.

Part G - Deputy Leader of the Council

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 - Chair of the Cabinet

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

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

To deputise for the relevant **Chair** and to assist him/her in carrying out the specified responsibilities.

Part L - Chairmen of Committees

To chair meetings of the Committee.

To attend **Agenda** briefing meetings as required.

Part M - Deputy Chairmen of Committees

To deputise for the **Chair** and to assist him/her in carrying out the specified responsibilities.

SECTION G - PLANNING CODE OF CONDUCT

This Code of Practice supplements the **Council's Councillors' Code of Conduct** and where appropriate Councillors should refer to the Councillors' Code of Conduct. The Council's Monitoring Officer's advice may be sought on the interpretation of the Councillors' Code of Conduct or this Code.

1. INTRODUCTION

- 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 Councillors 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 **Councillors' Code of Conduct** and apply to this Code of Practice are:
 - 1.3.1 Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
 - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
 - 1.3.3 Councillors should make decisions on merit.
 - 1.3.4 Councillors 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 Councillors 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 Councillors 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 Councillors 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 Councillors and Officers. Breaches of this Code may also amount to breaches of the Council's **Councillors' Code of Conduct**. If in doubt about what course of action to take, a Councillor or Officer should seek the advice of the Council's Monitoring Officer.
- 1.7 This Code of Practice sets out principles to guide Councillors 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 **Councillors** 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, Councillors shall not make political statements whilst on any business concerned with the functions of Planning Committee.

2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors 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 Councillors 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 Councillors 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 Councillors' decisions shall not discriminate in favour of any individuals or groups and they alone have the responsibility to decide what view to take. Councillors 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 Councillors 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 Councillors 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, it's Councillors or other Officers, have prevailed upon the Officer to put forward his/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 Councillors 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 Councillors 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 **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 Councillors shall follow the advice in the **Councillors' Code of Conduct** about accepting gifts and hospitality. Councillors 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 COUNCILLORS**

3.1 Where Councillors 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 Councillors of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, Councillors should consider withdrawing from the Committee for that item.

3.3 These principles apply equally to Councillors who are not members of **Planning Committee**. Councillors 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 Councillors shall not sit on **Planning Committee** to determine applications that relate to land:

3.4.1 that is in their ward; or

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and Councillors in such cases shall be replaced on **Planning Committee** by a substitute for the duration of that application.

3.5 Councillors 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 **Councillors' Code of Conduct** provides guidance as to personal and prejudicial interests which may affect a Councillor's ability to take part in the decision-making process. However, Councillors 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, Councillors 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 outside](#) 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;
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- 3.8 Such interests may mean that a Councillor is involved with a planning application before the matter comes before the **Planning Committee**. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee provided that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors 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 Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.
- 3.9 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

8. Disposal Delegation and Annual Rental Delegation

<u>Council's Commercial Portfolio</u>	<u>Industrial units we hold purely for letting out on a commercial basis.</u>
<u>Market Rent</u>	<u>A value confirmed by the Council's valuer as market rent</u>

9. Planning Code of Conduct

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3.3 These principles apply equally to Councillors who are not members of **Planning Committee**. Councillors 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.

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- 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 Councillor is involved with a planning application before the matter comes before the **Planning Committee**. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee provided that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors 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 Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.
- 3.9 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.
4. **DUAL-HATTED COUNCILLORS AND COUNCILLORS ON OTHER BODIES**
- 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 Councillor if it is determined by the Planning Committee.
- 4.3 Councillors 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 Councillors 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 Councillors have dual parish/town council/District Council membership

or sit on consultee bodies and issues come up for discussion at different levels, Councillors 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 the 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 Registerable 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 Councillor 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 Councillor 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, Councillor must give the above careful consideration, and remain bound by the other parts of the **Councillors' Code of Conduct** and this Code in relation to the matter.

4.10 Councillors 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 Councillors in planning matters. As Councillors are aware, the risk under the Code of Conduct and declaration of interests rests with the individual Councillor. For that reason, Councillors 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 Councillor may play a prominent role in the determination at District level. If a Councillor 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

- 5.1 **Councillors** who are not on the **Planning Committee** may make written representations to the **Strategic Director** 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 a [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 Registerable Interest or Non-Registerable Interest if appropriate](#), 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 ~~an Disclosable Non-Pecuniary~~ [Other Registerable 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.

10. Dispensations

Appendix B – Interests

1. Definitions

“**Disclosable Pecuniary Interest**” means any interest described as such in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and includes an interest of yourself, or of your Partner (if you are aware of your Partner's interest) that falls within the descriptions set out in the following table. A Disclosable Pecuniary Interest is a Registerable Interest.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as Councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	Any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the Councillor's knowledge) – (a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; 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 Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the Committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

"Other Registerable Interest" is a personal interest in any business of your authority which relates to or is likely to affect:

- a) any unpaid directorships;
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority; or
- c) any body

- (i) exercising functions of a public nature
- (ii) any body directed to charitable purposes or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

“Registrable Interests” are interests that you are required to register in accordance with this Code of Conduct and include both Disclosable Pecuniary Interests and Other Registerable Interests.

“Non-Registrable Interests” are interests that you are not required to register but need to be disclosed in accordance with section 3.3.

A **“Dispensation”** is agreement that you may continue to participate in the decision-making process notwithstanding your interest as detailed at section 12 of the Code of the Conduct and this Appendix B.

A **“Sensitive Interest”** is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation. In any case where this Code of Conduct requires to you to disclose an interest (subject to the agreement of the Monitoring Officer in accordance with paragraph 2.2 of this Appendix regarding registration of interests), you do not have to disclose the nature of the interest, if it is a Sensitive Interest. In such circumstances you just have to disclose that you have an interest.

A matter **“directly relates”** to one of your interests where the matter is directly about that interest. For example the matter being discussed is an application about a particular property in which you or somebody associated with you has a financial interest.

A matter **“affects”** your interest where the matter is not directly about that interest but would still have clear implications for the interest. For example, the matter concerns a neighbouring property.

2. Registering Interests

2.1. Within 28 days of becoming a Councillor or your re-election or reappointment to office you must register with the Monitoring Officer any Disclosable Pecuniary Interests and any Other Registerable Interests.

2.2. Where you have a Sensitive Interest you must notify the Monitoring Officer with the reasons why you believe it is a Sensitive Interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

2.3. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

3. Declaration at and Participation in Meetings

If you are present at a meeting and you have either a Registerable or Non-Registerable Interest in any matter to be considered or being considered, and the interest is not a Sensitive Interest, you must disclose that interest to the meeting (whether or not it is registered).

To determine whether your interest affects your ability to participate in a meeting, you must first determine what type of interest you have and, if necessary, go on to apply the tests as set out below.

3.1. Disclosable Pecuniary Interests

3.1.1. Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests:

- a. you must disclose the interest;
- b. not participate in any discussion or vote on the matter; and
- c. must not remain in the room ~~unless you have been granted a Dispensation.~~

unless you have been granted a Dispensation.

3.2. Other Registerable Interests

3.2.1. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests:

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room ~~unless you have been granted a Dispensation.~~

unless you have been granted a Dispensation.

3.2.2. The provisions of paragraph 3.1.1 and 3.2.1 shall be applied in such a manner as to recognise that this Code should not obstruct a Councillor's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in

principle to such service or regard it as prejudicing a Councillor's judgement of the public interest and will only regard a matter as giving rise to a Personal Interest which might lead to bias in exceptional circumstances

3.3. Non-Registerable Interests

3.3.1. Where a matter arises at a meeting which **directly relates** to a financial interest or the well-being of yourself or of a friend, relative or close associate (and is not a Registerable Interest):

- a. you must disclose the interest;
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter; and
- c. must not remain in the room ~~unless you have been granted a Dispensation.~~

unless you have been granted a Dispensation.

3.3.2. Where a matter arises at a meeting which does not directly relate to but **affects**

- a. a financial interest or the well-being of yourself or of a friend, relative or close associate; or
- b. a financial interest or wellbeing of a body included in those you need to disclose under Other Registerable Interests

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test in paragraphs 3.3.3 and 3.3.4 should be applied.

3.3.3. Where a matter under paragraph 3.3.2 **affects** the financial interest or wellbeing or body:

- a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest;

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a Dispensation.

3.3.4. Where a matter under paragraph 3.3.2 does not **affect** the financial interest or

wellbeing or body:

a. to a greater extent than it affects the financial interests or wellbeing of the majority of inhabitants of the ward affected by the decision; and/or

b. a reasonable member of the public knowing all the facts would not believe that it would affect your view of the wider public interest;

you may remain in the room, speak if you wish to and take part in any discussion or vote on the matter, provided you have disclosed your interest under paragraph 3.3.2.

Dispensation	Where Councillors have an interest in a matter, the Monitoring Officer or 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.
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11. Independent Persons

SECTION D7 - AUDIT AND GOVERNANCE COMMITTEE

1 COMMITTEE FORM AND STRUCTURE

Committee scope

- 1.1 The Audit and Governance Committee has specific responsibility for governance issues, including audit functions.
- 1.2 The Committee's scope is to:
 - 1.2.1 provide independent assurance to those charged with governance of the adequacy of the risk management framework and the internal control environment;
 - 1.2.2 provide independent review of the Council's governance, risk management and control frameworks and oversee the financial reporting and annual governance process;
 - 1.2.3 oversee internal audit and external audit arrangements, helping to ensure efficient and effective assurance mechanisms are in place.
- 1.3 The success of the Audit and Governance Committee in exercising its audit functions depends upon its ability to remain apolitical. It must adopt a non-political approach to its meetings and discussions at all times. Remaining apolitical also places a duty on Councillors not to make inappropriate use of information provided to the Committee for other purposes.

Composition

- 1.4 The Audit and Governance Committee will comprise 10 Councillors in Political Balance.
- 1.5 Members of the Committee should not be members of Cabinet or Scrutiny.
- 1.6 The Chair will be appointed by Full Council annually.
- 1.7 Two Independent Persons may be co-opted ~~as required~~ to the Audit and Governance Committee to ~~advise on finance matters~~ provide appropriate technical expertise or to a Sub-Committee of the Audit and Governance Committee in relation to standards matters but will not be entitled to vote at meetings. It shall be a function of the Audit and Governance Committee to appoint any Independent Person for this purpose.
- 1.8 An Independent Person may be co-opted as required to a Sub-Committee of the Audit and Governance Committee in relation to Councillors Code of Conduct matters. Full Council appoint a pool of Independent Persons which can be drawn on for this purpose.
- 1.89 At least one parish councillor may be present when matters relating to parish councils or their Councillors are being considered. Parish councillors are co-opted

to the Audit and Governance Committee as required and will not be entitled to vote at meetings

12. Ordinary Meetings of the Council

SECTION A2 - PROCEDURE RULES

1. Annual Meeting of the Full Council

Timing and Business

- 1.1 The **Annual Meeting** of the **Full Council** shall be held at the Council Offices.
- 1.2 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.
- 1.3 In any other year, the **Annual Meeting** will take place in March, April or May.
- 1.4 The **Annual Meeting** will:
 - 1.4.1 elect a person to preside if the **Chair of Council** is not present;
 - 1.4.2 elect the **Chair of the Council**;
 - 1.4.3 appoint the **Deputy Chair of the Council**;
 - 1.4.4 approve the minutes of the last meeting of **Full Council** as a correct record;
 - 1.4.5 receive any announcements from the **Chair of the Council** and/or **Chief Executive**;
 - 1.4.6 elect the **Leader** of the Council for a period of one year;
 - 1.4.7 receive any declarations of interest (the **Councillor** must comply with the **Councillor's Code of Conduct** in relation to whether they are able to remain in the room and/or vote);
 - 1.4.8 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;
 - 1.4.9 allocate seats on **Committees** and **Sub-Committees** in accordance with the principles of **Political Balance** where required;
 - 1.4.10 receive nominations and appoint **Councillors** to serve on all relevant **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 this **Constitution**;
 - 1.4.11 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 2** of this **Constitution**);

- 1.4.12 decide the size and terms of reference for those **Committees**;
- 1.4.13 receive nominations and appoint **Councillors** to serve as representatives to outside bodies for **Non-Executive Functions**;
- 1.4.14 receive nominations of **Councillors** to serve on each board or **Committee** and outside body and 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** (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);
- 1.4.15 agree the Scheme of Delegation set out in **Part 2** of this **Constitution**;
- 1.4.16 approve a programme of ordinary meetings of the Council for the year;
- 1.4.17 conduct items 2.4.1 to 2.4.12 of the business of an ordinary meeting of Council; and
- 1.4.18 consider any business set out in the notice convening the meeting.

2. **Ordinary Meetings of the Full Council**

- 2.1 Ordinary meetings of the Council will take place in accordance with a programme decided by **Full Council**.
- 2.2 The **Chief Executive** is responsible for convening all **Committee** meetings in accordance with the programme set under Rule 2.1.
- 2.3 A meeting of the **Full Council** will take place each year in order to calculate the budget requirement and set the council tax. This is known as the **Budget Council meeting**.
- 2.4 Ordinary meetings will:
 - 2.4.1 select a person to preside if the **Chair of the Council** and Deputy Chair are not present;
 - 2.4.2 approve the minutes of the last meeting of **Full Council** as a correct record;
 - 2.4.3 receive any declarations of interest (the **Councillor** must comply with the **Councillor's Code of Conduct** in relation to whether they are able to remain in the room and/or vote);
 - 2.4.4 receive any announcements from the Chair, the **Leader**, **Cabinet Members** or the **Chief Executive**;

- 2.4.5 receive any petitions in accordance with the Council's petition scheme or deputations;
 - 2.4.6 receive any questions from, and provide answers to, the public;
 - 2.4.7 receive any questions from Councillors;
 - 2.4.8 deal with any business from the last Council meeting;
 - 2.4.9 receive [any](#) 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;
 - 2.4.10 receive [any](#) reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
 - 2.4.11 consider [any](#) motions; and
 - 2.4.12 consider any business specified in the summons to the meeting.
- 2.5 In making any announcements from the **Leader** and **Cabinet Members** under paragraph 2.4.4 above, the Leader and not more than 2 Cabinet Members may indicate to the Chair and then address the Council for not more than 5 minutes each on a topic of current importance to the Council, its area or the inhabitants of its area.

3. **Extraordinary Meetings of the Full Council**

Calling extraordinary meetings

- 3.1 Those listed below may request the **Chief Executive** to call meetings of the **Full Council** in addition to ordinary meetings:
- 3.1.1 the **Full Council** by resolution;
 - 3.1.2 the **Chair of the Council**;
 - 3.1.3 the **Monitoring Officer**; and/or
 - 3.1.4 any five **Councillors** if they have signed a requisition presented to the **Chair of the Council** 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/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 The only item which may be considered at an extraordinary meeting is the matter for which the meeting has been called. No questions or notices on motion in addition to

this item will be permitted.

- 3.4 The requisition to which rule 3.1.4 above applies shall set out the nature of the item to be considered at the proposed meeting and why this is urgent.

13. Supplementary Estimates

SECTION F – FINANCIAL PROCEDURE RULES

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 Procedure Rules provide the framework for managing the Council’s financial affairs and 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 **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, “**S151 Officer**,” refers to the Section 151 Officer who is currently the Council’s Strategic Director for Resources.
 - b) The term, “**Chief Officers**”, refers to the Council’s **Chief Executive** and **Strategic Directors**.
 - c) The term, “**Monitoring Officer**”, refers to the Head of Legal and Support Services.
 - d) The term, “Chief Internal Auditor”, refers to the Audit Manager.
 - e) The term “Budgetholder” refers to any Officer with designated responsibility for a revenue and/or capital cost centre in the annually agreed revenue budget and capital programme. The budgetholder is responsible for financial management and compliance with these rules. This might include **Chief Executive**, **Strategic Directors**, Heads of Service and **Team Managers**.

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 Procedure Rules which set out the financial responsibilities of the Council. These rules have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.

- 1.1.2 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.
- 1.1.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- 1.1.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.
- 1.1.5 These Financial Procedure Rules 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 Procedure Rules apply to?**

- 1.3.1 These Financial Procedure Rules apply to every **Councillor** and **Officer** of the Council and anyone acting on its behalf. Councillors 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 Procedure Rules 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 these Financial Procedure Rules 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 these Financial Procedure Rules are applied and observed by his/her staff and contractors providing services on the Council's behalf and for reporting to the **S151 Officer** any known or suspected breaches of the procedures.
- 1.4.2 The **S151 Officer** is responsible for maintaining a continuous review of the Financial Procedure Rules and submitting any additions or changes necessary to the Council for approval. The S151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Procedure Rules to the Council and/or to the **Cabinet Members**.

- 1.4.3 The **S151 Officer** is responsible for issuing advice and guidance to underpin the Financial Procedure Rules which **Councillors, 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/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 these Financial Procedure Rules 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 **S151 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.

2. **Financial Regulation A: Financial Management**

Introduction

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

The Full Council

- A.2 **Full Council** is responsible for adopting the **Constitution** and the **Councillors' Code of Conduct** in **Part 4** and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in its Constitution. Full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3 **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

- 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 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 Cabinet Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

Scrutiny Committees

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 Council.

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 **Councillors' Code of Conduct** in **Part 4**, and for monitoring the operation of the code. It may also make recommendations to the Full Council on the **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

Head of Paid Service (Chief Executive)

A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Cabinet, the **Full Council**, the **Scrutiny Committees** and other **Committees**. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of 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/she must also ensure that **Councillors** 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**.

S151 Officer (See A Statement on the Role of the Finance Director in Local Government (CIPFA))

A.17 The **S151 Officer** has statutory duties in relation to the financial administration and stewardship of the Council. 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 and 2015.

A.18 The **S151 Officer** is responsible for:

the proper administration of the Council'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 and prudential indicators.

A.19 **The S151 Officer** 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 **S151 Officer** to report to **Full Council**, Cabinet and the External Auditor if the Council 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 Council;

is about to make an unlawful entry in the Council's

accounts. Section 114 of the 1988 Act also requires:

the S151 Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under Section 114 personally;

the Council to provide the S151 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

Budget holders

- A.21 The Budget holders are responsible for ensuring that Heads of Service and the relevant **Strategic Director** are advised of the financial implications of all proposals and that the financial implications have been agreed by the S151 Officer. The Strategic Director shall then in turn advise **Cabinet**.
- A.22 It is the responsibility of the Budget holder to consult with the **S151 Officer** and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- A.23 Budget holders are responsible for the control and accountability of resources consumed and generated by their service areas.

Other Financial Accountabilities

Virement

- A.24 **Full Council** is responsible for agreeing procedures for virement of expenditure between budget headings. The definition of a virement is set out in Section 5 of the Policy & Budget Framework as follows:

*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**.*

A virement is defined as where one or more budget(s) are reduced to fund an increase in another budget(s). There is no net change in the total budget agreed by Council arising from a virement.

- A.25 The table below sets out the approval level required based on the value of the virement.

Value	Approval Level Required		
	Within a Budget Head	Between Budget Heads in same Directorate	Between Directorates
Between £0 - £4,999	Heads of Service	Heads of Service	Heads of Service
Between £5,000 and £24,999	Heads of Service and	Strategic Directors and	Strategic Directors and

	Strategic Directors	Portfolio Holder(s)	Portfolio Holder(s)
Between £25,000 and £99,999	Strategic Directors and Portfolio Holder(s)	Strategic Directors and Portfolio Holder(s)	Strategic Directors and Portfolio Holder(s)
Between £100,000 and £249,999	Cabinet	Cabinet	Cabinet
£250,000 and over	Full Council	Full Council	Full Council
Notes:			
<ol style="list-style-type: none"> 1. In all circumstances virements require approval by the S151 Officer. 2. All relevant parties listed above must be in agreement. 3. Virements should not be artificially disaggregated. 4. Virement rules apply to capital and revenue. 			

Supplementary Estimates

A.26 A supplementary estimate is an addition to the Council's agreed budget. Supplementary estimates can be one-offs, or recurring. In either case, supplementary estimates should only be considered after all other options, such as virements, or savings, have been considered. Supplementary estimates include budgets fully funded by external grant or contribution.

A.27 The table below sets out the approval level required based on the value of the supplementary estimates.

Value	Approval Level Required	
	Fully Externally Funded	Requires Council Funding
Between £0 and £9,999 £99,999	S151 Officer-Head of Service [then reported to Cabinet at next meeting]	S151 Officer-Cabinet
<u>Between £10,000 and £99,999</u>	<u>Head of Service</u> <u>[then reported to Cabinet at next meeting]</u>	Cabinet
Between £100,000 and £249,999	Cabinet	Cabinet
£250,000 and over	Full Council	Full Council
Notes:		
<ol style="list-style-type: none"> 1. In all circumstances Supplementary Estimates require approval by the S151 Officer. 		

- | |
|---|
| <ol style="list-style-type: none">2. Council funding includes (but is not limited to) revenue budget, reserves, Section 106, capital receipts and borrowing. S151 Officer decision will undertaken an assessment.3. Supplementary Estimates should not be artificially disaggregated.4. Supplementary Estimates rules apply to capital and revenue. |
|---|

A.28 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 **Strategic Directors** must (wherever possible, prior to incurring the expenditure) submit a request to **Cabinet** or **Council** for a supplementary estimate to cover the additional expenditure. The Cabinet or Council will also decide how the expenditure will be funded, e.g. from grant, revenue, reserve, loan or otherwise.

Monitoring of Expenditure

A.29 The **Chief Executive**, **Strategic Directors** and Heads of Service shall monitor revenue expenditure and the Asset Management Group shall monitor Capital expenditure on a regular basis. Significant matters will be reported to the Cabinet as necessary.

Treatment of Year-end Balances

A.30 **Full Council** is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

Accounting Policies

A.31 The **S151 Officer** is responsible for selecting accounting policies and ensuring that they are applied consistently.

Accounting Records and Returns

A.32 The **S151 Officer** is responsible for determining the accounting procedures and records for the Council.

The Annual Statement of Accounts

A.33 The **S151 Officer** 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). Approving the annual

statement of accounts is a **Council** function that has been delegated to the **Audit and Governance Committee**.

14. Access to Information Rules

SECTION C – ACCESS TO INFORMATION PROCEDURE RULES

13. Scope

- a. These rules apply to all meetings of the **Full Council** and its Non-Executive Committees and **Sub-Committees** and the **Cabinet** (together called meetings) and (where specified) executive decisions made by **Cabinet Members** and key decisions made by Officers. These rules also cover **Councillors'** rights of **Access to Information**.

14. Additional Rights to Information

These Rules do not affect any more specific rights to information contained elsewhere in this **Constitution** or in law.

15. Rights to Attend Meetings

Members of the public may attend any of the meetings subject only to the exceptions contained in these Rules.

16. Notices of Meeting

- a. The Council will give at least five **Clear Days'** notice of any meeting, except that where a meeting is convened at shorter notice, notice shall be given at the time the meeting is convened. Notice shall be given by posting details of the meeting at the Council Offices (~~“the Designated Office”~~).
- b. **Councillors** entitled to attend a meeting, will receive a summons giving five **Clear Days'** notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the **Annual Meeting** of the **Full Council**, or other business brought before the meeting as a matter of urgency in accordance with the **Constitution**, no business shall be transacted at a meeting other than that specified in the summons.
- c. Where a meeting will include the taking of a confidential executive decision or a key decision, the Council will give at least 28 **Clear Calendar Days'** notice of the intention to take the decision together with details of the meeting at which such a decision will be made.

17. Public Access to Agenda and Reports Before the Meeting

- a. The Council will make copies of the **Agenda** and reports open to the public available for inspection online and at the Designated Council Offices and on its website at least five **Clear Days** before the meeting, except that where a meeting is convened at shorter notice, the copies of the Agenda and reports shall be open to inspection from the time the meeting is convened. If an item is added to the Agenda

later, the revised Agenda will be open to inspection and published ~~at~~ the Council's [Offices and on it's](#) website from the time the item was added to the Agenda. Where reports are prepared after the summons has been sent out, the Democratic Services Team shall make each such report available to the public as soon as the report is completed and sent to **Councillors**.

- b. An item may be added to an **Agenda** after it has been published provided that the **Chair** of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency and the urgency reasons are recorded in the minutes.
- c. Details of late items and associated reports will be made available to **Councillors** and the public as soon as this is made available for inspection [at the Council Offices](#) and published on the Council's [website](#).
- d. This Rule 5 does not require the publication of exempt or confidential information.

18. **Supply of Copies**

- a. The Council will in the first instance direct an interested person to the Council's [website](#) and [Council Offices](#) where such information is available, but where copies are required the Council will supply copies of:
 - i. any **Agenda** and reports which are open to public inspection;
 - ii. any further statements or particulars necessary to indicate the nature of the items in the **Agenda**; and
 - iii. if the **Monitoring Officer** thinks fit, copies of any other documents supplied to **Councillors** in connection with an item.
- b. Copies of the digital **Agendas** of **Cabinet** meetings will be circulated to all **Councillors**.
- c. The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the **Agenda** and of those reports which are open to the public.

19. **Public Access to Minutes After the Meeting**

- a. The Council will make available copies of the following for six years after a meeting or an individual **Cabinet Member** decision:
 - i. the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or

which disclose exempt or confidential information (as defined in Rule 9);

- ii. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- iii. the **Agenda** for the meeting; and
- iv. reports relating to items when the meeting was open to the public.

20. **Public Access to Background Papers and Summary of Rights**

a. **List of background papers**

- i. The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
 - 1. disclose any facts or matters on which the report or an important part of the report is based; and
 - 2. 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 9) and in respect of **Cabinet** reports, the advice of a political advisor.

b. **Public inspection of background papers**

- i. The Council will make available for public inspection for six years after the date of the meeting or an individual **Cabinet Member** decision one copy of each of the documents on the list of background papers.

c. **Summary of Public's Rights**

- i. A written summary of the public's rights to attend meetings and to inspect and copy documents will be available to the public at the Council [eOffices](#).

21. **Exclusion of Access by the Press and Public to Meetings**

a. **Confidential information - requirement to exclude the press and public**

The press and 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.

b. Exempt information - discretion to exclude press and public

The press and 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, provided:

- i. the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
- ii. that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (Rule 9.4 below), the description of the exempt information giving rise to the exclusion of the public; and
- iii. in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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.

c. Meaning of confidential information

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 reason of a court order or any enactment.

d. Meaning of exempt information

Exempt information means information falling within the following 7 descriptions (subject to any qualifications) (as defined by Schedule 12A of the Local Government Act 1972 (as amended)):

	Description	Interpretation	Qualification
1.	Information relating to any individual.		Information within paragraph 1 is 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.		Information within paragraph 2 is 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.
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The authority 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>Financial or business affairs includes contemplated, as well as past or current activities</p> <p>Registered 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>Information within paragraph 3 is not exempt information if it is required to be registered under-</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011. <p>Subject to the above, information within paragraph 3 is 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>
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour	The authority 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	Information within paragraph 4 is 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>relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</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>any dispute about a matter falling within paragraph (a) above (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>	
5.	<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>		<p>Information within paragraph 5 is 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>

6.	Information which reveals that the authority proposes – to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.	<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	Information within paragraph 6 is 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.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		Information within paragraph 7 is 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.

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.

22. **Exclusion of Access by the Public to Reports**

If the **Monitoring Officer** thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 9, 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.

23. **Application of these Procedure Rules to the Executive**

- a. All decisions of the **Executive** (that is, of the **Leader**, the **Cabinet**, individual **Cabinet Members** or a Committee of the Cabinet) will be public and the press and public shall only be excluded as provided by Rule 9 where confidential or exempt information would otherwise be disclosed.

Key Decisions

- b. Where a **Key Decision** is to be made by the **Executive** (that is, the **Leader**, the **Cabinet**, individual **Cabinet Members** or a Committee of the Cabinet) or the **Chief Executive** under urgency as set out in the **Cabinet (Executive) Procedure Rules in Part 3, Rules 12 – 23** shall apply.

24. **The Executive Decision Notice**

a. **Period of the Executive Decision Notice ("The Notice")**

- i. The Notice will be prepared by the Leader to cover decisions that are to be taken no sooner than 28 **Clear Calendar Days** following publication of the Notice.
- ii. The Notice must be published [at the Council's Offices and on the Council's website](#) at least 28 **Clear Calendar Days** before the proposed executive decision is taken. If an item is not on 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.
- iii. The most recent Notice shall be taken to have superseded any earlier Notice, or as the case may be, each earlier Notice.

b. **Contents of Executive Decision Notice**

12.2.1 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.

12.2.2 **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 the Council's Offices and on the Council's website](#) at least 28 **Clear Calendar Days** before the decision is to be taken. 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.

12.2.3 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 Calendar Days** before a private meeting, the decision-making body must:
 - i. confirm the decision to hold the meeting in private or not;
 - 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 chair of one of the **Scrutiny Committees**;
 - ii. if the Chair of one of the **Scrutiny Committees** are unable to act, the **Chair of the Council**; or
 - iii. where there is no **Chair** of either of the **Scrutiny Committees** or of the Council, the **Deputy Chair 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) Cabinet Members will be entitled to receive five **Clear Calendar Days**' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

25. **Publicity**

- a. The **Monitoring Officer** 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 Calendar Days** after publication;

- (d) that each Notice will be available for inspection at reasonable hours free of charge at the Council Offices;
 - (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.
- b. Exempt information need not be included in the Executive Decision Notice and confidential information cannot be included.

26. **General Exception**

- a. If a matter which is likely to be a **Key Decision** has not been included in the Executive Decision Notice, then subject to Rule 15 (Special Urgency), the decision may still be taken if:
 - i. the decision must be taken by such a date that it is impracticable to defer the decision;
 - ii. the **Monitoring Officer** has informed the Chair of a relevant **Scrutiny Committee**, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;
 - iii. The Monitoring Officer has made copies of that notice available to the public at ~~the offices of~~ the Council [Offices](#) and on the [website](#) for inspection; and
 - iv. at least five **Clear Calendar Days** have elapsed since the Monitoring Officer complied with 14.1.2 and 14.1.3.
- b. Subject to Rule 9, where such a decision is taken collectively, it must be taken in public unless it involves consideration of exempt or confidential information.
- c. As soon as reasonably practicable, the Monitoring Officer 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](#).

27. **Special Urgency**

- a. If by virtue of the date by which a decision must be taken Rule 14 (General Exception) cannot be followed, then the decision can only be taken if the decision-taker (if an individual) or the **Chair** of the body making the decision, obtains the agreement of the Chair of a relevant **Scrutiny Committee** that the taking of the decision is urgent and cannot be reasonably deferred.
- b. If there is no Chair of a relevant **Scrutiny Committee**, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the **Chair of the Council**, or in his/her absence the Deputy Chair will suffice.
- c. As soon as reasonably practicable after agreement has been given, the Monitoring Officer shall make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice [at the Council's offices and](#) on the Council's [website](#).
- d. 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.

28. **Private Meetings**

- a. Subject to Rule 16.2, a **private meeting** may not take place unless:
 - i. At least 28 **Clear Calendar Days** before the scheduled meeting a notice (the **Executive Decision Notice**) has been made available for inspection by the public at the [designated Council's Offices](#) and on the [website](#) of the intention to hold the **Cabinet** or Cabinet Committee meeting in private; and
 - ii. At least five **Clear Calendar Days** before the scheduled meeting, a further notice has been made available for inspection by the public at the [Designated Council's Offices](#) and on the website which shall include any representations made as to why any item specified in the notice given under Rule 16.1.1 above should be open to the public together with the Council's response.

- b. Where the date by which a meeting must be held makes compliance with Rule 16.1 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chair of a relevant **Scrutiny Committee** that the meeting is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of each relevant Scrutiny Committee is unable to act, then the agreement of the **Chair of the Council**, or in his/her absence the Deputy Chair will suffice.
- c. As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 16.2 to hold a private meeting, the Monitoring Officer shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the ~~designated~~ [Council's Offices](#) and on the [website](#).
- d. All **Cabinet Members** are entitled to attend a private meeting of any group of the Cabinet and be allowed to speak with the consent of the **Chair** of that group.
- e. 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 **Cabinet Members**.
- f. 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 Councillor may attend that private meeting and speak with the consent of the person presiding.
- g. A private meeting of the **Cabinet** may not take any decisions unless the **Head of Paid Service**, the **S151 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.