

## **Appendix B - Extracts of the Constitution showing proposed amendments**

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1. Treasury Management Reports

**SECTION C - FULL COUNCIL**

**ONLY THE FULL COUNCIL SHALL HAVE RESPONSIBILITY:**

New clause 16 - 16. To receive reports on the operation of the Treasury Management Strategy and Investment Strategy, no less than twice per year.

## 2. Independent Persons/Independent Members

### **SECTION D7 - AUDIT AND GOVERNANCE COMMITTEE**

1.7 Two Independent ~~Persons~~Members may be co-opted to the Audit and Governance Committee to provide appropriate technical expertise 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~~Member for this purpose.

### **SECTION A - NWLDC COUNCILLORS' ALLOWANCES SCHEME**

#### **8. Co-optees Allowance**

An annual allowance of £800 per annum is available to those ~~independent~~  
~~Independent persons~~Members co-opted to the Audit and Governance Committee and an annual co-optees allowance of £200 per annum is available to those individuals serving as members of the Independent Remuneration Panel

3. Employee related policies being approved by the Head of Paid Service; and
4. Employee Code of Conduct

## **SECTION E - THE CABINET (EXECUTIVE FUNCTIONS)**

10.3 The Cabinet is responsible for:

10.3.3 the development of policy/strategy for the Council, the monitoring of the effectiveness of policy/strategy and the review of policy/strategy (leading to revision and further development), except where this Constitution delegates such approval to an Officer.

## **SECTION G3 - DELEGATIONS TO THE HEAD OF PAID SERVICE AND STATUTORY OFFICERS**

1.16 To carry out all activities in connection with the Council's Human Resources function including:

1.16.1 To determine all staffing matters in accordance with the Officer Employment Procedure Rules in Part 3. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as he/she considers appropriate following consultation with the Leader and Deputy Leader.

1.16.2 The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.

1.16.3 Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Cabinet, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.

1.16.4 To approve any severance payment to any Officer between £20,000 and £100,000 with the agreement of the Leader and 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).

1.16.5 The development and review of Human Resources and employee policies.

1.16.6 The review and approval of the Employee Code of Conduct.

1.16.5-7 The Head of Paid Service may delegate the discharge of this function to another Officer.

## 5. Local Plan and Special Expenses

### **SECTION C - FULL COUNCIL**

#### **ONLY THE FULL COUNCIL SHALL HAVE RESPONSIBILITY:**

38. Adopting Development Plan Documents (DPDs) and revisions of them following examination by the Local Plan Committee;

39. Approval of the Special Expenses Policy;

## **Part 6**

### **Glossary of Terms**

**Special Expenses Policy** – Special expenses are applied when the council provides a service in a parish (or unparished area) which is provided in other parishes by a town or parish council. This policy governs the process for dealing with those expenses.

6. Street Trading Consent Policy

**SECTION C - FULL COUNCIL**

**ONLY THE FULL COUNCIL SHALL HAVE RESPONSIBILITY:**

7. 25. to designate streets for street trading under the Local Government Miscellaneous Provisions) Act 1982 and to approve the Street Trading Consent Policy.

## 7. Corporate Scrutiny – Additional Function

<b>Corporate Scrutiny Committee</b>	<b>Community Scrutiny Committee</b>
Asset Management	Business/Economy
Estates and property	Planning and Building Control
Audit	Tourism
Communications	Partnerships
Customer Services	Community Safety
Finance	Leisure
Human Resources	Health and Wellbeing
ICT	Stronger Safer Communities
Legal Services	Environmental Health
Revenue and Benefits	Licensing
Shared Services	Environmental Protection
<a href="#"><u>Zero Carbon Roadmap</u></a>	Statutory Crime and Disorder Committee
	Strategic Housing - Housing Strategy
	Housing Management
	Economic Development
	Regeneration
	Waste Services

## 8. Awarding Grants

### **SECTION G2 - GENERAL DELEGATIONS TO DESIGNATED OFFICERS**

New clause 12 (subsequent numbering to be updated)

12.1 to award grants to third parties, provided that the award of the grant would not constitute a Key Decision and that any awards are at all times made in accordance with the Financial Procedure Rules.

9. Committee Procedure Rule 15 no longer being applicable to Committees and Sub-Committees

## **Part 3 - Rules of Procedure**

### **SECTION A2 - PROCEDURE RULES**

1. The procedure rules in section A2 apply to meetings of the Full Council and to meetings of Committees and Sub-Committees except that:

1.1 Rules 1, 2, 3, 5, 10, 11, 12, 13.1.2, 13.1.6, 13.1.18, 15.1 - 15.22, 16.5 and 16.7 do not apply to meetings of Committees and Sub-Committees;

1.2 Rule 9 (Duration of Meetings) does not apply to meetings of any board, group, Committee, or panel at which the appointment of staff is being considered or a meeting of a quasi-judicial nature; and

1.3 Rule 15.1 shall not apply to meetings of the Planning Committee meaning that a Debate can proceed without a motion being moved and seconded.

## 10. Quorum of Committees

This would require an amendment to each paragraph where the Quorum of the Committee is set out, changing it from the number currently specified, to the increased figure as set out in Appendix A.

## 11. Consultations

### **SECTION E - THE CABINET (EXECUTIVE FUNCTIONS)**

#### **10 Matters reserved for the Executive**

10.3 The Cabinet is responsible for:

10.3.25 approving the content and scope of public Consultations, where deemed necessary by the Head of Paid Service.

12. Sexual Entertainment Venue Policy

**SECTION C - FULL COUNCIL**

**ONLY THE FULL COUNCIL SHALL HAVE RESPONSIBILITY:**

27. to approve the Sexual Entertainment Venue Policy.

### 13. Contract Procedure Rules – formal responses to an invitation to quote

#### **SECTION G – CONTRACT PROCEDURE RULES**

##### *Band B Contracts – Contracts valued at between £10,000 and £49,999*

5.5 For any single contract, not related to or part of any larger procurement, of a value that is between £10,000 and £49,999 (inclusive of VAT), three written quotations shall be obtained using an invitation to quote.

5.6 The approval of any contract that is valued between £10,000 and £49,999 shall be in accordance with the authorisations in the Financial Procedure Rules.

5.7 Any contract valued at between £10,000 and £49,999 can be signed by the officer that approved it under rule 5.3.

5.8 Where Officers are seeking formal responses to an invitation to quote:

5.8.1 the opportunity shall be advertised on the Source Leicestershire website, Contracts Finder (only for contracts worth ~~£30,000~~£25,000 or more) and the Council's website;

## 14. Contract Procedure Rules – requirements of contracts

### SECTION G – CONTRACT PROCEDURE RULES

9.5 Acceptable reasons for an exemption for a Below Threshold Contract under these rules are limited to the following and subject to any legislative requirements:

- Quantifiable and significant cost and efficiency savings can be achieved through seeking an alternative route, which outweigh the legal risk of the exemption;
- Extreme urgency exists for unforeseen reasons which are not attributable to the Council and the various time limits cannot be met. Inadequate forward planning would not constitute special circumstances;
- The Council would otherwise be exposed to immediate and significant financial, legal, or reputational risk that has been identified in the relevant risk register and is considered to outweigh the risk of the exemption;
- Only one supplier is objectively able to provide the works, services or supplies in question including, but not limited to:
  - where the provision is specialist,
  - where the supplier has exclusive intellectual property rights, artistic or other rights,
  - where the supplier has a monopoly; or
  - where the supplies bought are for re-sale;
- Additional or new works, services or supplies are required which, through unforeseen circumstances, were not included in an existing Council contract and are necessary for the completion of the contract and / or cannot be carried out separately.
- Supplies are required as a partial replacement for, or addition to, existing supplies or installations and obtaining them from another source would result in incompatibility or disproportional technical difficulties in operation or 15 maintenance of existing equipment.
- Where an exemption is to allow the continuation of Council services or operations whilst a compliant procurement process is completed.

9.6 Acceptable reasons for an exemption for an Above Threshold contract, are set out in legislation.

9.7 The Procurement Officer will maintain a full record of all exemptions granted.

11.1 All contracts shall, as a minimum:

- be in writing;
- specify what is to be supplied (that is, the works, materials, services, matters or things to be furnished, had, or done);
- specify the payment provisions (that is, the price to be paid and when);
- specify the timescale within which the contract is to be performed; and
- specify the termination provisions under which the Council shall and may terminate the contract.

11.2 In addition, every contract with a value of more than £5 million must include at least three key performance indicators in respect of the contract. Above-Threshold must also clearly state as a minimum:

- ~~• the performance standards to be met, associated performance reporting and performance management;~~
- ~~• the insurance requirements;~~
- ~~• health and safety requirements;~~
- ~~• equality and diversity requirements;~~
- ~~• (Where relevant) that the contractor may not assign the contract or subcontract any part of the contract without prior written consent from the Council;~~
- ~~• information governance, Freedom of Information and Data Protection requirements;~~
- ~~• (Where relevant) supply of anonymised TUPE data by the contractor to the Council and an organisation structure freeze within the contractor at a point designated by the Council prior to the of contract~~
- ~~• contract management requirements;~~
- ~~• a right, given to the Council, of access to documents and records which relate to the subject matter of the contract for monitoring and audit purposes;~~
- ~~• an obligation on the Council to pay undisputed invoices within 30 days;~~
- ~~• an obligation on the principal contractor to pay any subcontractor invoices within 30 days;~~
- ~~• a clause for the prevention of corruption and bribery;~~
- ~~• contract enforcement mechanisms;~~
- ~~• a requirement to provide electronic invoicing compliant with BS EN 16931-1:2017 and PD CEN/TS 16931-2:2017; and~~
- ~~• rights of termination~~

11.3 Formal advice from Legal Services must be sought on contract terms and conditions for the following contracts:

- where the estimated total contract value of the opportunity is above £50,000;
- those involving leasing arrangements;
- where it is proposed to use the external supplier's own terms, an industry standard contract or a framework call-off agreement;
- those that are considered to be high risk in terms of service failure or the Council's reputation; or
- those that are complex in any other way.

11.4 Contract terms and conditions must be published and made available to bidders as part of the tender pack.

11.5 Bidders may seek to clarify or amend terms as part of the clarification period of a tender. Should the Council amend terms during a procurement they must be amended for all bidders equally and released in reasonable time. Legal advice should be sought in advance of agreeing to vary any legal terms in the contract.

11.6 The Council may not negotiate or otherwise amend the contract terms and conditions with the successful bidder following award of contract

## 15. Petitions Scheme

### SECTION B – CABINET (EXECUTIVE) PROCEDURE RULES

#### 11. Petitions

11.1 Petitions may be brought by people who live, work or study in the District, on any matter on which the Council has power to act, in accordance with the Council's ~~rules on~~ Petitions Petition Scheme in Part 6.

~~11.2 The Council has formally adopted a Petition scheme.~~

~~11.3 The scheme sets out the process, the signature threshold for receipt of ordinary Petitions, a Petition to hold an Officer to account and a Petition for Debate. It also sets out how the Petition will be dealt with at the Scrutiny Committees or Council.~~

~~11.4 A copy of the Petition scheme is available from the Monitoring Officer. It is also available on the Council's website~~

- See Appendix C for the amendments to the Scheme itself.

## 16. Planning Amendments

### 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
  - 28 Day Telecommunications Development Notifications
  - Notifications of intention to operate a campsite under class BC Part 4 GPDO

- Notification of a change of use of an agricultural building to a flexible commercial use under Class R, part 3 of the GPDO

### **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 three Councillors.

### **Convening Meetings**

1.7 The Chief Executive is responsible for convening all Committee meetings in accordance with the programme set by Full Council, and any meetings which have been convened at Chair's discretion in addition to those in the programme.

### **Substitutes**

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

## **17. 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 in the opinion of the relevant Strategic Director (or a nominated officer) 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.~~

~~2.42.3~~ 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.

~~2.52.4~~ 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 material planning objections have been received.

~~2.62.5~~ 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.

~~2.72.6~~ The making of orders to revoke or modify planning permissions, ~~to impose conditions to remove buildings or repair listed buildings.~~

~~2.82.7~~ To consider objections or other ~~R~~representations in relation to making tree preservation orders.

~~2.92.8~~ Serving Building Preservation Notices or Listed Building Repair Notices, except where it is necessary to serve a notice in an emergency.

~~2.102.9~~ 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.

## **18. CALL-IN PROCEDURE**

3.1 Call -in for the purpose of Para 2.~~34~~ 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; and
- 3.1.3 is submitted to the Strategic Director (or his nominated officer) in writing via the online form specifically relating to call-ins of planning application within 28 days of the serving member being sent an email notification (signed by the Planning & Development Team Manager) of the application

3.2 If a decision is made that the application does not satisfy 3.13.1, and/or 3.13.2 and/or 3.1.3 written reasons shall be given to the ward member who has submitted the call-in by the Strategic Director (or his nominated officer).

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 (or his nominated officer) in accordance with paragraph 3.1 ~~(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 (or nominated officer) in accordance with paragraph 3.1 but has a conflict of interest (provided that where the interest falls under para 2.45, the requirements of 2.45 are engaged) then any other member shall be entitled to notify the relevant Strategic Director (or his nominated officer) in accordance with paragraph 3.1 ~~then the duty to consider the request for Call-in shall pass to the Deputy Chair.~~

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 2.45, the requirements of 2.45 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 2.45, the requirements of 2.45 are engaged) then the duty to consider the request for Call-in shall pass to the Planning Portfolio Holder.

3.6 The decision made by the Chair or Deputy Chair in respect of whether an application subject to the call in procedure set out under paragraph 3 will be determined by the Planning Committee, shall be given in writing to the ward member by the Strategic Director (or his nominated officer).

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

## 17. Corporate Governance Policies

### Part 6

### Glossary of Terms

Corporate Governance Policies	The Corporate Governance Policies are the following policies:  Anti-Fraud and Corruption Policy Anti-Money Laundering Policy Confidential Reporting (Whistleblowing Policy) Risk Management Policy RIPA policy Information Management Policy Data Protection Policy ICT & Cyber Security Policy Local Code or Corporate Governance <u>Procurement Strategy</u>
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